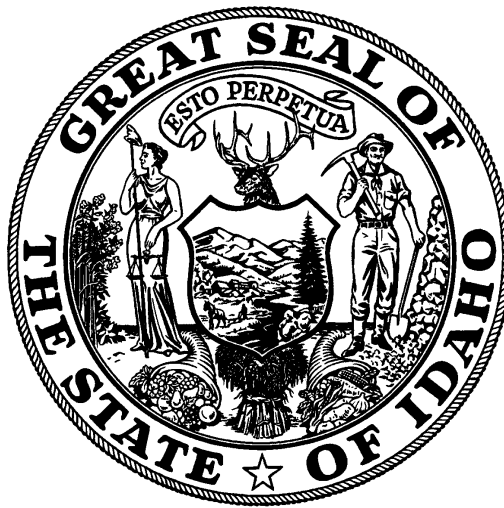


PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
House Resources &
Conservation Committee
68th Idaho Legislature
Second Regular Session – 2026



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2026

HOUSE RESOURCES & CONSERVATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

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

DOCKET NO. 13-0103-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section [67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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:

This rulemaking concerns the comprehensive review of current chapter IDAPA [13.01.03](#), “Public Use of Lands Owned or Controlled by the Department of Fish and Game,” in compliance with Executive Order [2020-01](#).

The agency added clarifying language around prohibited activities, to include the use of airsoft guns and exploding targets; added a definition for ‘camping;’ modified the ‘watercraft’ definition to match a definition in another section of rule; and added language that provides the agency more flexibility in posting camping stay limits.

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 October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, pages 183-185](#).

Changes to the proposed rule added a definition for ‘leash’ and separated language regarding dog control while on Department property, primarily to address enforceability issues. One other change modified camp language to address concerns around camping locations and to better clarify flexibility in stay limits.

FEE SUMMARY: Not applicable. The pending rule does not impose new fees or changes.

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

There is no fiscal impact to the General Fund.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

DATED this 26th day of November, 2025.

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

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 15, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking concerns the comprehensive review of current chapter IDAPA 13.01.03, “Public Use of Lands Owned or Controlled by the Department of Fish and Game,” in compliance with [Executive Order 2020.01](#). The agency has identified some technical, duplicative, and non-substantive modifications to be evaluated for integration.

The agency added clarifying language around prohibited activities, to include the use of airsoft guns and exploding targets; added a definition for ‘camping;’ modified the ‘watercraft’ definition to match a definition in another section of rule; and added language that provides the agency more flexibility in posting camping stay limits.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025 Idaho Administrative Bulletin, [Volume 25-5, pages 40-41](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 4th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 13-0103-2501

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

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

000. LEGAL AUTHORITY.

Section 36-104(b), Idaho Code, ~~authorizes the Commission to adopt rules concerning the use of lands owned or controlled by the Department.~~ (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~The title of this chapter for citation is IDAPA 13.01.03 “Public Use of Lands Owned or Controlled by the Department of Fish and Game.”~~ These rules govern use of lands owned or controlled by the Department. (3-31-22)()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. **Aircraft.** Any vehicle capable of use for transportation on or in the air and any unmanned aircraft system. (3-31-22)

~~02. **Camp(ing).** To use a location as a temporary or permanent place of dwelling, lodging or living accommodation. Indicators of camping may include, but are not limited to, storing personal belongings, erecting tents or other temporary structures, overnight sleeping, carrying on cooking activities, laying out bedding, or making any fire.~~ ()

~~023. **Commercial Use.** Any use or activity 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.~~ (3-31-22)

04. **Designated Roads and Trails.** All roads and trails posted as open or designated as open on Department public use maps. (3-31-22)

~~035. **Lands Owned or Controlled by the Department.** Real property, owned or controlled by the Commission or Department, managed for public recreation or for the protection, maintenance, ~~and~~ or enhancement of fish and wildlife.~~ (3-31-22)()

~~06. **Leash.** A strap or cord with a physical connection between a dog and person, used for restraining and guiding a dog. A dog with an electronic collar is off leash.~~ ()

~~057. **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.~~ (3-31-22)()

~~068. **Unattended.** As it pertains to decoys, the absence of any person within one hundred (100) yards from any decoy for a period of more than one-half (1/2) hour.~~ (3-31-22)

~~079. **Watercraft.** ~~Any vessel capable of use for~~ Device as a means of transportation on or in the water. (3-31-22)()~~

011. – 099. (RESERVED)

100. PUBLIC USE RESTRICTIONS.

01. **Activities Not Allowed Without Authorization.** Unless specifically authorized by the Commission, Director, Regional Supervisor, or designee, no person may: (3-31-22)

- a. Enter, use, or occupy lands or water when said lands are posted against such entry, use, or occupancy. (3-31-22)
- b. Camp ~~or~~. ()
- c. ~~Park a vehicle or trailer in any area posted against such use, or to~~ Park a vehicle or trailer (at authorized locations) for more than ten (10) days during any thirty – (30) day period on land owned or controlled by the Department, or in excess of shorter stay limits where posted. ()
- d. ~~Leave unattended a camp, vehicle, or trailer (at authorized location) for more than forty-eight (48) hours, or to camp or park a vehicle or trailer for more than ten (10) days during any thirty (30) day period on any one (1) Wildlife Management Area (WMA) or one (1) access site separate from a WMA.~~ (3-31-22) ()
- ee. Operate any motorized vehicle, including over-snow use, except on designated roads and trails. (3-31-22)
- ff. Use watercraft on any waters posted against such use. (3-31-22)
- eg. Use any form of fireworks ~~or~~, explosives, or exploding targets. (3-31-22) ()
- fh. ~~Permit any dog or other domestic animal to run at large when not present to control or care for it, or to permit any dog to be off-leash~~ when posted against such use. (3-31-22) ()
- i. Permit any dog or other domestic animal to be off leash when posted against such use. ()
- ji. Conduct a dog field trial of any type, except a dog field trial or dog training using artificially propagated game birds between August 1 and September 30 with ~~Department~~ authorization under pursuant to IDAPA 13.01.15.300, “Rules Governing the Use of Dogs.” (3-31-22) ()
- kk. Construct any blind, pit, platform, or tree stand, where soil is disturbed or trees are cut or altered, and fasteners, such as wire, rope, or nails are used; or to leave any portable manufactured blind or tree stand overnight. (3-31-22)
- il. 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 provision does not limit the powers of agencies or irrigation districts as provided by statute or rule. (3-31-22)
- jm. Shoot within, across, or into posted safety zones. (3-31-22)
- kn. Leave any decoy unattended, or to place any decoy any earlier than two (2) hours before official shooting hours for waterfowl, or to leave any decoy at a hunting site later than two (2) hours after official shooting hours for waterfowl. (3-31-22)
- lo. Discharge ~~any~~ paintball or airsoft guns. (3-31-22) ()
- mp. Disturb or remove any soils, gravel, or minerals. (3-31-22)
- ng. Turn domestic livestock into, or allow ~~said animals~~ them to graze or trail on or across Department lands, except riding and pack animals may be used in association with recreational uses or as posted. (3-31-22) ()
- or. Cut, dig, or remove any crops, trees, shrubs, grasses, forbs, logs, or fuel wood. (3-31-22)
- ps. Place, maintain, or store any beehives or bee boards. (3-31-22)
- qt. Use lands for any commercial purpose. (3-31-22)
- ru. Place a geocache. (3-31-22)

- | | | |
|--------------------|--|-----------|
| <u>sy.</u> | Use for group events of over fifteen (15) people. | (3-31-22) |
| <u>fw.</u> | Land or launch aircraft except on public airstrips. | (3-31-22) |
| <u>hx.</u> | Use or transport any hay, straw, or mulch that is not weed-free certified. | (3-31-22) |
| 101. – 999. | (RESERVED) | |

IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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, 36-301, 36-401, 36-402, 36-403, 36-404, 36-405, 36-406, 36-406a, 36-407, 36-408, 36-409, 36-409a, 36-410, 36-411, 36-412, 36-413, 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:

This rulemaking concerns the comprehensive review of current IDAPA 13.01.04, “Rules Governing Licensing,” in compliance with Executive Order 2020-01. The agency has evaluated content of this chapter and IDAPA 13.01.08, “Rules Governing Taking of Big Game Animals,” and in an effort to streamline, has moved relevant content that specifically addresses big game to IDAPA 13.01.08 and content that addresses general licensing topics has been moved from 13.01.08 to 13.01.04.

The agency has added language around the newly adopted non-resident draw framework approved by the Commission through temporary rule. This rulemaking adds a provision to hunt turkeys through the Landowner Permission Hunt and Landowner Appreciation Program; adds a new Herd Health Landowner Permission Hunt; and adds stronger language highlighting the illegality of sale, marketing, or purchase of Landowner Appreciation Program tags. Language was added to the bighorn sheep auction and lottery tag sections to provide more opportunities for Hells Canyon hunters.

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 October 1, 2025, Idaho Administrative Bulletin, Vol. 25-10, pages 186-214.

Proposed rule changes include: removal of the ‘physician’ definition since the Department is using the term ‘licensed medical provider,’ the addition of language previously missed from a list regarding exceptions to controlled hunt eligibility; clarification of language regarding a pronghorn controlled hunt extra tag holder; removal of language for bear tag exchange as it is out of alignment with new language regarding tag exchange period; modification of section structure around exchanges for greater clarity and addition of ‘other species’ to address confusion by the public; and making a non-substantive change to language for consistency.

FEE SUMMARY: Not applicable. The pending rule does not impose new fees or changes.

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

There is no fiscal impact on the General Fund.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

DATED this 26th day of November, 2025.

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

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(s) [36-104](#), [36-301](#), [36-401](#), [36-402](#), [36-403](#), [36-404](#), [36-405](#), [36-406](#), [36-406a](#), [36-407](#), [36-408](#), [36-409](#), [36-409a](#), [36-410](#), [36-411](#), [36-412](#), [36-413](#), and [36-1101](#), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking concerns the comprehensive review of current IDAPA 13.01.04, “Rules Governing Licensing,” in compliance with [Executive Order 2020-01](#). The agency has identified some technical, duplicative, obsolete, and non-substantive modifications to be evaluated for integration. The agency has evaluated content of this chapter and [IDAPA 13.01.08](#), “Rules Governing Taking of Big Game Animals,” and in an effort to streamline, has moved relevant content that specifically addresses big game to 13.01.08 and content that addresses general licensing topics has been moved from 13.01.08 to 13.01.04.

The agency has added language around the newly adopted non-resident draw framework approved by the Commission through temporary rule. This rulemaking adds a provision to hunt turkeys through the Landowner Permission Hunt and Landowner Appreciation Program; adds a new Herd Health Landowner Permission Hunt; and adds stronger language highlighting the illegality of sale, marketing, or purchase of Landowner Appreciation Program tags. Language was added to the bighorn sheep auction and lottery tag sections to provide more opportunities for Hells Canyon hunters.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2024 Idaho Administrative Bulletin, [Volume 24-5](#), pages 188-189.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 4th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 13-0104-2401

Italicized red text that is double underscored indicates amendments to the proposed text as adopted in the pending rule.

13.01.04 – RULES GOVERNING LICENSING

000. LEGAL AUTHORITY.

Sections 36-104(b), 36-301, 36-401 through 413, and 36-1101, Idaho Code. (4-6-23)

001. SCOPE.

These rules govern licensing. (4-6-23)

002. – 009. (RESERVED)

010. DEFINITIONS.

01. **Allocated Tag.** Game tags ~~allocated under Section 36-408, Idaho Code~~ that may be sold only to an outfitted hunter. (4-6-23)()

02. **Authorized Corporate Representative.** Corporation shareholder designated in writing by the corporation as the eligible tag applicant. (4-6-23)

03. **Blind or Visually Impaired.** Persons meeting criteria set forth in Sections 36-202(w) or 67-5402(2), Idaho Code. (4-6-23)

04. **Capped Hunt.** A hunt framework for which the Commission has set a limit on the total number of tags available to residents and nonresidents by game management zone, unit, or other hunt area. In a capped hunt, tags are available to residents over the counter, without a drawing by lot, and tags are available to nonresidents either over the counter or by drawing by lot. ()

05. **Controlled Hunt.** A hunt framework for which tags are drawn by lot by game management zone, unit, or other hunt area. ()

046. **Domicile.** An individual's true, fixed, permanent home and where they intend to return whenever absent. Individuals can have only one (1) domicile. Determination of domicile may consider, without limitation: (4-6-23)

a. Income tax return state of residency and filing address; (4-6-23)

b. Voter registration: (4-6-23)

c. Location where person and immediate family live: (4-6-23)

d. Mailing/forwarding address; (4-6-23)

e. Vehicle registration; (4-6-23)

- f. Location claimed for homeowner exemption; or (4-6-23)
- g. State of driver's license. (4-6-23)
- 057. Disabled.** Meeting criteria set forth in Sections 36-406(g), or 36-1101(b), Idaho Code. (4-6-23)
- 068. Eligible Property.** At least three hundred twenty (320) acres of land, excluding any government lands, in one (1) ~~controlled hunt area~~ Game Management Unit determined by the Department to be valuable for habitat or propagation purposes for deer, elk, pronghorn, or black bear, or at least seventy nine (79) acres of land, excluding any government lands, in one (1) Game Management Unit determined by the Department to be valuable for habitat or propagation purposes for turkey whether owned by one (1) or more persons, a partnership, or corporation. (4-6-23)()
- 079. Landowner.** Person or corporation whose name appears on a deed as the owner, or on a sales contract as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability companies wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership, or corporation. (4-6-23)
- 10. Leftover Tag.** A tag that is unsold or returned without use. ()
- 11. Licensed Medical Provider.** Person licensed to practice medicine pursuant to the Idaho Medical Practice Act (Sections 54-1801 through 54-1820, Idaho Code), or equivalent state licensing authority in the state of practice. ()
- 12. NR DAV Draw Hunt.** Controlled hunt framework specific to drawing by lot of reduced fee deer and elk tags for eligible nonresident disabled veterans. ()
- 13. NR Draw Hunt.** Controlled hunt framework in which tags are available to residents over the counter but are issued by drawing by lot to nonresidents. These may include capped hunts and NRL hunts. These hunts are considered controlled hunts subject to application fees under sections 36-104 and 36-416, Idaho Code. ()
- 14. NRL Hunt.** Hunt framework in which nonresident tags are limited but tags are available to residents over the counter without limit. ()
- 0815. Non-Allocated Tag.** Game tag ~~other than an allocated tag that may be sold to either outfitted or non-outfitted hunters.~~ (4-6-23)()
- 16. Over the Counter (First come, First Served).** The sale of tags on a first-come, first-served basis on-line, at Department offices and other vendor locations, without a drawing by lot. ()
- 0917. Outfitted Hunter.** Person who obtains hunting services (excluding meat pack-out) under written agreement with an outfitter licensed under ~~Chapter 21, Title 36~~, Idaho Code, for the species and area for which the applicable game tag is valid. (4-6-23)()
- 1018. Permanent Disability.** Medically determinable physical impairment, which a ~~physician~~ licensed medical provider has certified as a condition having no expectation for a fundamental or marked improvement at any time in the future. (4-6-23)()
- 11. Physician.** ~~Person licensed to practice medicine pursuant to the Idaho Medical Practice Act (Sections 54-1801 through 54-1820, Idaho Code), or equivalent state licensing authority in the state of practice.~~ (4-6-23)
- 1219. Two-Year Outfitter Verified Use History.** Tag use by outfitted hunters, as verified and recorded in accordance with Section 36-408, Idaho Code, for each of the two (2) calendar years immediately preceding the date on which the Commission determines tag allocation for a hunt area. (4-6-23)

011. – 049. (RESERVED)

050. RESIDENT LICENSES AND LIFETIME CERTIFICATES.

A person, upon payment of the appropriate fee set forth in Sections ~~36-413~~ or ~~36-416~~, Idaho Code, and proof of Idaho residence or qualification for resident license privileges, may receive the corresponding resident license or lifetime license certificate under the conditions set forth in this section. (3-31-22)

01. Proof of Residence. Resident license and lifetime license certificate applications must be supported by an original or unaltered copy of the following: (3-31-22)

- a. Idaho Driver's License for all persons who drive. (3-31-22)
- b. Nondrivers may use other suitable proof of residency, such as: (3-31-22)
 - i. Idaho Identification Card issued by the Idaho Transportation Department; or (3-31-22)
 - ii. Two (2) documents bearing the applicant's name and address, not issued by the applicant, such as: (3-31-22)
 - (1) Rent receipts or mortgage statements for previous six (6) months; (3-31-22)
 - (2) Home utility bills for previous six (6) months; (3-31-22)
 - (3) A notarized statement from an employer on business letterhead; (3-31-22)
 - (4) Proof of voter registration dated six months prior; (3-31-22)
- c. For persons under eighteen (18) years of age who do not have an Idaho Driver's license or Idaho Identification Card: (3-31-22)
 - i. For lifetime license certificates: a certified copy of the minor's birth certificate, and proof of Idaho residency of one (1) parent or legal guardian in accordance with this subsection. (3-31-22)
 - ii. For annual or shorter-term licenses: proof of Idaho residency of one (1) parent or legal guardian in accordance with this subsection and attestation by the parent or legal guardian of the minor's identity. (3-31-22)

02. Verification of Idaho Residency. The Department may investigate and verify that the information submitted by the applicant as to Idaho residency is true and correct. (3-31-22)

~~**03. Application by Telephone or Electronic Methods.** Application for annual or shorter term licenses may be made by telephone or other electronic methods, provided the applicant supplies the number from a valid license or identification card issued by the Idaho Transportation Department. (3-31-22)~~

~~**043. Applications for Lifetime License Certificates.** Applications for lifetime license certificates will be made on a form prescribed by the Department and may only be submitted either in person at a Department office or by mail to the Department at P.O. Box 25, Boise, ID 83707. (3-31-22)~~

051. ~~PURCHASING~~ BUYING LICENSES FOR OTHERS.

01. Resident Licenses. A resident may ~~purchase~~ buy a license for ~~the resident's spouse or child under the age of eighteen (18) living in the same household;~~ another resident provided that the ~~purchaser~~ buyer presents proof of residence for the person who will hold the license. (3-31-22)()

02. Nonresident Licenses. A person may ~~purchase~~ buy a nonresident license for another person because no residency certification is necessary. (3-31-22)()

03. Lifetime License Certificates. If the lifetime license certificate is being ~~purchased~~ **bought** for a person other than the one submitting the application, the ~~purhaser~~ **buyer** must provide proof of residence for the intended recipient of the lifetime license certificate in accordance with Section 050 ~~of these rules.~~ **(3-31-22)()**

052. – 199. (RESERVED)

200. LICENSES, PERMITS, AND TAGS FOR LIFETIME LICENSE CERTIFICATE HOLDERS.

01. Licenses. Authorized lifetime license certificate holders will be issued the appropriate combination, hunting, ~~or~~ fishing, **or trapping** license annually, provided they are eligible for said license. **(3-31-22)()**

02. Permits and Tags. The certificate holder has the responsibility to obtain any appropriate permit or game tag. **(3-31-22)**

201. CERTIFICATE NON-TRANSFERABLE.

Neither the lifetime license certificate nor the annual licenses are transferable. The fee paid is not refundable under any circumstances. **(3-31-22)**

202. CERTIFICATE HOLDERS RESIDING OUT-OF-STATE.

01. Validity. The lifetime license certificate does not become invalid if the certificate holder subsequently resides outside the state of Idaho. **(3-31-22)**

02. Effect of Subsequent Change in Residency. Should the certificate holder subsequently become a nonresident, ~~the following applies: they will be treated as a resident, except they will be subject to nonresident fees for tags and permits in accordance with Section 36-416, Idaho Code.~~ **(3-31-22)()**

~~**a.** The holder may only purchase permits, and tags at the nonresident fee.~~ **(3-31-22)**

~~**b.** The holder will be treated as a resident for purposes of controlled hunt applications and limits or quotas on the number of tags or permits based on resident/non-resident status.~~ **(3-31-22)**

~~**c.** The holder will be entitled to resident bag and possession limits.~~ **(3-31-22)**

203. OBTAINING CERTIFICATES UNLAWFULLY.

It is unlawful for any person to obtain, use or possess, or attempt to obtain, use or possess a lifetime license certificate by fraud, deceit or misrepresentation. All licenses, including lifetime license certificates unlawfully obtained shall be seized and shall become null and void. Any fees paid, will not be refunded. **(3-31-22)()**

204. REVOCATION OF CERTIFICATE AND LICENSES.

A lifetime license and the rights of a lifetime license certificate holder to obtain a license may be revoked pursuant to Section 36-1402, and ~~Chapter 15, Title 36, Idaho Code.~~ **(3-31-22)()**

205. – 249. (RESERVED)

250. DEFACED OR ALTERED LICENSES INVALID.

Any license that is defaced, altered, or tampered with will be invalid from the date and time of issuance. It is unlawful to use or attempt to use any license that has been defaced, tampered with, or altered. Evidence of defacing, tampering, or altering includes but is not limited to tears or erasures or typeovers to the license stock. **(3-31-22)**

251. – ~~254~~61. (RESERVED)

~~255. AUTHORIZATION NUMBER PENDING RECEIPT OF LICENSE.~~

~~**01. Authorization Number.** A person applying by telephone or other electronic method will receive an authorization number assigned as directed by the Department.~~ **(3-31-22)**

02. Authorization Number Used in Lieu of License. The authorization number provided to telephone applicants may be used in lieu of the actual license only by the individual for whom the license was purchased. When used in lieu of a license, the person must carry government-issued identification and present such identification and provide the authorization number to comply with Section 36-1201, Idaho Code. The authorization number may be used for not more than fourteen (14) calendar days from the date of issue, except authorization numbers for short-term licenses are valid only for the stated term from the beginning effective date of the license. This allows the authorization-number holder to hunt or fish during the time period it takes to mail the license to the individual. Thereafter, the individual must have in possession the appropriate signed license to hunt or fish. (3-31-22)

03. Violation. It is a violation to hunt and fish with an invalid authorization number or an authorization number issued to another person. (3-31-22)

04. Authorization Number Only Eligible for Certain Activities. The authorization number may be used only for those hunting or fishing activities that do not require a license, tag, or permit to be notched or attached to a carcass. (3-31-22)

256.—261. (RESERVED)

262. RESIDENT LICENSES – JOB CORPS STUDENTS.

A Job Corps student may obtain a resident fishing license pursuant to Section 36-202(s)4, Idaho Code, provided the student presents certification of current enrollment at a Job Corps Center in Idaho signed by the Center director. (3-31-22)

263. RESIDENT LICENSES – MILITARY PERSONNEL – U.S. AND FOREIGN

01. Nonresident Eligibility. (3-31-22)

a. A nonresident member of the Armed Forces of the United States or a foreign country may obtain a resident license pursuant to Section 36-202(s)(3), provided the service member presents a copy of assignment orders (in official form appropriate for the branch of service, such as “Request and Authorization for Permanent Change of Station-Military”) that indicate the member is on active-duty with a permanent duty station in Idaho at the time of license application. The nonresident active-duty member’s spouse and dependent children less than eighteen (18) years of age may obtain a resident license, provided they present a copy of the assignment orders and documentation they are member of the active duty member’s household in Idaho. (3-31-22)()

b. Members of the Armed forces who are not residents of the state, and who are stationed or domiciled in Idaho for fewer than thirty (30) days immediately preceding application are not eligible for resident licenses or a military furlough license and must ~~purchase~~ buy nonresident licenses and tags. (3-31-22)()

c. Discharged servicemembers who were not residents of the state of Idaho at the time of their induction or enlistment, or who have not been stationed within the state of Idaho for a period of at least six (6) months prior to their discharge are not entitled to resident licenses until they have domiciled in this state for a period of six (6) months. The Department will rely on Discharge Form DD214 (or official successor form certifying release or discharge from active duty) for the home of record. (3-31-22)

d. Civilian employees of the military who are not Idaho residents are not eligible for resident licenses. (3-31-22)

02. Resident. Idaho residents who are in the military service of the United States and maintain Idaho as their official home of residence are eligible to ~~purchase~~ buy a resident license or obtain a military furlough license, pursuant to Section 36-202(s)(2), provided they provide a current leave and earnings statement or other proof identifying Idaho as their official state of residence. The service member’s spouse and dependent children less than eighteen (18) years of age living in the service member’s household may ~~purchase~~ buy resident licenses. (3-31-22)()

264. RESIDENT LICENSES – STUDENT.

01. Absent Full-time Student. Pursuant to [Section 36-202\(s\)1, Idaho Code](#), an Idaho resident who is a full-time student of an out-of-state institution of learning, paying nonresident tuition or otherwise not claiming residency in another state, is entitled to receive a resident license, for a period not to exceed five (5) years, even though the student is not physically present in Idaho continuously for a period of six (6) months preceding his application for such license. (3-31-22)

02. Temporarily Present. Students who are temporarily present within the state of Idaho while exercising residency privileges in another state or country are not eligible to ~~purchase~~ buy resident licenses. (3-31-22)()

265. FOREIGN EXCHANGE HIGH SCHOOL STUDENTS.

Pursuant to [Section 36-202\(s\), Idaho Code](#), any foreign exchange student enrolled in an Idaho high school may obtain a resident fishing license, provided the student presents proof of Idaho high school enrollment and a copy of the U.S. Immigration document or other government document showing “J-1” student classification. All other foreign students are nonresidents. (3-31-22)

266. FOREIGNERS/ALIENS IN IDAHO.

~~Foreigners residing in the state on a temporary visa are not eligible for a resident license. Persons residing in the state who present a valid permanent visa or a currently pending application for U.S. citizenship are eligible for a resident license if they have been~~ Non-U.S. citizens are not eligible for resident licenses unless they present a valid permanent U.S. visa or a pending application for U.S. citizenship and proof of being domiciled within Idaho for six (6) months with a bona fide intent to remain. (3-31-22)()

267. – 301. (RESERVED)

302. DISABILITY LICENSES.

Disability licenses include: Disabled Combination, Disabled Hunting, Disabled Fishing, Disabled American Veterans Combination, Disabled American Veterans Hunting, Disabled American Veterans Fishing, and Nonresident Disabled American Veterans Hunting. (3-31-22)

01. Attestation to Disability. No person may misrepresent any information to obtain a disability license. (3-31-22)

02. Documentation for Eligibility. The Department will not process an application for a disability license unless the applicant provides to the Department (by mail or in person) or vendor one (1) of the following: (3-31-22)

a. A Social Security Administration benefit verification letter in the individual’s name showing that the applicant is receiving SSI (Supplemental Security Income) or SSDI benefits for the current year; (3-31-22)

b. A letter from the Railroad Retirement board verifying disability status dated within three (3) years preceding the application for a disabled license; (3-31-22)

c. An official identification card issued by the U.S. Department of Defense, or a letter, of any date, from the U.S. Department of Veterans Affairs, verifying a service-connected disability rating of forty percent (40%) or greater. Such documentation will be required only for the initial application and will not be required for subsequent disability license application. The Department will not process applications for nonresident Disabled American Veteran licenses unless applicants provide this documentation. (3-31-22)

d. A current year’s letter from U.S. Veterans Affairs showing an individual is receiving a nonservice-connected pension. (3-31-22)

e. Certification of permanent disability on a form prescribed by the Department, completed and signed by the applicant’s physician, physician assistant, or nurse practitioner, also signed by the applicant, stating which of the criteria set forth in Subsection 010.047 ~~of this rule~~, qualifies the applicant as permanently disabled and why. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the

physician, physician assistant, or nurse practitioner's medical license must accompany the application.

(3-31-22)()

f. A valid Idaho driver's license if the holder meets disability requirements of [Section 49-117\(7\)\(b\)](#), Idaho Code, and the license is marked as disabled. (3-31-22)

303. DISABLED PERSONS MOTOR VEHICLE HUNTING PERMITS.

01. Applications for Disabled Motor Vehicle Hunting Permits. (3-31-22)

a. Applications for disabled motor vehicle hunting permits will be on a form prescribed by the Department, completed and signed by the applicant, or an individual may present their valid Idaho driver's license in lieu of the prescribed Department form if the individual meets the disability requirements of [Section 49-117\(7\)\(b\)](#), Idaho Code, except for blindness, and the driver's license is appropriately marked as disabled. (3-31-22)

b. Each application submitted on the Department form shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating which of the criteria set forth in [Section 36-1101, Idaho Code](#), qualifies the applicant and why, along with the applicant's certification that the applicant is capable of holding and firing, without assistance from other persons, legal hunting equipment. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. Physicians, physician assistants, or nurse practitioners must check the appropriate box for short-term or long-term disability on the application. If the disability is short term and physical mobility is expected to improve, the physician, physician assistant, or nurse practitioner must include a date when the disability is expected to end. (3-31-22)

02. Disabled Motor Vehicle Hunting Permits. (3-31-22)

a. Disabled motor vehicle hunting permits will expire no later than December 31 of the fifth year following the date of issuance. (3-31-22)

b. The permit shall be prominently displayed on any vehicle from which the person is hunting, on the driver's side of the dashboard of the parked vehicle, suspended from the rearview mirror, or otherwise displayed so as to be in plain view of any person looking at the vehicle or through any windshield. (3-31-22)

304. REASONABLE MODIFICATION PERMIT (WEAPON RESTRICTIONS).

01. Application. Applications for reasonable modification permits (for medical reasons) to allow use of equipment otherwise unauthorized will include: (4-6-23)

a. All information requested on a form prescribed by the Department; (3-31-22)

b. The applicant's signature; (3-31-22)

c. Signed certification from a licensed medical provider of the applicant's ~~physician, physician assistant, optometrist, or nurse practitioner~~ stating the criteria limiting the applicant's ability to participate without special accommodation, including checking of the appropriate box for short-term or long-term disability, and for short-term disability, including date when the disability is expected to end; which for visual disabilities may also be certified by the applicant's optometrist, licensed under Title 54, Chapter 15, Idaho Code; (3-31-22)()

d. A copy of the license of the physician, physician assistant, optometrist, or nurse practitioner, if that person is not licensed to practice in Idaho; (3-31-22)

e. Applicant's certification that applicant is able to hold and fire, without help from other persons, legal firearms or archery equipment; and (3-31-22)

f. A description of equipment accommodation requested, explaining how the requested accommodation will allow the applicant to participate without enhancing their abilities beyond the limitations and

purpose of the hunt. (4-6-23)

02. Determination. The Department will make its determination based on reasonableness of the accommodation and its consistency insofar as possible with all provisions guiding other hunters. The Department has discretion to deny applications as unreasonable in light of restrictions for other hunters, or set a modification different from the modification requested. (4-6-23)

a. Reasonable modification related to accommodation for use of scope or sight magnification (including battery-powered or tritium-lighted reticles) for archery or muzzleloader equipment may include magnification up to 4x power because of equipment availability. (3-31-22)

b. Reasonable modification related to archery only hunts may include the use of a crossbow or a device that holds a bow at partial or full draw. (3-31-22)

c. Reasonable modification for blind or visually impaired hunters may include a simple electronic device (e.g., smartphone camera), incorporated or attached to the scope (otherwise prohibited by [IDAPA 13.01.08.410.01](#)), for use by the hunter or companion, only as a viewfinder or display screen to aid in aiming. (4-6-23)

03. Authority. Reasonable Modification Permits authorize holders to use equipment, as specified in the permit, that is otherwise prohibited. (4-6-23)

04. Expiration and Carrying. (3-31-22)

a. Reasonable modification permits expire no later than December 31 of the fifth year following the issuance date, or the earlier ending of any shorter-term disability. (4-6-23)

b. A permit holder must carry a copy of the permit during any hunting in which the permit applies. (4-6-23)

305. DISABLED HUNTER AND COMPANION: GAME TAGS, PERMITS, AND LIMITS.

01. Assistance of Disabled Hunter by Designated Companion. Any disabled hunter possessing a valid disability license, disabled motor vehicle or disabled archery permit, as provided in Sections 302 through 304, or who is a disabled veteran participating in a hunt as provided in [Section 36-408\(7\)](#), Idaho Code, may be accompanied by a designated companion who may assist the disabled hunter with taking wildlife. (3-31-22)

02. Excepted From Game Tag or Game Permit Possession Only. The companion assisting a disabled hunter is excepted from game tag or permit possession to take game wounded by a disabled hunter. All other applicable rules governing the taking of wildlife apply to the companion, including possession of a valid hunting license and any applicable weapons permit (archery or muzzleloader) for the hunt. (3-31-22)

03. Validation and Attachment of Tag. The companion to a disabled hunter may validate and attach the disabled hunter's game tag or permit in accordance with applicable rules (~~IDAPA 13.01.08, Rules Governing Taking of Big Game Animals, or IDAPA 13.01.09, Rules Governing Taking of Game Birds and Upland Game Animals~~). (3-31-22)()

04. Accompanying the Disabled Hunter. The companion must accompany the disabled hunter while hunting. Once a disabled hunter has wounded game, the hunter's companion does not need to be accompanied by the disabled hunter while taking game wounded by the disabled hunter or while tagging or retrieving downed game on behalf of the disabled hunter. (3-31-22)

05. Written Statement of Designation. While taking wounded or killed game to assist a disabled hunter, the companion to a disabled hunter must possess a written statement from the disabled hunter designating that person as the disabled hunter's companion, signed by the disabled hunter including the disabled hunter's name, address, hunting license number, any applicable tag or permit number, and the dates of designation as a companion. If a companion to a disabled hunter transports any wildlife on behalf of a disabled hunter, a proxy statement is required

in accordance with [Section 36-502, Idaho Code](#).

(3-31-22)

06. Companion's Possession Limit. Any wounded game killed, or game tagged or retrieved, by a designated companion on behalf of a disabled hunter counts against the disabled hunter's possession limit and does not count against the companion's possession limit. (3-31-22)

07. Disabled Hunter Considered for Violation. The disabled hunter in possession of the valid game tag or permit is considered the hunter for violation of waste or destruction of wildlife under [Section 36-1202, Idaho Code](#). (3-31-22)

306. – ~~399~~09. (RESERVED)

310. TAGS AND PERMITS.

No person may take big game animals without having in possession the appropriate license, tags, and permits as set forth in Section 36-409, Idaho Code. ()

01. Use of Tags and Permits. ()

a. Controlled hunt tags, including controlled depredation hunt tags and controlled hunt extra tags, issued for big game animals may be used only for take of the animal in the hunt area specified by Commission proclamation or Department order for the controlled hunt for which the tag is issued. ()

b. General season tags, including extra general season tags, issued for big game animals may be used during any open general season, including any general special weapon season, ONLY as follows: ()

i. Only for take of the animal specified on the tag, with a Regular Deer tag being valid for mule deer or white-tailed deer; and ()

ii. Only in the hunt area for which the tags are issued, as designated by Commission proclamation. ()

c. And for elk, Elk A Tags may be used only during a general season, including any general special weapon season, designated by Commission proclamation as an Elk A season, and Elk B Tags may be used only during any general season, including any general special weapon season designated by Commission proclamation as an Elk B season. ()

02. Statewide Hunt Area. If a general season tag, including any extra general season tag, for a big game animal does not specify a hunt area, the tag may be used statewide, unless Commission proclamation or Department order specifies an area where such tag use is prohibited or otherwise limited in its use. ()

03. Additional Use of Nonresident Deer and Elk Tags. A hunter may use an unfilled nonresident elk or deer tag, to take instead a black bear, mountain lion, or gray wolf, during the open season corresponding to the elk or deer tag hunt area or unit when the season for the animal taken is also open. ()

311. ARCHERY AND MUZZLELOADER PERMITS.

No person may hunt in a season designated by Commission proclamation as Archery Only or Muzzleloader Only without the appropriate archery or muzzleloader permit for the relevant season validated on their license. ()

312. DELAY IN ELIGIBILITY FOR BUYING LIMITED GENERAL HUNT TAG.

When the Commission limits the number of tags available for a general big game hunt, the Commission may establish a period of no more than five (5) days at the beginning of a tag sale period, during which any applicant for a controlled hunt in the same license year for the same species is not eligible to buy a tag for that limited hunt. ()

313. -- 314. (RESERVED)

315. NONRESIDENT TAG RESTRICTIONS.

01. Controlled Hunt Limitations. Outfitter-allocated hunts, NR Draw Hunts, NR DAV Draw Hunts, LAP Hunts, LPH hunts, and emergency depredation hunts are exempt from the limitation of this Subsection. ()

a. In controlled hunts with nineteen (19) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than twenty (20) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule will apply to each uniquely numbered controlled hunt and to the controlled hunts for each species. ()

b. In controlled hunts unlimited for residents, the Commission may limit the number of tags available for nonresident hunters to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. ()

02. General Hunts. The Commission may make tags available to nonresidents via NR Draw Hunts or over the counter sales. The Commission may limit the number of tags available for nonresidents in a zone or big game hunting unit to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the previous five (5) year period. The Commission may make tags available to nonresidents via NR Draw Hunts or over the counter sales. ()

03. Wildlife Partnership Tags. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose will be taken from the nonresident tag availability and is subject to Nonresident Tag Limitations set forth in Section 36-408(09) Idaho Code. ()

316. -- 319. (RESERVED)

320. ELIGIBILITY FOR CONTROLLED HUNT APPLICATION.

A person must possess an Idaho hunting license valid for taking game animals to apply for any controlled hunt. ()

01. Bighorn Sheep. ()

a. Any person whose name was drawn on a controlled hunt for any bighorn sheep is not eligible to apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag in the current and the following year. ()

b. Any person who has killed a California bighorn ram is not eligible to apply for a California bighorn ram controlled hunt tag; and any person who has killed a Rocky Mountain bighorn ram is not eligible to apply for a Rocky Mountain bighorn ram controlled hunt tag, 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 tag for any hunt north of Interstate Highway 84; and 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 tag for any hunt south of Interstate Highway 84. ()

c. Any person who kills a bighorn ewe is not eligible to apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the person ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe is not eligible to apply for any bighorn ram the same year. ()

02. Mountain Goat. ()

a. Any person whose name was drawn on a controlled hunt for mountain goat is not eligible to apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag in the current and the following year. ()

b. Any person who has killed a mountain goat since 1977 is not eligible to apply for a mountain goat tag. ()

03. Moose. ()

a. Any person whose name was drawn on a controlled hunt for moose is not eligible to apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag in the current and the following year. ()

b. Any person who has killed an antlered moose in Idaho is not eligible to apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho is not eligible to apply for a tag for antlerless moose, except that any person may apply for tags remaining unsold after the controlled hunt draw. ()

04. Antlered-Only Deer, Antlered-Only Elk, and Pronghorn. Any person whose name was drawn on a controlled hunt for antlered-only deer, antlered-only elk, or any pronghorn (including either sex, and doe and fawn) is not eligible in the following one (1) year to apply for any controlled hunt for the respective species drawn (antlered-only deer, antlered-only elk, or any pronghorn). ()

a. Exceptions. A person drawn in the previous year remains eligible to apply for controlled hunts in the second application period, controlled hunts with an unlimited number of tags, NR Draw hunts, Outfitter Allocated Controlled hunts, or Landowner Appreciation Program hunts. Such person is also eligible to purchase a leftover tag or Governor's Wildlife Partnership Tag. ()

05. Grizzly Bear. No person who has killed a grizzly bear in Idaho may apply for a grizzly bear tag. ()

06. Black Bear. Any nonresident applying for a controlled black bear hunt who wishes to use hounds must separately apply for a Hound Hunter Permit, subject to applicable limitations of IDAPA 13.01.15. ()

07. Landowner Permission Hunts. Any person applying for a landowner permission hunt must have a permission slip including the name, address, and signature of a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area for big game species and seventy-nine acres (79) acres in the hunt area for game birds. ()

08. Herd Health Landowner Permission Hunts. Any person applying for a herd health Landowner Permission hunt must have a permission slip including the name, address, and signature of the landowner who owns or leases property in the defined hunt area. ()

09. Youth Only Hunts. Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person sixty-five (65) years of age or older, or a person with a disabled license, may apply during a second application period for youth-only controlled hunts or buy leftover youth-only controlled hunt tags on a first come, first served basis. ()

10. Outfitter Allocated Hunts. Any person must have a written agreement with an outfitter to submit an application for an outfitter allocated controlled hunt. ()

11. Multiple Applications. ()

a. Any person applying for a bighorn sheep, mountain goat, grizzly bear, or moose controlled hunt is not eligible to 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 pronghorn. Unsuccessful applicants for bighorn sheep, mountain goat, grizzly bear, or moose controlled hunts are eligible to participate in the second application period for deer, elk, and pronghorn, and of leftover controlled hunt tags. ()

b. A person may apply for both a controlled hunt tag and a controlled hunt extra tag for the same big game species. ()

321. – 329. (RESERVED)

330. CONTROLLED HUNT APPLICATIONS

01. Application Periods and Tag Claim Deadlines. The Department will publish dates for controlled hunt application periods, deadlines for claiming tags, and leftover tag sales via the Department's website and proclamation brochures. ()

02. Applications. Individual applications or group applications for controlled hunts may be submitted during the application period, via the automated licensing system at any vendor location, including Department offices, the Internet, or telephone. Any individual application or group application that has incomplete or incorrect hunt or license numbers or lacks information or fees will be declared void and will not be entered in the drawing. All applications will be considered final; except, applicants who want to change their submitted controlled hunt application may request the original application be canceled and resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate controlled hunt application fees. ()

03. Deadline for Claiming Tags and Unclaimed Tags. Successful applicants must claim controlled hunt tags by the published deadlines for the respective first or second deer and elk controlled hunt drawings, or black bear, gray wolf, or pronghorn controlled hunt drawings. Any controlled hunt deer or elk tag not bought and picked up by the published deadline for the first application period will be made available for the second controlled hunt drawing. Any controlled hunt deer or elk tag not bought and picked up by the second controlled hunt drawing, or any black bear, gray wolf, or pronghorn controlled hunt tag not picked up by the published deadline will be sold as leftover controlled hunt tags. ()

04. Applicant Requirements. Applicants must comply with the following requirements: ()

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 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. ()

b. Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. ()

c. Several applications may be submitted so long as each application is for a single species, a single applicant or group, and both hunts on an application are controlled hunt tag hunts or controlled hunt extra tag hunts. ()

d. The fee set by Section 36-416, Idaho Code, must be submitted with each application, including for leftover controlled hunt tags. A single payment may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. ()

05. Group Application. ()

a. A "group application" for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) persons applying for the same controlled hunt(s) on the same application. All applicants must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. ()

b. A "group application" for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) persons applying for the same controlled hunt on the same application. Both applicants must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. ()

c. If a group application exceeds the number of tags available in a hunt, that group application will not be selected for that hunt. ()

d. If an applicant becomes ineligible prior to the drawing the applicant will be removed from the ()

application and excluded from the drawing. ()

06. Unlimited Controlled Hunts. Unlimited controlled hunts identified by proclamation as “first-choice only” may be applied for only as the applicant’s first choice-controlled hunt. ()

07. Landowner Permission Controlled Hunts. Landowner permission hunt tags will be sold first-come, first-served basis at the Department’s Headquarters or regional offices beginning the first business day on or after July 15. ()

08. Hunt Choice Drawing. Single or group applications which are not drawn for the first-choice hunt will automatically be entered into an additional choice drawings, provided the additional choice hunt applied for has not been filled. ()

09. Second Drawing Exclusion. The Director may designate certain controlled hunt tags unclaimed (3-31-22) after the first drawing to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. ()

331. – 339. (RESERVED)

340. NR DRAW AND NR DAV DRAW HUNT CHOICES AND APPLICATIONS.

01. Eligibility for Multiple Hunt Applications and Tag Limits. ()

a. A person may only submit one application each for deer or elk in NR draw hunts. An individual eligible for both NR DAV draw hunts and NR draw hunts may submit an application for each hunt type. ()

b. An individual who is successful in an NR DAV draw hunt or in the first application period of an NR draw hunt is not eligible to apply in the second application period for NR draw hunts. An application for an NR draw hunt or a DAV Draw Hunt does not restrict eligibility for other controlled hunt applications or leftover tag purchases, but successful applicants cannot possess more than one tag each for deer or elk, except where the Commission has authorized possession of additional tags. ()

02. Hunt Choices. ()

a. Individual or group applications for NR and NR DAV Tag may apply for up to five (5) prioritized hunt choices per application. ()

b. If a group application is drawn whose number of applicants exceeds the number of available tags, that group application will not be selected for that hunt. ()

c. Applications that are not selected for their higher choice hunt will automatically be entered into drawings for their lower choices, provided the lower choices applied for have not been filled. ()

03. Group Application. ()

a. A “group application” for NR draw hunts or NR DAV draw hunts may be submitted by two, three, or four (2, 3, or 4) individuals eligible for the same hunt(s) on the same application. ()

b. If any applicant is ineligible at the time of drawing the applicant will be removed from the application and excluded from the drawing. ()

341. – 349. (RESERVED)

350. USE OF CONTROLLED HUNT TAGS.

01. Use of Controlled Hunt Tags. No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession as specified by species in Section 320. ()

- a.** A controlled hunt area with an “X” suffix is an extra tag hunt. ()
- b.** In the event a tag is issued based on erroneous information supplied by the applicant, the tag will be invalidated by the Department and may NOT be used. The Department will notify the person of the invalidation of the tag. 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. ()
- 02. Deer.** Any person who draws a controlled hunt tag for deer is not eligible to hunt in any other deer hunt--archery, muzzleloader, or general; except: ()
- a.** The person may choose not to purchase the controlled hunt tag by the date set by proclamation for the first deer drawing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()
- b.** If the person draws an unlimited controlled hunt, the person may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()
- c.** The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag. ()
- d.** Any person who draws a controlled hunt extra tag for deer may also possess any other deer general or any other non-extra controlled hunt deer tag hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. ()
- 03. Elk.** Any person who draws a controlled hunt tag for elk is not eligible to hunt in any other elk hunt--archery, muzzleloader, or general; except: ()
- a.** The person may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()
- b.** If the person draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()
- c.** The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag. ()
- d.** Any person who draws a controlled hunt extra tag for elk may also possess another elk hunt, general or any other non-extra controlled hunt elk tag hunt in any other elk hunt--archery, muzzleloader, general or controlled hunt. ()
- 04. NR Draw Tags.** A nonresident who draws an elk or deer tag in NR Draw Hunt or NR DAV Draw Hunt may participate in another hunt that is not an extra tag hunt, provided they exchange or relinquish the NR Draw or NR DAV Draw Hunt tag for the other controlled hunt tag or leftover tag by any applicable deadline. ()
- 05. Pronghorn.** Any person who draws a pronghorn controlled hunt tag is not eligible to hunt in any other pronghorn hunt; except: ()
- a.** The person may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. ()
- b.** If the person draws an unlimited controlled hunt, the person may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the

leftover controlled hunt tag sale. ()

c. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. ()

d. Any person who draws a pronghorn extra hunt tag may possess one (1) other pronghorn non-extra hunt tag. ()

06. Black Bear. ()

a. Any person who draws a spring controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or return an unused general season bear tag in exchange for the controlled hunt bear tag. ()

[Proposed new Subsection 350.06.b. has been omitted]

351. – 399. (RESERVED)

400. LANDOWNER APPRECIATION PROGRAM (LAP).

01. Property and Landowner Registration. (3-31-22)

a. Only landowners who have registered their eligible property with the Department are eligible to apply for LAP controlled hunt tags for deer, elk, pronghorn, turkey, and/or black bear. Registered landowners must notify the Department of any changes in property ownership or eligibility. (3-31-22)()

b. Registration of an eligible property and landowner applicant will be on a form prescribed by the Department. The landowner must submit the registration form; a copy of the deed(s) and the most recent tax assessment(s) describing the eligible property and showing the name(s) of the owner(s); and a map of the eligible property to the Department regional office. Department personnel will certify the registration and land description and return a copy to notify the landowner. (3-31-22)()

c. If the person registering is an authorized corporate or partnership representative, the registration will include written verification from the board of directors, partnership, or an officer of the corporation, other than himself the registrant, verifying that he is they are authorized to register the property and eligible applicants. (3-31-22)()

02. Hunt Areas. LAP controlled hunt tags will be issued only for those controlled hunt areas designated by the Commission as eligible for such tags. (3-31-22)

03. Tag Eligibility. Landowners may receive LAP controlled hunt tags only for the species and sex that use the eligible property and only for LAP hunt areas in which the registered property is located. (3-31-22)

04. Controlled Hunt Applications. Applications for LAP controlled hunt tag(s) will be on a form prescribed by the Department. (3-31-22)

a. Applications from landowners with six hundred forty (640) acres or more will be accepted on or after May 15 of each year. Applications submitted in person or mailed to the Department main office or any Regional Office, postmarked not later than June 15 of each year on a date published in the LAP proclamation, will be entered in the random drawing for LAP controlled hunt tags. Each application will be entered in the random drawing one (1) time based upon each six hundred and forty (640) acres of eligible property registered by the landowner that are within the LAP controlled hunt area game management unit. (3-31-22)()

b. One (1) application may be submitted by a landowner with eligible property consisting of six hundred forty (640) acres to four thousand nine hundred ninety-nine (4,999) acres. A second application may be submitted for eligible property consisting of five thousand (5,000) acres or more. (3-31-22)

05. Left-Over Tags. Landowners with eligible property consisting of three hundred twenty (320) acres or more may apply for left-over tags following the random draw. ~~Written-a~~ Applications will be accepted ~~beginning on the first business day on or after July 15 of each year as specified in the brochure~~ on a first-come, first-served basis, provided they are accompanied by the appropriate application fee as specified in Section 36-416, Idaho Code. (3-31-22)()

06. Issuance of ~~Controlled Hunt~~ Tag(s). (3-31-22)()

a. Once the Commission has determined the number of controlled hunt tags to be issued in any controlled hunt area, an additional ten percent (10%) of the number of controlled hunt tags may be issued as LAP tags. In subsequent years up to twenty-five percent (25%) of the number of controlled hunt tags may be issued only if the hunt is over subscribed by eligible LAP applicants. (3-31-22)

b. Where the number of LAP applicants exceeds the number of LAP controlled hunt tags available in an area, successful applicants will be determined by drawing. All eligible landowners in the drawing will be considered for one (1) tag before any landowner is eligible for a second tag. (3-31-22)

c. No more than two (2) LAP controlled hunt tags ~~and no more than one (1) LAP controlled hunt extra tag per species~~ may be issued to any eligible landowner ~~per registration~~. (3-31-22)()

d. Only one (1) leftover LAP controlled hunt tag may be issued for eligible property consisting of between three hundred twenty (320) and six hundred thirty-nine (639) acres within a ~~LAP-controlled hunt area~~ Game Management Unit. Only one (1) LAP controlled hunt tag may be issued for eligible property consisting of between six hundred forty (640) and four thousand nine hundred ninety-nine (4,999) acres within a ~~LAP-controlled hunt area~~ Game Management Unit. One (1) additional LAP controlled hunt tag may be issued to a landowner or designated agent(s) for eligible property in excess of five thousand (5,000) acres within a ~~LAP-controlled hunt area~~ Game Management Unit. No landowner or designated agent(s) is eligible to receive more than one (1) LAP controlled hunt tag for one (1) species in a calendar year. (3-31-22)()

e. A successful landowner, corporate or partnership representative drawing a LAP controlled hunt tag may designate an eligible individual to whom the controlled hunt tag will be issued. (3-31-22)

07. Sale-~~or~~, Marketing, or Purchase Unlawful. It is unlawful ~~for anyone other than the Department or Department-authorized representative~~ to sell or market LAP controlled hunt tags, ~~and it is unlawful for a person to buy an LAP controlled hunt tag from any person other than the Department or Department-authorized representative~~. In addition to any statutory penalties, a violator of this provision will not be eligible to participate in the LAP program for three (3) years. (3-31-22)()

08. Application of Controlled Hunt Restrictions. (3-31-22)

a. ~~The restriction that applying for a moose, bighorn sheep, or mountain goat controlled hunt makes the applicant ineligible to apply for any other controlled hunt does not apply to persons who are otherwise eligible to apply for a LAP-controlled hunt tag~~ Applicants for LAP controlled hunt tags are not subject to nonresident limits or quota, or to waiting periods or restrictions based on other controlled hunt applications. (3-31-22)()

b. ~~LAP-controlled hunts are exempt from limits or quotas on nonresident tags.~~ (3-31-22)

c. ~~LAP-controlled hunt tags are exempt from the one (1)-year waiting periods for deer, elk and pronghorn-controlled hunt applications under IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals," Section 257.~~ (3-31-22)

09. Special Restrictions. Any person hunting with a LAP controlled hunt tag may hunt only within the boundaries described in the LAP controlled hunt area. Bag and possession limits set forth in IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals," Section 200, apply to holders of LAP controlled hunt tags. (3-31-22)()

401. – 499. (RESERVED)

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

01. **Restrictions.** Allocated tags for use in general and controlled hunts will be sold on a first-come, first-serve basis through July 14 of each year made available to outfitted hunters pursuant to IDAPA 24.35.01.257. Tag application for tag purchase will be made by the outfitter for the outfitted hunter on a form prescribed by the Department along with the appropriate license fees and certification that the hunter has a contract to hunt with the outfitter making application. (7-1-24)()

02. **Unsold Tags Designated Buyers.** Any tags not sold by July 15 of each year will be sold by the Department to nonresidents on a first-come, first-serve basis. Buyers of allocated tags, who return their unused tag with a notarized affidavit stating they have not hunted, may designate another outfitted hunter to buy a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag, and the original buyer will not be eligible for a refund from the Department. (3-31-22)()

501. – 504. (RESERVED)

505. APPORTIONMENT OF DEER AND ELK TAG ALLOCATIONS.

The Commission will apportion non-allocated and allocated tags only for those areas with historic use by outfitted deer and/or elk hunters. The Commission may use this subsection or the allocated tag provisions of Section 36-408, Idaho Code, to set the number of allocated tags in capped hunts, NRL hunts, and controlled hunts for which residents apply. ()

01. **Allocation of Tags for Capped General Hunt Units or Zones.** Pursuant to Section 36-408, Idaho Code, the Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in units or zones with limited numbers of tags. The Commission may use this subsection or the allocated tag provisions of Section 36-408, Idaho Code, to allocate outfitter tags in capped general hunt units or zones. (3-31-22)

a. When the number of hunters in a general hunt unit or zone becomes restricted, the Commission sets a capped hunt for the first time, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of unit or average historic tag use percentages during the previous five (5) year period for each unit or zone for three categories: non-outfitted residents, non-outfitted nonresidents, and outfitted hunters. As long as the zone or unit is a capped general hunt, the Department will apply these percentages to apportion tags for the hunt proportionally among non-allocated resident tags, non-allocated nonresident tags, and allocated tags. Where it is biologically feasible, any proportional reductions in the number of allocated tags available within a zone or unit that exceed twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the second year, with the differential to be deducted from the apportionment for non-allocated nonresident tags. (3-31-22)()

b. The allocation of tags will be calculated on a unit or zone basis. Any reduction or increase in hunting opportunities will be proportionate among non-outfitted hunters and outfitted hunters, and will be proportionate among resident and non-resident hunters; EXCEPT where such reduction would result in an allocation of greater than twenty-five percent (25%) for non-resident hunters, the Commission may reduce the allocation for non-resident hunters to a percentage of not less than twenty-five percent (25%). (3-31-22)

02. **Allocation of Tags for Controlled Hunt Areas.** The Commission may only allocate outfitter tags in controlled hunt areas with historic licensed deer and/or elk outfitted area(s). For controlled hunts for which residents apply, the Commission will apportion allocated tags as an outfitter-allocated controlled hunt separate from the controlled hunt for non-allocated tags based on the total tag numbers determined for the controlled hunt area. Hunt application and eligibility rules will apply to allocated tags in controlled hunts. The Commission may set allocated tag numbers as follows, or under Section 36-408, Idaho Code. (3-31-22)()

a. The number of outfitter allocated tags will be in addition to the number of tags authorized by the Commission within each controlled hunt area with historic licensed deer and/or elk outfitter areas. (3-31-22)

~~b.~~ A person is not eligible to apply for an outfitter allocated controlled hunt unless that person has a written agreement with an outfitter licensed in the hunt area. Successful applicants of an outfitter allocated controlled hunt must hunt with an outfitter licensed for the hunt area. The outfitter must purchase the successful applicant's controlled hunt tag by August 20. (3-31-22)

~~c.~~ Successful applicants who do not want to participate in the outfitted hunt may decline the hunt upon written notification to the Department. Those declining the hunt will then be eligible to participate in a general season or leftover controlled hunt. Those drawing an outfitted controlled hunt and then declining the controlled hunt will be subject to any applicable waiting period under IDAPA 13.01.08, "Rules Governing Taking of Big Game Animals," Section 257. (3-31-22)

~~d.~~ Successful applicants that do not secure the services of an Idaho licensed outfitter and have not purchased the controlled hunt tag by August 20 will forfeit the opportunity to purchase a controlled hunt tag. The forfeited controlled hunt tag will then be listed as a leftover controlled hunt tag. The Department will inform the Idaho Outfitters and Guides Board that a leftover controlled hunt tag is available. After securing a client, the outfitter(s) may then purchase the leftover controlled hunt tag at a Department office. (3-31-22)

~~e.~~ The Commission may use this subsection or the allocated tag provisions of Section 36-408, Idaho Code, to allocate outfitter tags in controlled hunt areas: (3-31-22)

~~i.a.~~ No less than one (1) tag and no more than three percent (3%) of the total tags; or (3-31-22)

~~ii.b.~~ A number based on the average historic use during the previous five (5) year period to be rounded up when a decimal equals or exceeds zero point six (0.6) and rounded down when a decimal is less than zero point six (0.6); or (3-31-22)

~~iii.c.~~ An unlimited number of allocated tags or a number of allocated tags based on historic use as alternatives only for controlled hunt areas with limited nonresident tags and unlimited resident tags; or (3-31-22)

~~iv.d.~~ No tags will be allocated. (3-31-22)

506. ~~DEER AND ELK TAG ALLOCATION IN GENERAL HUNTS LIMITED FOR NONRESIDENTS ONLY.~~

~~013.~~ Tag Allocation Tags for NRL Hunts. ()

~~a.~~ When setting annual or biennial limits for general hunt deer or elk tags available to nonresidents without resident limits, in zones, units, or other hunt areas with historic outfitted hunter use in NRL hunts, the Commission will first allocate, on a corresponding biennial or annual basis, set the number of allocated tags reserved for outfitted hunters equal to the Initial Tag Use Number determined under this Section 506. The Commission will subtract the number of tags so allocated from the nonresident tag limit. Subject to a maximum of fifty percent (50%) of the remaining nonresident tag limit, the Commission will allocate an additional increase the number of allocated tags reserved for outfitted hunters corresponding to the number by which the higher tag number from the Two-Year Verified Outfitter Use History exceeds the Initial Tag Use Number for the hunt area. The number of tags remaining in the nonresident limit after subtracting the Initial Tag Use Number, and any additional tags allocated under this section, will be available for purchase as non-allocated tags by outfitted or non-outfitted hunters. (4-6-23)()

~~024.~~ Initial Tag Use Number. (4-6-23)

~~a.~~ For general hunts first limited for nonresidents while unlimited for residents in 2021 or subsequent years, the Initial Tag Use Number for outfitted hunters is the higher tag use number of the Two-Year Verified Outfitter Use History for 2021-2022, or the two (2) years immediately preceding the first year the hunt area is limited, whichever period is later. (4-6-23)

~~b.~~ The Commission will increase the Initial Tag Use Number for a deer unit subject to a fifty percent (50%) restriction for allocated tag limits in 2021-2022, corresponding to the reduction in outfitted hunter use

demonstrated by outfitter(s). (4-6-23)

c. If general hunt tags are allocated under this ~~Section 506~~ for elk zones capped for all hunters before 2021, the Initial Tag Use Number will be the number determined to be historic outfitted hunter use at the time of prior capping, if greater than the otherwise applicable Two-Year Verified Outfitter Use History. (4-6-23)()

d. The Initial Tag Use Number will remain the same for the zone, unit, or hunt area for subsequent consecutive years in which nonresident tag limits apply. (4-6-23)

~~507. DEER AND ELK ALLOCATED TAGS.~~

~~01. Distribution of Allocated Tags.~~ Application for allocated tags will be made by the outfitter for the outfitted hunter, in accordance with tag designation by the Idaho Outfitters and Guides Licensing Board under Section 36-2107, Idaho Code, on a form prescribed by the Department, and with outfitter's certification that a written agreement exists between the outfitter and outfitted hunter for the tag applied for. (4-6-23)

~~02. Designated Buyers.~~ Purchasers of allocated tags, who return their unused tag with a notarized affidavit stating that they have not hunted, may designate another person to purchase a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag. (4-6-23)

~~03. Unsold Tags.~~ Any allocated tags not sold by August 1 of each year will be sold by the Department on a first-come, first-served basis. (3-31-22)

~~5087.~~ – 549. (RESERVED)

550. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. General Hunt Tag Quotas. The following number of general hunt tags will be set aside annually and reserved for sale to nonresidents: (3-31-22)

a. ~~Fourteen~~Fifteen thousand ~~five hundred~~ (415,050) total deer tags (combination of regular and white-tailed deer tags); (3-31-22)()

b. Twelve thousand eight hundred fifteen (12,815) total elk tags (A and B tags); (3-31-22)

~~c. One thousand five hundred (1,500) white-tailed deer tags, available only upon sell-out of deer tags referenced in Subsection 550.01.a.~~ (3-31-22)

02. Disabled American Veteran Hunt Tag Quotas. The following number of disabled American veteran general hunt tags will be set aside annually and reserved for sale to eligible nonresidents. (3-31-22)

a. Five hundred (500) total disabled American veteran deer tags (regular and white-tailed deer tags); (3-31-22)

b. Three hundred (300) total disabled American veteran elk tags (A and B tags). (3-31-22)

03. Exceptions. Tag sales to the following persons will not be counted in the quotas in Section 550 ~~of these rules:~~ (3-31-22)()

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~~ buy a resident license. (3-31-22)()

~~b. Designated Buyers of unused nonresident tags to which the quota has already applied: an unused nonresident general hunt deer or elk tag, accompanied by a notarized affidavit stating that the tag buyer has not hunted, may be designated to another nonresident for purchase at the regular tag price, by the original buyer or an~~

~~outfitter or guide retained by the original buyer, or absent such designation, may be sold by the Department on a first-come, first-serve basis.~~ (3-31-22)

eb. Holders of resident lifetime license certificates who are no longer Idaho residents. (3-31-22)

dc. Holders of nonresident junior mentored tags. (3-31-22)

551. – 559. (RESERVED)

560. ~~SALE OF UNSOLD NONRESIDENT GENERAL DEER AND ELK TAGS AS SECOND TAGS~~LEFTOVER TAG SALES.

01. Controlled Hunt Tags. Beginning on the published date for leftover tag sales, any leftover non-allocated controlled hunt tag, except unlimited controlled hunt tags, may be sold as leftover controlled hunt tags on a first-come, first served basis. The ten percent (10%) nonresident limitation will not apply. Applicants for leftover tags with a tag already in possession must return their tag to the Department to be exchanged for the appropriate controlled hunt tag, except where the Commission has authorized by proclamation possession of the additional tag. ()

02. Outfitter Set-Aside and Nonresident Deer and Elk Tags. Any ~~outfitter set-aside (including allocated tags) or~~ nonresident general deer or elk tags unsold ~~or returned to the Department on or after by~~ August 1 may be sold to residents and to nonresidents as a second general hunt tag, at the nonresident tag price on a date specified by the Department. Unless the Commission has limited the use of second tags in a unit or zone by proclamation, a resident may buy a second tag for an elk zone where a nonresident limit has been reached if the zone is unlimited to residents, and a resident may use a second regular or white-tailed deer tag in any unit in the same manner as a first resident general hunt tag. (3-31-22)()

561. – 600. (RESERVED)

601. ~~REFUNDS TO NONRESIDENTS~~ AND EXCHANGES.

The Department will not refund any fee for any resident or nonresident license (as defined in Section 36-202(aa), Idaho Code), except as follows, and provided the refund request is in writing, is accompanied by the original license and tag, and is received or postmarked on or before December 31 of the calendar year in which the license was valid, except in the event of death of the licensee, which must be submitted within one (1) year of the death. (3-18-22)()

01. Refund Eligibility. ~~Nonresident general or controlled hunt deer or elk tag fees and hunting license fees may be refunded due to the death of licensee; illness or injury of licensee that totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict; as substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or similar documentation. 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 fees, less all issuance fees and a fifty dollar (\$50) processing fee.~~ (3-18-22)()

a. The holders of general or controlled hunt deer, elk, pronghorn, moose, bighorn sheep, or mountain goat tag fees and hunting license fees are eligible for refund due to the death of licensee as substantiated by death certificate, published obituary; pregnancy of the tag holder with written confirmation from a licensed medical provider; or illness or injury of licensee that totally disabled the licensee for the entire length of any applicable hunting season with written justification by a licensed medical provider. Hunting license and tag fees will not be eligible for refund if used for hunting at any time during the validity of the license and/or tag. ()

b. Controlled hunt application fees and special controlled hunt application fees are nonrefundable. ()

c. Fees for adult controlled hunt tags subsequently designated to a minor child or grandchild are not refundable. ()

02. Amount Refunded. Refunds to residents under this section will be the amount of the applicable tag and hunting license, less all issuance fees. Refunds to non-residents will be the amount of the applicable tag and hunting license fees, less all issuance fees and a fifty dollar (\$50) processing fee. ()

03. Junior Mentored Refund. If the parent or legal guardian of an individual in possession of a Junior Mentored deer or elk tag is eligible for a refund pursuant to this section, the junior mentored tag holder will be eligible for the same refund options. ()

024. Partial Refund. Nonresident general and controlled hunt deer or elk tag fees may be partially refunded for a reason other than those in the preceding subsection based on the postmark date in the below table. The hunting license fee will not be refunded.

Postmarked	Percent of Tag Fee Refunded
Before April <u>May</u> 1	75%
In April <u>May</u> through June	50%
In July and August	25%
September <u>August</u> through December	0%

(3-18-22)()

05. Exchanges. ()

a. Deer and Elk Tags. Deer and elk general season or NR Draw Hunt tags may be exchanged for a tag in a different unit or zone of the same species until July 31 of each calendar year, provided there are tags available in desired unit or zone. Controlled hunt tags may be exchanged for a general season or leftover tag provided there are tags available in the desired unit or zone and the controlled hunt tag season has not started. Regular and white-tailed deer tags are considered the same species for purposes of exchange. ()

b. Other Species. Tags may be exchanged for a different tag of the same species provided the tag season has not started, there are tags available in the desired unit or zone, and subject to species-specific dates. ()

036. Department Administrative Error. The Department ~~will~~ may refund fees ~~when if~~ it determines that ~~a Department employee~~ the Department or other license vendor made an error in the issuance of the license. (3-18-22)()

07. Widespread Environmental Incidents Refund. The Department may provide a refund of a resident or nonresident moose, bighorn sheep, or mountain goat tag if an Administrative Closure is enacted by a land agency due to a natural disaster or widespread environmental incident, that limits public access by fifty percent (50% or more) during fifty percent (50%) or more of the tag season. ()

08. Subsequent Year Hunt Eligibility. Individuals who receive refunds under this section will be eligible for applications in subsequent years as if they had not applied for the refunded tag. ()

09. Overpayment of mailed payments. Overpayment of more than five dollars (\$5) for payments sent by mail will be refunded. Because of processing costs, overpayments of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. ()

602. SPECIAL MILITARY DEPLOYMENT REFUND AND RAIN CHECK.

01. ~~Special Refund and Rain Check.~~ This special refund and rain check rule applies to the

~~appropriate calendar year hunting season. Because of military deployment, some persons will be unable to hunt big game animals for which they purchased tags.~~ (3-31-22)

021. Special Refund and Rain Check Eligibility. Holders of big game tags who can show in good faith they could not participate in ~~hunting activities~~ the hunt due to military deployment ~~will be~~ are eligible for a refund or rain check for license and tags for the next calendar year hunting season as outlined in this rule. (3-31-22)()

032. Tag Options. Holders of a general season or controlled hunt tag for deer, elk, moose, bighorn sheep, or mountain goat may request: (3-31-22)

- a. A refund of the hunting license and tag fee; (3-31-22)
- b. A rain check for a hunting license and the same general or controlled hunt tag for the same species for the next calendar year hunting season; or (3-31-22)
- c. For deer and elk only, an exchange in the calendar year for a general season tag for the same species in another zone or area so long as tags are available in that area or zone. (3-31-22)

~~04. Nonresident Bear or Mountain Lion Tags.~~ Holders of ~~nonresident bear or mountain lion tags~~ may request: (3-31-22)

- ~~a. A refund of the hunting license and tag fee; or (3-31-22)~~
- ~~b. A rain check for a hunting license and tag for the next calendar year hunting season. (3-31-22)~~

053. Ineligible to Request Tag Refund or Rain Check. If the person hunts a species of wildlife before requesting a refund or rain check, then the tag fee for that species will not be refunded or eligible for a rain check for the next calendar year season. A person is not eligible to request a raincheck of a tag that was approved for a raincheck in the prior year. (3-31-22)()

064. Ineligible to Request License Fee Refund or Rain Check. If the person hunts for any species during the applicable year before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the next calendar year ~~season~~. (3-31-22)()

~~07. Refunds Will Be for the Amount Paid.~~ All refunds will be for the amount the person paid for the hunting license or tag. (3-31-22)

~~085. Use of Department Approved Form for Rain Check or Refund Request Form.~~ Requests for a refund or rain check under this section will be made on the Department-approved form ~~(found on Idaho Fish and Game website at <http://fishandgame.idaho.gov/>), available on the Department website,~~ on or before December 31 of the calendar year in which the license and tags were valid, along with a copy of deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty. Those requests received after this date will not be eligible for the ~~special~~ refund or rain check. (3-31-22)()

603. – 699. (RESERVED)

700. BIGHORN SHEEP AUCTION TAG.

01. Eligibility. Only persons eligible to ~~purchase~~ buy an Idaho hunting license are eligible to bid on the bighorn sheep auction tag. (3-31-22)()

02. Validity of Tag. The Bighorn Sheep Auction Tag is valid for use only in controlled hunts open in the year purchased. The Bighorn Sheep Auction Tag will be valid in ~~Controlled Hunt Area 11~~ controlled hunts in Game Management Units 11, 13, and 18 only during odd-numbered years ~~and during even-numbered years when the Bighorn Sheep Lottery Tag holder chooses not to hunt in Controlled Hunt Area 11.~~ (3-31-22)()

03. License and Controlled Hunt Tag. (3-31-22)

a. A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the auction. (3-31-22)

b. The successful bidder for the Bighorn Sheep Auction Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. (3-31-22)

04. Application of Big Game Rules. All rules governing ~~IDAPA 13.01.08, “Rules Governing Taking of Big Game Animals,”~~ apply to the eligible and successful bidders other than as specified herein. (3-31-22)()

a. No successful bidder is eligible to apply for a bighorn sheep controlled hunt tag the same year the bidder is issued a Bighorn Sheep Auction Tag. (3-31-22)

b. Bighorn sheep auction tag recipients are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep. (3-31-22)

701. GOVERNOR’S WILDLIFE PARTNERSHIP TAGS.

01. Application of Big Game Rules. All rules in ~~IDAPA 13.01.08, “Rules Governing Taking of Big Game Animals,”~~ apply to recipients of Governor’s Wildlife Partnership Tags other than as specified in this section. (3-31-22)()

02. Eligibility. (3-31-22)

a. Only persons eligible to ~~purchase~~ buy an Idaho hunting license are eligible to bid on a Governor’s Wildlife Partnership Tag. (3-31-22)()

b. A person is eligible to receive only one (1) Governor’s Wildlife Partnership Tag in a calendar year. (3-31-22)

c. There is no waiting period for eligibility for Governor’s Wildlife Partnership Tags for elk, deer, or pronghorn. (3-31-22)

03. Validity of Tag. Each Governor’s Wildlife Partnership Tag is valid for one (1) designated species annually and within the timeframe and area prescribed by the Commission. (3-31-22)

04. License and Controlled Hunt Tag. (3-31-22)

a. A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the Governor’s Wildlife Partnership Tag auction. (3-31-22)

b. The successful bidder for a Governor’s Wildlife Partnership Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. (3-31-22)

c. If a recipient of a Governor’s Wildlife Partnership Tag draws a controlled hunt tag for that species for the same year, the controlled hunt tag is voided and the tag fee will be refunded upon the return of the tag to the Department, unless the tag is a ~~controlled~~ depredation hunt tag or a controlled hunt extra tag. The recipient of a Governor’s Wildlife Partnership Tag may ~~purchase~~ buy second, extra, or leftover tags if a holder of a controlled hunt tag for deer, elk, or pronghorn is allowed to do so under ~~IDAPA 13.01.08, “Rules Governing Taking of Big Game Animals.”~~ (3-31-22)()

d. Any person who receives a Governor’s Wildlife Partnership Tag for bighorn sheep, mountain goat or moose, and who is otherwise eligible to apply for a deer, elk or pronghorn controlled hunt tag, and who draws such a tag, will be allowed to hunt for those species during the same year the Governor’s Wildlife Partnership Tag is valid. (3-31-22)

702. – 799. (RESERVED)

800. BIGHORN SHEEP LOTTERY TAG.

01. Eligibility. (3-31-22)

a. Only persons eligible to ~~purchase~~ buy an Idaho hunting license are eligible to ~~purchase~~ buy tickets for the Bighorn Sheep Lottery Tag. “Tickets” for the Lottery Tag are hunt applications and are not transferable. A person may submit an application for another eligible individual. (3-31-22)()

b. If any person is drawn for the Bighorn Sheep Lottery Tag and has already been drawn for a bighorn sheep controlled hunt tag for the same year, the controlled hunt tag will be voided and the tag fees refunded after return of the earlier drawn tag to the Department. ~~The Lottery Tag is valid to hunt bighorn sheep in the year drawn.~~ (3-31-22)()

02. Validity of Tag. ~~The Bighorn Sheep Lottery tag is valid for use only in controlled hunts open in the year drawn. The Bighorn Sheep Lottery Tag will be valid in ~~Controlled Hunt Area~~ in controlled hunts in Game Management Units, 11, 13, and 18 only during even-numbered years ~~and during odd-numbered years when the Bighorn Sheep Auction Tag holder chooses not to hunt in Controlled Hunt Area 11.~~~~ (3-31-22)()

03. Tag. (3-31-22)

a. A hunting license (if needed) and a controlled hunt tag will be provided to the eligible person drawn for the Lottery Tag from the net proceeds. (3-31-22)

b. The Bighorn Sheep Lottery Tag will only be issued to the eligible person whose name appears on the application drawn for the tag, and will not be issued to another individual. (3-31-22)

04. Application of Big Game Rules. All rules in IDAPA 13.01.08, “Rules Governing Taking of Big Game Animals,” apply to Lottery Tag applicants and the Tag recipient, other than as specified herein. (3-31-22)()

a. Bighorn Sheep Lottery Tag recipients are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep. (3-31-22)

b. Any person who wins a Bighorn Sheep Lottery Tag, and who is otherwise eligible to apply for a deer, elk, or pronghorn controlled hunt tag and who has drawn such a tag, will be allowed to hunt for those species during the same year the Bighorn Sheep Lottery Tag is valid. (3-31-22)

801. SPECIAL CONTROLLED HUNTS (SUPER HUNT PROGRAM).

01. Special Controlled Hunt Program. ~~The Special Controlled Hunt Program (Super Hunt Program) is a program to partially fund a sportsman access program adopted by the Commission. This program will offer forty (40) tags valid for the current year hunting seasons; including, twelve (12) tags each for elk, deer, and pronghorn, and four (4) tags for moose.~~ ()

02. Tags. ~~Each special controlled hunt tag is valid for the designated species and allows the holder to hunt in any open hunt, general or controlled, for the designated species in the applicable year’s season.~~ ()

03. Moneys. ~~The Department will deposit all moneys received from the sale of Special Controlled Hunt Applications in accordance with state law. The Department will specifically use funds for the sportsman access program.~~ ()

04. Applications. ()

a. ~~Tags may be made available for application on an individual species basis (Super Hunt) or grouped~~

for combined species (Super Hunt Combo). ()

b. Application fees will be set by Commission Order under Section 36-415, Idaho Code, or will be the same as the controlled hunt fee set in Section 36-416, Idaho Code. ()

c. Application may be made on a form prescribed by the Department or submitted electronically at any Department Office or license vendor, via Internet or telephone. ()

d. Any individual, resident or nonresident, may buy and submit applications for the special controlled hunt program without limit. Restrictions on controlled hunt eligibility based on prior application or harvest set forth in Section 320, of these rules, do not apply to applications for the special controlled hunt program. ()

e. Applications may be entered in the name of individuals other than the buyer. A tag may only be awarded to the individual named on the application and cannot be transferred or designated to another person. ()

f. Any application that is unreadable or lacks the 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. ()

g. Applicants must have or be eligible to obtain a valid Idaho hunting license to be eligible for tags. ()

05. Drawings. ()

a. Tags will be issued to eligible applicants selected by an impartial random draw process. ()

b. There will be two (2) drawings each year, on June and August dates identified in Commission big game proclamation. Applications received at the Licenses Section, Headquarters Office, Idaho Department of Fish and Game, PO Box 25, Boise, Idaho 83707-0025, or submitted electronically, by no later than 11:59 pm Mountain time May 31 of the current calendar year will be eligible only for the first drawing held in June; and those received after May 31 and by no later than 11:59 pm Mountain time, August 10, of the current calendar year will be eligible only for the second drawing held in August. Applications received after August 10 will be eligible for the drawing held in June of the following year. ()

c. Should the applicant drawn be ineligible, deceased, or incapacitated to hunt, the first alternate drawn will be declared the winner. Should the first alternate be ineligible, deceased or incapacitated to hunt, the second alternate drawn will be declared the winner. Should the second alternate be ineligible, deceased or incapacitated to hunt, that special controlled hunt tag will be null and void and will not be issued to any person. ()

d. An applicant drawn for the Super Hunt Combo is not eligible for any other Super Hunt Tag in the same year. ()

e. An applicant drawn for an individual species Super Hunt Tag is not eligible for any other Super Hunt tag for that species in the same year. ()

06. Effect on Eligibility. ()

a. The special controlled hunt tag will be in addition to any other tag the person is eligible to obtain. ()

b. Any applicant, including those who harvest an animal on a special controlled hunt tag, will be eligible to apply for any controlled hunt for the same species in the same year or subsequent years. ()

801~~2~~. – 899. (RESERVED)

900. CHILDREN WITH SPECIAL NEEDS BIG GAME TAG.

01. Availability. The Department will make up to five (5) big game tags available for children with life threatening medical conditions each year. (3-31-22)

a. Each special needs tag will be valid for a controlled hunt, as selected in the application, for one (1) of the following species: deer, elk, pronghorn, black bear, or mountain lion. Controlled hunts with fewer than ten (10) tags, as authorized by Commission proclamation, are not available for selection. If multiple applications under section 900 and 901 select the same controlled hunt in a given year, the director has discretion to require selection of a different controlled hunt to maintain hunt quality. ()

a.b. Any of the five (5) big game tags described in Section 901 that has not been issued by July 15 each year may also be available for ~~children with life threatening conditions~~ use as a special needs big game tag. (3-31-22)()

02. Eligibility. A special needs big game tag will only be issued to a resident or nonresident minor (seventeen (17) years of age or younger) with a life-threatening medical condition as certified by a qualified and licensed physician, and who is sponsored by a qualified organization defined in Section 36-408(6), Idaho Code. ()

a. Minimum age, hunter education, and license requirements are waived for individuals applying for or receiving a special needs big game tag. (3-31-22)()

03. Validity of Tag. Each special needs tag will be valid for only one (1) of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. (3-31-22)

a: The special needs tag is valid in any open hunt, controlled or general, as provided by Commission proclamation, EXCEPT the use of the special needs tag is restricted from use in any Controlled Hunt with less than five (5) controlled hunt tags. (3-31-22)

b: Applicants may only receive one (1) special needs tag in a lifetime. (3-31-22)

e03. Companion. In exercising hunting privileges, the recipient of a special needs tag must be accompanied by an adult in possession of a valid Idaho big game hunting license. (3-31-22)()

04. Application. Applications will be on a form as prescribed by the Department. (3-31-22)

a. Applications will only be considered from eligible nonprofit organizations. For drawing eligibility, the Department must receive an application between January 2 through January 31, inclusively, of the calendar year for the hunt. (3-31-22)

b. Applications received by the Department after January 31 may be considered on a first-come basis if there are not sufficient, eligible applications. (3-31-22)()

c. A copy of the nonprofit organization's IRS determination letter must accompany the application. (3-31-22)

d. A document approved by the department which certifies the minor child has a life-threatening medical condition, signed by a licensed medical. ()

05. Fees. All fees associated with applying for and receiving a special needs tag, including fees for any associated Disabled Persons Motor Vehicle Hunting Permit or Disabled Archery Permit, are waived. (3-31-22)

06. Random Draw. Eligible applications will be randomly drawn for tag issuance if the number of applications exceeds the number of tags available. (3-31-22)

07. Nonresident Tag Limitation. Not more than one (1) special needs tag will be issued to a nonresident, unless there are insufficient applications for resident applicants. (3-31-22)

901. DISABLED VETERANS SPECIAL BIG GAME TAG.

01. Availability. The Department will make five (5) big game controlled hunt tags available for disabled veterans, of which two (2) tags will be designated to the Idaho Division of Veterans Services. (3-31-22)()

a. Each disabled veterans special big game tag will be valid for a controlled hunt, as selected in the application, for one (1) of the following species: deer, elk, pronghorn, black bear, or mountain lion. Controlled hunts with fewer than ten (10) tags, as authorized by Commission proclamation, are not available for selection. If multiple applications under Section 900 and 901 select the same controlled hunt in a given year, the director has discretion to require selection of a different controlled hunt to maintain hunt quality. ()

ab. Any of the five (5) big game tags described in Section 900 that has not been issued by July 15 each year may also be available for use as a disabled veterans special big game tag. (3-31-22)()

02. Eligibility. A disabled veterans special big game tag will only be issued to a disabled veteran, as certified by the Idaho Division of Veterans Services, who is sponsored by a qualified organization defined in Section 36-408(7), Idaho Code. (3-31-22)

a. A disabled veteran does not need a hunting license or hunter education to apply for or receive a disabled veterans special big game tag. (3-31-22)

b. An individual ~~may~~ is only eligible to receive one (1) disabled veterans special big game tag in a lifetime. (3-31-22)()

03. ~~Validity of Tag.~~ ~~Each disabled veterans special big game tag will be valid for only one (1) of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. The disabled veterans special big game tag will be valid for use in any general or controlled hunt open for that species, EXCEPT for those Controlled Hunts with fewer than five (5) controlled hunt tags, as authorized by Commission proclamation.~~ (3-31-22)

~~**a.** Applicants may only receive one (1) disabled veterans special big game tag in a lifetime. (3-31-22)~~

04. Application. Applications will be on a form as prescribed by the Director. (3-31-22)

a. Applications will only be considered from an eligible nonprofit organization or governmental agency. For drawing eligibility, the Department must receive the application between January 2 through January 31, inclusively, of the calendar year for the hunt. (3-31-22)

b. Applications received by the Department after January 31 may be considered on a first come basis if there are not sufficient, eligible applications. (3-31-22)()

c. A copy of the nonprofit organization's IRS determination letter must accompany the application. (3-31-22)

05. Fees. All fees associated with applying for and receiving a disabled veterans special big game tag, including any associated Disabled Persons Motor Vehicle Hunting Permit or ~~Disabled Archer Permit~~ Reasonable Modification Permit, are waived. (3-31-22)()

902. – 949. (RESERVED)

950. DESIGNATION OF CONTROLLED HUNT TAGS TO CHILDREN.

01. Designation ~~by Residents.~~ Any ~~resident individual~~ who possesses any turkey or big game controlled hunt tag except a moose, bighorn sheep, mountain goat, or grizzly bear tag, ~~or who possesses a turkey controlled hunt tag,~~ may designate that tag to that person's resident minor child or grandchild who is: ()

a. ~~e~~Eligible to participate in the hunt.; and ()

b. Has the same residency status as the original tag holder. (3-31-22)()

02. ~~Designation by Nonresidents.~~ Any nonresident who possesses any big game controlled hunt tag except a moose, bighorn sheep, mountain goat, or grizzly bear tag, or who possesses a controlled hunt turkey tag, may designate that tag to that person's nonresident minor child or grandchild who is eligible to participate in the hunt. (3-31-22)

032. **Applicability of Controlled Hunt Rules.** Rules for controlled hunt application eligibility, tag claim deadline, and tag use for the hunt apply to the adult who possesses and designates a controlled hunt tag and to the designated minor child or grandchild. ~~Rules for application for controlled hunt tags apply to the adult who possesses and designates a controlled hunt tag to his or her minor child or grandchild.~~ Mandatory education requirements will apply to the designated minor child or grandchild. (3-31-22)()

043. **Form.** Designation of the controlled hunt tag shall be made submitted on a form prescribed by the Department ~~and may be submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707.~~ (3-31-22)()

054. **Children.** Any resident child or grandchild cannot be designated more than one (1) controlled hunt tag, and one (1) extra hunt tag, per species per calendar year. (3-31-22)()

065. **Date for Designation.** A person may only designate a tag under this section before the opening date for the hunt for which the tag would be used. (3-31-22)

951. – 999. (RESERVED)

IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.08 – RULES GOVERNING TAKING OF BIG GAME ANIMALS

DOCKET NO. 13-0108-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section [67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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](#), [36-405](#), [36-408](#), [36-409](#), 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:

This rulemaking concerns the comprehensive review of current IDAPA [13.01.08](#), “Rules Governing Taking of Big Game,” in compliance with Executive Order [2020-01](#). The agency has evaluated content of this chapter and IDAPA [13.01.04](#), “Rules Governing Licensing,” and to streamline, has moved relevant content that specifically addresses big game to 13.01.08 from 13.01.04 and content that addresses general licensing topics from 13.01.08 to 13.01.04. Additionally, IDAPA 13.01.17 is in pending status for repeal and all content (current and modified) has been moved to 13.01.08.

The agency has added provisions to enable electronic tagging for big game animals; added a new Centerfire Open Sights Only special weapons season; removed language regarding draw length and let off percentage; added language comprised of recommendations from the Hunting and Advanced Technology Working Group, staff contributions and public comments which includes prohibition of thermal imaging, night vision technology, transmitting trail cameras, and any aircraft for big game scouting or hunting between August 1 to December 31; changed use restrictions date under the motorized hunting rule from December 31 to November 14 and removed use restrictions from units 30, 30A, 36A, 37, 47, 49, 70 and 72; and under use of bait, removed plastic from prohibited container material, modified language regarding number of bait sites allowed on land management agency land, and included language reauthorized by temporary rule regarding use of bait by a grizzly bear and the need to report and pull bait.

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 October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, pages 215-236](#).

Changes include the addition of language clarifying how tags are to be validated or attached with the use of electronic tagging or paper, and deletion of a section of language that was missed in the proposed rule bulletin. Due to public comments and staff comments, language regarding bear bait containers was reverted to the previous language, making only metal containers legal for use. Language around use of technology was modified to address public comments to further clarify use of smart optics, provide better enforceability around the restrictions of transmitting trail cameras, thermal imaging, night vision and aircraft, and to better define intent behind restrictions on the use of aircraft for scouting or hunting.

FEE SUMMARY: Not applicable. The pending rule does not impose new fees or changes.

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

There is no fiscal impact to the General Fund.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

DATED this 26th day of November, 2025.

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

<p>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</p>

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](#), [36-405](#), [36-408](#), [36-409](#), and [36-1101](#), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking concerns the comprehensive review of current IDAPA 13.01.08, “Rules Governing Taking of Big Game,” in compliance with [Executive Order 2020-01](#). The agency has identified some technical, duplicative, obsolete, and non-substantive modifications to be evaluated for integration. The agency has evaluated content of this chapter and [IDAPA 13.01.04](#), “Rules Governing Licensing,” and to streamline, has moved relevant content that specifically addresses big game to 13.01.08 from 13.01.04 and content that addresses general licensing topics from 13.01.08 to 13.01.04.

The agency has added provisions to enable electronic tagging for big game animals; added a new Centerfire Open Sights Only special weapons season; removed language regarding draw length and let off percentage language; added language comprised of recommendations from the Hunting and Advanced Technology Working Group, staff contributions and public comments which includes prohibition of thermal imaging, night vision technology, transmitting trail cameras, and any aircraft for big game scouting or hunting between August 1 to December 31; changed use restrictions date under the motorized hunting rule from December 31 to November 14 and removed use restrictions from units 30, 30A, 36A, 37, 47, 49, 70 and 72; and under use of bait, removed plastic from prohibited container material, modified language regarding number of bait sites allowed on land management agency land, and included language reauthorized by temporary rule regarding use of bait by a grizzly bear and the need to report and pull bait.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2024 Idaho Administrative Bulletin, [Volume 24-5, pages 190-191](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 4th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 13-0108-2401

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

13.01.08 – RULES GOVERNING TAKING OF BIG GAME ANIMALS

000. LEGAL AUTHORITY.

Sections 36-104(b), 36-201, 36-405, 36-408, 36-409, and 36-1101, Idaho Code, ~~authorize the Commission to adopt rules concerning taking of big game animals.~~ (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~The title of this chapter for citation is IDAPA 13.01.08, “Rules Governing Taking of Big Game Animals.”~~ These rules govern the taking of big game animals. (3-31-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. *Bait (Hunting).* Any substance placed to attract big game animals, including but not limited to food, salt in liquid or solid form, or natural scent. *Synthetic liquid scent for deer, elk, or moose is excluded from this definition.* ()

02. ~~Established Roadway.~~ Any road established, built, maintained, approved or designated by any governmental entity or private landowner for travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (3-31-22)

03. ~~Front Quarters, Hind Quarters, Loins, and Tenderloins.~~ As applied in Section 36-1202, Idaho Code, for edible portions of big game animals, front quarters ~~of big game animals~~ include the meat surrounding the ball joint as far down as the knees, hind quarters include the meat surrounding the ball joint as far down as the hock, and the loins and tenderloins are the meat along the backbone. (3-31-22)()

04. ~~Full-sized Automobile.~~ Any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (3-31-22)

05. ~~Hunter.~~ A person engaged in the activity of hunting, as defined in Section 36-202, Idaho Code.

(3-31-22)

056. **Motorized Vehicle.** As defined in Section 36-202, Idaho Code.

(3-31-22)

07. **Verifier.** A small lens that is inserted into a peep sight to help archers and shooters focus on the sight. ()

011. -- 199. (RESERVED)

200. BAG AND POSSESSION LIMITS.

No person may take more than one (1) deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, or gray wolf big game animals during a calendar year than the number of tags the person legally possesses for the species. Unless otherwise provided by statute, proclamation, or rule, a person may not take more than one (1) of any big game species, with bag and possession limits for "deer" applying to white-tailed and mule deer collectively and not separately except: (3-31-22)()

01. **Depredation Hunts.** One (1) additional deer, elk, pronghorn, black bear, or gray wolf may be taken by persons holding a depredation hunt tag for that hunt, except where the depredation hunt precedes or follows a controlled hunt in the area; persons who drew that controlled hunt may be selected to participate in the depredation hunt in accordance with Section 800. Such persons must follow the weapon restrictions that apply to the controlled hunt they drew, and participation in the depredation hunt does not allow them to take a second animal. (3-31-22)

021. **Extra Tag Hunts.** In extra tag When Commission proclamation or rule establishes controlled hunts, one (1) additional deer, elk or pronghorn may be taken by persons holding tags for those hunts identified as "Extra Tag" or authorizes the use of second tags, the respective bag and possession limit are increased by one (1), provided the tag holder has other tags valid for the take of that species. (3-31-22)()

03. **Limits on Take -- Deer, Elk, Pronghorn, Mountain Lion, Black Bear, Gray Wolf.** In no event may any person take more deer, elk, pronghorn, mountain lion, black bear, or gray wolf in a calendar year than the number of tags the person legally possesses for each species. (3-31-22)

201. --249. (RESERVED)

250. TAGS AND PERMITS.

No person may take big game animals without having in possession the appropriate license, tags, and permits.

(3-31-22)

01. **Use of Controlled Hunt Tags.**

(3-31-22)

a. Controlled hunt tags, including controlled depredation hunt tags and controlled hunt extra tags, issued for big game animals may be used only for take of the animal in the hunt area specified by Commission proclamation or Department order for the controlled hunt for which the tag is issued. (3-31-22)

02. **Use of General Season Tags.** General season tags, including extra general season tags, issued for big game animals may be used during any open general season, including any general special weapon season, ONLY as follows: (3-31-22)

a. Only for take of the animal specified on the tag, with a Regular Deer tag being valid for mule deer or white-tailed deer; and (3-31-22)

b. Only in the hunt area for which the tags are issued, as designated by Commission proclamation.

(3-31-22)

c. And for elk, Elk A Tags may be used only during a general season, including any general special weapon season, designated by Commission proclamation as an Elk A season, and Elk B Tags may be used only during any general season, including any general special weapon season designated by Commission proclamation as an Elk B season. (3-31-22)

03. Statewide Hunt Area. If a general season tag, including any extra general season tag, for a big game animal does not specify a hunt area, the tag may be used statewide, unless Commission proclamation or Department order specifies an area where such tag use is prohibited or otherwise limited in its use. (3-31-22)

04. Additional Use of Nonresident Deer and Elk Tags. A hunter may use an unfilled nonresident elk or deer tag, to take instead a black bear, mountain lion, or gray wolf, during the open season corresponding to the elk or deer tag hunt area or unit when the season for the animal taken is also open. (3-31-22)

251. ARCHERY AND MUZZLELOADER PERMITS.

No person may hunt in a season designated by Commission proclamation as Archery Only or Muzzleloader Only without the appropriate archery or muzzleloader permit for the relevant season validated on their license. (3-31-22)

252. DELAY IN ELIGIBILITY FOR BUYING LIMITED GENERAL HUNT TAG.

When the Commission limits the number of tags available for a general big game hunt, the Commission may establish a period of no more than five (5) days at the beginning of a tag sale period, during which any applicant for a controlled hunt in the same calendar year for the same species is not eligible to buy a tag for that limited hunt. (3-31-22)

253.—254. (RESERVED)

255. NONRESIDENT TAG RESTRICTIONS.

01. Nonresident Tag Limitations. (3-31-22)

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule will apply to each uniquely numbered controlled hunt and to the controlled hunts for each species. Outfitter allocated hunts are exempt from the limitation of this Subsection. (3-31-22)

b. In unlimited controlled hunts, the Commission may limit the number of tags available for nonresident hunters to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. (3-31-22)

c. For each species, the total number of outfitter allocated controlled hunt tags will be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 255.01.a., the resulting net number will be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (3-31-22)

d. In general hunts, the Commission may limit by proclamation the number of tags available for nonresident hunters in a zone or big game hunting unit to no less than ten percent (10%) of the average hunter participation estimated for that zone or unit during the previous five (5) year period. If the Commission adopts tag limits in a zone or big game hunt unit for non-residents under this Subsection 01.d., without limiting residents, the provisions of IDAPA 13.01.04.505.02, "Rules Governing Licensing," applicable to controlled hunts with limited nonresident tags and unlimited resident tags will apply to deer and elk tag allocation instead of the provisions of IDAPA 13.01.04.505.01. (3-31-22)

e. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose will be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. (3-31-22)

256. (RESERVED)

257. ELIGIBILITY FOR CONTROLLED HUNT APPLICATION.

A person must possess an Idaho hunting license valid for taking game animals to apply for any controlled hunt for big

game species. (3-31-22)

01. Bighorn Sheep. (3-31-22)

a. Any person whose name was drawn on a controlled hunt for any bighorn sheep is not eligible to apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. (3-31-22)

b. Any person who has killed a California bighorn ram is not eligible to apply for a California bighorn ram controlled hunt tag; and any person who has killed a Rocky Mountain bighorn ram is not eligible to apply for a Rocky Mountain bighorn ram controlled hunt tag, 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 tag for any hunt north of Interstate Highway 84; and 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 tag for any hunt south of Interstate Highway 84. (3-31-22)

c. Any person who kills a bighorn ewe is not eligible to apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the person ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe is not eligible to apply for any bighorn ram the same year. (3-31-22)

02. Mountain Goat. (3-31-22)

a. Any person whose name was drawn on a controlled hunt for mountain goat is not eligible to apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. (3-31-22)

b. Any person who has killed a mountain goat since 1977 is not eligible to apply for a mountain goat tag. (3-31-22)

03. Moose. (3-31-22)

a. Any person whose name was drawn on a controlled hunt for moose is not eligible to apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. (3-31-22)

b. Any person who has killed an antlered moose in Idaho is not eligible to apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho is not eligible to apply for a tag for antlerless moose except that any person may apply for tags remaining unsold after the controlled hunt draw. (3-31-22)

04. Antlered Only Deer, Antlered Only Elk, and Pronghorn. Any person whose name was drawn on a controlled hunt for antlered-only deer, antlered-only elk, or any pronghorn (including either sex, and doe and fawn) is not eligible in the following one (1) year to apply for any controlled hunt for the respective species drawn (antlered-only deer, antlered-only elk, or any pronghorn). (3-31-22)

i. Exceptions. A person drawn in the previous year remains eligible to apply for controlled hunts in the second application period, controlled hunts with an unlimited number of tags, or Landowner Appreciation Program hunts. Such person is also eligible to purchase a leftover tag or Governor's Wildlife Partnership Tag. (3-31-22)

05. Grizzly Bear. No person who has killed a grizzly bear in Idaho may apply for a grizzly bear tag. (3-31-22)

06. Black Bear. Any nonresident applying for a controlled black bear hunt who wishes to use hounds must separately apply for a Hound Hunter Permit, subject to applicable limitations of IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs." (3-31-22)

07. Landowner Permission Hunts. Any person applying for a landowner permission hunt must have a permission slip including the name, address, and signature of a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. (3-31-22)

08. Youth Only Hunts. Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person sixty-five (65) years of age or older, or a person with a disabled license, may apply during a second application period for youth-only controlled hunts or purchase leftover youth-only controlled hunt tags on a first come, first served basis. (3-31-22)

09. Outfitter Allocated Hunts. Any person must have a written agreement with an outfitter to submit an application for an outfitter allocated controlled hunt. (3-31-22)

10. Multiple Applications. (3-31-22)

a: Any person applying for a bighorn sheep, mountain goat, grizzly bear, or moose controlled hunt is not eligible to 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 pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in the second application period for deer, elk, and pronghorn and the first come, first served deer, elk, and pronghorn controlled hunt permit sales. (3-31-22)

b: Any person may apply for both a controlled hunt tag and a controlled hunt extra tag for the same big game species. (3-31-22)

258. CONTROLLED HUNT APPLICATIONS

01. Applications. Individual applications or group applications for controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, via the Internet or telephone, 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 lacks information or fees will be declared void and will not be entered in the drawing. All applications will be considered final; except, applicants who would like to change their submitted controlled hunt application may request the original application be canceled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. (3-31-22)

a: Spring black bear, spring grizzly bear -- Application period -- January 15 -- February 15. (3-31-22)

b: Moose, bighorn sheep, and mountain goat -- Application period for first drawing -- April 1 -- 30. (3-31-22)

c: Deer, elk, pronghorn, fall black bear, fall grizzly bear -- Application period for first drawing -- May 1 -- June 5. (3-31-22)

d: Moose, bighorn sheep, and mountain goat -- Application period for second drawing, if applicable -- June 15 -- 25. (3-31-22)

e: Deer, elk, pronghorn, fall black bear, fall grizzly bear -- Application period for second drawing -- August 5 -- 15. (3-31-22)

02. Applicant Requirements. Applicants must comply with the following requirements: (3-31-22)

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 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. (3-31-22)

b. Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. (3-31-22)

c. Several applications may be submitted 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 tag hunts or controlled hunt extra tag hunts. (3-31-22)

d. Fees must be submitted with each application. A single payment may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per controlled hunt applied for. The tag fees are not to be submitted for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, grizzly bear, 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 tag in the mail. (3-31-22)

03. Group Application. (3-31-22)

a. A “group application” for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) persons applying for the same controlled hunt on the same application. All applicants must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (3-31-22)

b. A “group application” for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) persons applying for the same controlled hunt on the same application. Both applicants must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (3-31-22)

c. If a group application exceeds the number of tags available in a hunt, that group application will not be selected for that hunt. (3-31-22)

04. Unlimited Controlled Hunts. Unlimited controlled hunts identified by proclamation as “first-choice only” may be applied for only as the applicant’s first choice controlled hunt. (3-31-22)

05. Landowner Permission Controlled Hunts. Landowner permission hunt tags will be sold first-come, first-served basis at the Department’s Headquarters or regional offices beginning the first business day on or after July 15. (3-31-22)

06. Sale of Remaining Tags. Any controlled hunt tags, except unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any license vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below unless such day is a Sunday or legal holiday, in which case the tags will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation will not apply. Controlled hunt applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag, except where the Commission has authorized by proclamation possession of the additional tag. (3-31-22)

a. Spring Bear—April 1. (3-31-22)

b. Moose, Bighorn Sheep, and Mountain Goat—July 10. (3-31-22)

c. Deer, Elk, Pronghorn, and Fall Bear—August 25. (3-31-22)

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. (3-31-22)

~~08. 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.

(3-31-22)

~~259. DEADLINE FOR CLAIMING TAGS AND UNCLAIMED TAGS.~~

~~Successful applicants for the first deer, elk, black bear, gray wolf, or pronghorn controlled hunt drawing must purchase and pick up their controlled hunt tag no later than August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags, except unlimited controlled hunt tags, left over or unclaimed after the second controlled hunt drawing will be sold on a first come, first served basis.~~

(3-31-22)

~~260. USE OF CONTROLLED HUNT TAGS.~~

~~01. Use of Controlled Hunt Tags.~~ No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession.

(3-31-22)

~~a. A controlled hunt area with an "X" suffix is an extra tag hunt.~~

(3-31-22)

~~b. In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the person of the invalidation of the tag. 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.~~

(3-31-22)

~~02. Deer.~~ Any person who draws a controlled hunt tag for deer is not eligible to hunt in any other deer hunt—archery, muzzleloader, or general; except:

(3-31-22)

~~a. The person may choose not to purchase the controlled hunt tag by the date set by Section 259 of these rules for the first deer drawing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale.~~

(3-31-22)

~~b. If the person draws an unlimited controlled hunt, the person may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale.~~

(3-31-22)

~~c. The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag.~~

(3-31-22)

~~d. Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt—archery, muzzleloader, general or controlled hunt.~~

(3-31-22)

~~03. Elk.~~ Any person who draws a controlled hunt tag for elk is not eligible to hunt in any other elk hunt—archery, muzzleloader, or general; except:

(3-31-22)

~~a. The person may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale.~~

(3-31-22)

~~b. If the person draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale.~~

(3-31-22)

~~c. The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag.~~

(3-31-22)

~~d. Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt—archery, muzzleloader, general or controlled hunt.~~

(3-31-22)

04. Pronghorn. Any person who draws a pronghorn controlled hunt tag is not eligible to hunt in any other pronghorn hunt; except: (3-31-22)

a. The person may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (3-31-22)

b. If the person draws an unlimited controlled hunt, the person may relinquish the controlled hunt prior to purchasing, allowing the person to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. (3-31-22)

c. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. (3-31-22)

d. Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. (3-31-22)

05. Black Bear. (3-31-22)

a. Any person who draws a spring controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or return an unused general season bear tag in exchange for the controlled hunt bear tag. (3-31-22)

b. Any person who draws a fall controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or return an unused general season bear tag in exchange for the controlled hunt bear tag. (3-31-22)

261. SPECIAL CONTROLLED HUNTS.

01. Special Controlled Hunt Program. The Special Controlled Hunt Program is a program to partially fund a sportsman access program adopted by the Commission. This program will offer forty (40) tags valid for the current year hunting seasons; including, twelve (12) tags each for elk, deer, and pronghorn, and four (4) tags for moose. (3-31-22)

a. The rules for controlled hunts set forth in Section 260, of these rules, do not apply to the Special Controlled Hunt Program. (3-31-22)

b. The Special Controlled Hunt application will be marketed by the Department. The Department will issue these tags to eligible persons selected by an impartial random draw process. The successful applicants will receive the tag necessary to hunt the appropriate species. (3-31-22)

02. Moneys. The Department will deposit all moneys received from the sale of Special Controlled Hunt Applications in accordance with state law. The Department will specifically use funds for the sportsman access program. (3-31-22)

03. General Rules. (3-31-22)

a. Any individual, resident or nonresident, may purchase and submit applications without limit. (3-31-22)

b. Special controlled hunt applications may be entered in the name of individuals other than the purchaser. (3-31-22)

c. Each successful applicant must have or be eligible to obtain a valid Idaho hunting license. (3-31-22)

~~d. Each tag will be issued to the individual named on the drawn application that meets license eligibility requirements and cannot be transferred. (3-31-22)~~

~~e. An individual may be drawn for only one (1) special controlled hunt tag for each species. (3-31-22)~~

~~f. Each special controlled hunt tag is valid for the designated species and allows the person to hunt in any open hunt, general or controlled, for the designated species in the applicable year's season. (3-31-22)~~

~~g. The special controlled hunt tag will be in addition to any other tag the person is eligible to obtain. (3-31-22)~~

~~h. Any applicant, including those who harvest an animal on a special controlled hunt tag, will be eligible to apply for any controlled hunt for the same species in the same year or subsequent years. (3-31-22)~~

~~i. In the event a license, tag, or permit is issued based on erroneous information, all documents issued based on the erroneous information will be invalidated by the Department and may not be used. The Department will notify the individual at his last known place of residence of the invalidation of the license, tag or permit. (3-31-22)~~

~~04. **Application Fees.** Applications may be sold for individual species (Super Hunt) or grouped for combined species (Super Hunt Combo). The application fees will be set by Commission Order under Section 36-415, Idaho Code, or will be the same as the controlled hunt fee set in Section 36-416, Idaho Code. (3-31-22)~~

~~05. **Drawing Dates.** There will be two (2) drawings. All drawings will be held at the Department's offices in Boise, Idaho. The first drawing winners will be notified by June 10, and the second drawing winners will be notified by August 15 each year. The Commission may order a different drawing day in case of business emergency, holiday, or non-business days. (3-31-22)~~

~~06. **Department Marketed Applications.** (3-31-22)~~

~~a. Individual applications for special controlled hunts shall be made on a form prescribed by the Department or submitted electronically at any Department Office or license vendor, via Internet or telephone. (3-31-22)~~

~~b. Applications received at the Licenses Section, Headquarters Office, Idaho Department of Fish and Game, PO Box 25, Boise, Idaho 83707-0025, or submitted electronically, by no later than 11:59 pm Mountain time May 31 of the current calendar year will be eligible for the first drawing held in June; and those received after May 31 and by no later than 11:59 pm Mountain time, August 10, of the current calendar year for the second drawing. Applications received after August 10 will be eligible for the drawing held in June of the following year. (3-31-22)~~

~~c. All applications entered into the first drawing are not eligible for and will not be entered into the second drawing. (3-31-22)~~

~~d. Any individual application that is unreadable, has multiple or no species box checked, is incomplete, or lacks the 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. (3-31-22)~~

~~e. Should the winner be ineligible, deceased, or incapacitated to hunt, the first alternate drawn will be declared the winner. Should the first alternate be ineligible, deceased or incapacitated to hunt, the second alternate drawn will be declared the winner. Should the second alternate be ineligible, deceased or incapacitated to hunt, that special controlled hunt tag will be null and void and will not be issued to any person. (3-31-22)~~

~~262. **(RESERVED)**~~

~~263. **REFUNDS OF CONTROLLED HUNT FEES.**~~

~~01. **Refunds.** (3-18-22)~~

~~a. Controlled hunt tag fees will be refunded to unsuccessful or ineligible applicants for moose, sheep, mountain goat, and grizzly bear. Unsuccessful applicants may donate all or a portion of refunded tag fees 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. (3-18-22)~~

~~b. Fees for hunting licenses will not be refunded to unsuccessful or ineligible controlled applicants. (3-18-22)~~

~~c. Fees for deer or elk tags purchased prior to the drawing will not be refunded to unsuccessful or ineligible applicants. (3-18-22)~~

~~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. (3-18-22)~~

~~e. Controlled hunt application fees are nonrefundable. (3-18-22)~~

~~f. Fees for resident and nonresident adult controlled hunt tags subsequently designated to a minor child or grandchild are not refundable. (3-18-22)~~

~~g. Fees for special controlled hunt application, tag and related hunting license are not refundable. (3-18-22)~~

~~264.—269. (RESERVED)~~

~~270. MANDATORY HUNTER ORIENTATION.~~

~~Anyone drawing a controlled archery-only hunt tag with mandatory hunter orientation as denoted in the season proclamation will receive orientation information that includes hunt boundaries, legal restrictions, and hunter ethics. Tag holders must sign and return an affidavit that they have reviewed and understand the orientation to receive a Certificate of Completion, which must be carried by the hunter during the hunt. Holders of “Certificates of Completion” from previous hunts do not have to repeat this orientation and will be provided with updated Certificates of Completion to participate in the hunt. (3-31-22)~~

~~271.—299. (RESERVED)~~

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

01. Big Game Animals of Either Sex. ~~Unless a season is restricted, B~~big game animals of either sex may be taken, except the following may not be taken: (3-31-22)()

a. Mountain Goat. Females accompanied by young. (3-31-22)

b. Black Bear. Females accompanied by young. (3-31-22)

c. Mountain Lion. Spotted young or females accompanied by ~~spotted~~ young. (3-31-22)()

d. Grizzly Bear. Adult grizzly bears accompanied by young, or young accompanied by adult grizzly bear(s). (3-31-22)

02. Seasons Restricted to Antlered or Male Animals Only. (3-31-22)

a. Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season open for antlered deer only. (3-31-22)

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 open for two-point deer only. (3-31-22)

~~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 open for three-point or larger deer only. (3-31-22)

~~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 open for four-point or larger deer only. (3-31-22)

~~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. (3-31-22)

~~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. (3-31-22)

~~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. (3-31-22)

~~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. (3-31-22)

~~i.~~ Pronghorn. Only pronghorn with a black “cheek patch” and horns greater than three (3) inches long may be taken during a buck only pronghorn seasons. ()

03. Seasons Restricted to Antlerless or Female Animals Only. (3-31-22)

a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season open for antlerless deer only. (3-31-22)

b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season open for antlerless elk only. (3-31-22)

c. Pronghorn. Only pronghorn without a black “cheek patch” or horns less than three (3) inches long may be taken during doe and fawn only pronghorn seasons. (3-31-22)

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. (3-31-22)

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. (3-31-22)

301. -- 319. (RESERVED)

320. TAG VALIDATION AND ATTACHMENT.

01. Tag. Immediately after any ~~deer, elk, pronghorn, moose, bighorn sheep, mountain goat, mountain lion, black bear, grizzly bear, or gray wolf~~ **big game animal** is killed, the appropriate big game animal tag must be validated ~~and, If using a paper tag, it must be~~ securely attached to the animal. (3-31-22)()

a. Validation. ~~Cut out and completely remove only the two (2) triangles indicating the date and month of kill~~ **Tags may be paper or electronic, as determined by the hunter at time of purchase. Electronic tags require use of the Department’s official mobile app and must be validated for date and month through the app. Two (2) triangles indicating the date and month of kill must be cut out and completely removed from the paper tag.** (3-31-22)()

b. Attachment of Tag. (3-31-22)

i. Deer, elk, pronghorn, moose, mountain goat, ~~black bear,~~ and bighorn sheep: to the largest portion of the edible meat 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 remain attached until the meat is processed. The validated tag must

accompany the processed meat to the place of final storage or final consumption.

(3-31-22)()

ii. Mountain lion, black bear, grizzly bear, and gray wolf: To the hide until the mandatory check is ~~complied with~~ completed.

(3-31-22)()

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 until the carcass reaches the final place of storage or consumption, or is taken to a commercial meat processing facility as follows:

(3-31-22)()

a. ~~In antlered or male only seasons, the~~ For species having antlers or horns, 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, udder, or vulva) must be left naturally attached to the carcass or to a hind quarter; and ~~the any~~ horns or antlers must accompany the carcass while in transit.

(3-31-22)()

bi. ~~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; and~~ In addition, in seasons restricted based on spike, brow tines, or antler points or branches, both complete, unaltered antlers must be naturally attached to each other ~~must and~~ accompany the carcass while in transit.

(3-31-22)()

c. ~~In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, pronghorn, 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.~~

(3-31-22)

d. ~~The entire head of antlerless male elk, moose, deer, or pronghorn, 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. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles for males or udder or vulva for females) must be left naturally attached to the carcass or to a hind quarter.~~

(3-31-22)

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

(3-31-22)()

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 or portion of edible meat if boned, until it reaches the final place of storage, or consumption, or is taken to a commercial meat processing facility.

(3-31-22)()

03. Other. Proclamations or emergency hunt orders may designate seasons and areas in which portions of a carcass must be presented to the Department within a specified timeframe; or waive an for which evidence requirement(s) of this section will not apply.

(3-31-22)()

351. -- 403. (RESERVED)

404. SPECIAL WEAPON SEASONS.

The Commission may designate by proclamation Special Weapon seasons, such as Archery Only, Muzzleloader Only, ~~or~~ Short-range Weapons Only, or Centerfire Open Sights Only, in which restrictions to method of take apply in addition to those set forth in Section 410.

(3-31-22)()

405. SPECIAL WEAPON SEASONS – ARCHERY.

01. Archery Only Season. ~~During a season designated by Commission proclamation as an~~ In Archery Only season, it is unlawful to take a big game animal: (3-31-22)()

- a. With any firearm, crossbow, or implement other than a longbow, compound bow, or recurve bow. (3-31-22)
- b. With any device attached to the bow that holds a bow at partial or full draw. (3-31-22)
- c. With any bow or crossbow equipped with magnifying sights, ~~except verifiers.~~ (3-31-22)()

02. Traditional Archery Only Season. ~~During a season identified by Commission proclamation as~~ In Traditional Archery Only seasons, it is unlawful to take any big game animal: (3-31-22)()

- a. With any firearm, crossbow, or implement other than a longbow or recurve bow. (3-31-22)
- b. With an arrow not constructed of wood or fletched with non-natural material. (3-31-22)
- c. With any bow equipped with sights. (3-31-22)

406. SPECIAL WEAPON SEASONS – MUZZLELOADER.

01. Muzzleloader Only Season. It is unlawful to take a big game animal with any firearm, including muzzleloading pistols, or implement other than a muzzleloading rifle or musket that complies with each of the following: (7-1-24)

- a. Is at least forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (3-31-22)
- b. Is capable of being loaded only from the muzzle. (3-31-22)
- c. Is equipped only with open or peep sights. (3-31-22)
- d. Is loaded only with loose black powder including synthetic black powder. (3-31-22)
- e. Is equipped with no more than two (2) barrels. (3-31-22)
- ~~f. Is loaded only with a projectile with a diameter within one hundredth (.01) of an inch of the bore diameter.~~ (3-31-22)
- ~~g.~~ Is equipped only with flint, musket cap, or percussion cap. 209 primers are prohibited. (3-31-22)
- ~~h.~~ Is equipped with an exposed ignition system. (3-31-22)
- ~~i.~~ Is loaded only with a patched round ball or conical metal or metal alloy projectile, ~~with the exception of allowance of~~ accuracy tips and pressure bases are allowed. (7-1-24)()

02. Pelletized Powder. It is unlawful to use pelletized powder in a Muzzleloader Only season. (3-31-22)

~~**03. Sabot.** It is unlawful to use a sabot in a Muzzleloader Only season.~~ (3-31-22)

407. SPECIAL WEAPON SEASONS – SHORT-RANGE WEAPONS.

01. Short-range Weapon Only Season. ~~During a season designated by Commission proclamation as~~ In a Short-Range Weapon Only seasons, it is unlawful to use any weapon other than the following: (3-31-22)()

- a. Any shotgun using any slug or double-aught (#00) or larger buckshot. (3-31-22)
- b. Any muzzleloader that is at least forty-five (0.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (3-31-22)
- c. 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.~~ (3-31-22)()
- d. Any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (3-31-22)
- e. Any handgun using straight wall centerfire cartridges ~~not originally developed for rifles.~~ (3-31-22)()
- f. Any airgun using pre-charged pneumatic power to propel a projectile (excluding shot and arrows) with unignited compressed air or gas and projectiles at least thirty-five (0.35) caliber for ~~deer and pronghorn antelope~~ deer, pronghorn, mountain lion, or gray wolf, or at least forty-five (0.45) caliber for ~~elk and moose~~ elk, moose, bighorn sheep, mountain goat, or black or grizzly bear. (3-31-22)()

408. SPECIAL WEAPON SEASONS – CENTERFIRE OPEN SIGHTS.

01. Centerfire Open Sights Only Season. In Centerfire Open Sights Only seasons, it is unlawful to use any weapon other than the following: ()

- a. Any centerfire firearm equipped only with open or peep sights, with or without verifier. ()

~~408.~~ **409. (RESERVED)**

410. UNLAWFUL METHODS OF TAKE – GENERAL.

No person may take big game animals as set forth in this section. (3-31-22)

01. Firearms. (3-31-22)

- a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (3-31-22)
- b. With any shotgun using any shot smaller than double-aught (#00) buck. (3-31-22)
- c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, except for mountain lion and trapped gray wolf. (3-31-22)
- d. With a fully automatic firearm. (3-31-22)
- 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. (3-31-22)

02. Bows, Crossbows, Arrows, Bolts, Airguns, Chemicals or Explosives. (3-31-22)

~~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 fifteen-thousandths (0.015) inch thick.~~ (3-31-22)

~~b.a.~~ **b.a.** 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. (3-31-22)()

- ~~e.b.~~ **e.b.** With any chemicals or explosives attached to the arrow or bolt. (3-31-22)

- ~~d.~~ With arrows or bolts having expanding broadheads. (3-31-22)
- ~~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. (3-31-22)
- ~~fc.~~ With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow; except lighted nocks are allowed. (3-31-22)()
- ~~gd.~~ With any bow capable of shooting more than one (1) arrow at a time. (3-31-22)
- ~~h.~~ With any compound bow with more than eighty-five percent (85%) let-off. (3-31-22)
- ~~ie.~~ With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than three hundred (300) grains. (3-31-22)
- ~~if.~~ 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. (3-31-22)
- ~~k.~~ With an arrow wherein the broadhead does not precede the shaft and nock. (3-31-22)
- ~~lg.~~ With any crossbow pistol. (3-31-22)
- ~~mh.~~ With any airgun using pre-charged pneumatic power to propel a projectile (excluding shot and arrows) with unignited compressed air or gas and projectiles less than thirty-five (0.35) caliber for deer, pronghorn antelope, mountain lion, or gray wolf, or less than forty-five (0.45) caliber for elk, moose, bighorn sheep, mountain goat, or black or grizzly bear. (3-31-22)
- 03. Muzzleloaders.** (3-31-22)
- a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (3-31-22)
- b.** With any electronic device attached to, or incorporated in, the muzzleloader. (3-31-22)
- 04. Other.** (3-31-22)
- a.** With electronic calls except for the hunting of mountain lions, black bears, and wolves in seasons set by proclamation and in accordance with Section 36-201, Idaho Code. (3-31-22)()
- b.** With any bait for hunting, including grain, salt in any form (liquid or solid), or any other substance (not to include synthetic liquid scent) to constitute an attraction or enticement, except in accordance with IDAPA 13.01.17, "Rules Governing the Use of Bait for Hunting Big Game Animals." for hunting, except as set forth in these Rules. (3-31-22)()
- c.** With dogs, except for mountain lion or black bear in accordance with IDAPA 13.01.15, "Rules Governing the Use of Dogs."² (3-31-22)()
- d.** With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment or airgun; except in accordance under Section 36-201, Idaho Code, and with IDAPA 13.01.16, "Rules Governing Trapping of Wildlife and Taking of Furbearing Animals." (3-31-22)()
- 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 does not apply to domestic cervids. (3-31-22)

f. With radio telemetry or other electronic tracking devices used as an aid to locate big game animals. This rule does not affect the use of telemetry equipment on hounds or other sporting dogs. (3-31-22)

g. With the use of any smart optics when attached to a weapon or incorporated into a scope, except scopes with battery powered, tritium lighted reticles, or as defined by IDAPA T3.01.04.304, Reasonable Modification Permit. ()

h. From August 30 through December 31: ()

i. With the use of thermal imaging technology, including for scouting, hunting or retrieval: ()

ii. With the use of night vision technology, including for scouting, hunting or retrieval: ()

iii. With the use of a transmitting trail camera, including for hunting and scouting, on land in federal, state, or local government ownership; or ()

iv. With the use of any aircraft, including any unmanned aircraft system, for scouting or hunting. This restriction is in addition to the restrictions for use of aircraft in Section 36-1101(b) Idaho Code. This restriction does not apply to aircraft flights with the purpose of picking up and discharging people or goods on direct routes between established airstrips or other pre-determined locations, without making detours for the purpose of scouting or hunting. ()

411. MOTORIZED HUNTING RULE.

The use of motorized vehicles by hunters as an aid to hunting big game is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in [Section 36-1101\(b\)\(1\), Idaho Code](#). (3-31-22)

01. Use Restriction. In designated units from August 30 through ~~December 31~~ **November 14**, hunters may only use motorized vehicles on established roadways that are open to motorized traffic and capable of travel by full-sized automobiles. (3-31-22)()

02. Exceptions. This use restriction rule does not apply to the following permissible motorized vehicle uses by hunters off of an established roadway: (3-31-22)

a. Holders of a valid Disabled Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. (3-31-22)

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (3-31-22)

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters may not hunt while packing camping equipment. (3-31-22)

d. Private landowners on their private land, their authorized agents, and persons with written landowner permission are excepted from the Motorized Hunting Rule use restriction. (3-31-22)

412. DESIGNATED MOTORIZED HUNTING RULE UNITS.

The motorized hunting use restriction applies to units 29, ~~30, 30A~~, 32, 32A, ~~36A, 37~~, 37A, 45, ~~47, 49~~, 50, 51, 52, 52A, 53, 56, 58, 59, 59A, 66, 66A, 69, ~~70, 72~~, 73, 75, 76, 77, and 78. (3-31-22)()

413. EXCEPTIONS FOR METHODS OF TAKE AND SHOOTING HOURS FOR GRAY WOLF.

01. Exceptions for Dispatch of Trapped Wolf. A lawfully trapped gray wolf may be dispatched at

any hour with any rifle or handgun in exception ~~to IDAPA 13.01.08.400 and of Section 410, “Rules Governing Taking of Big Game Animals,” without additional permit from the Director of these rules.~~ (3-31-22)()

02. Exceptions for Methods of Take. The Commission may by proclamation set seasons ~~by proclamation for units~~ in which the hunting or trapping of gray wolf is exempt from method of take restrictions for game animals contained in Section 36-1101, Idaho Code, or Sections 410 or 412 of these rules, where such take restrictions do not apply to other wild canines. (3-31-22)()

03. Permits Involving Waiver of Official Shooting Hours. Where the Commission sets seasons pursuant to Section 413.02 of these rules, no person may hunt gray wolf by use of artificial light or otherwise outside of official shooting hours set by IDAPA 13.01.07.400, Rules Governing Taking of Wildlife, unless: (3-31-22)()

a. On public land, that person has a valid permit from the Director and complies with any permit conditions. The Director may deny a person’s application for such permit, limit the time or area for hunting, or impose other conditions for good cause, such as public safety or protection of other wildlife or property; or (3-31-22)

b. On private land, that person is the owner of that land or has written authorization from the landowner or landowner’s agent. (3-31-22)

414. -- 4189. (RESERVED)

~~419. RETURN OF TAGS BY UNSUCCESSFUL HUNTERS.~~

~~Hunters who are not successful in killing a bighorn sheep, mountain goat, grizzly bear, 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.~~ (3-31-22)

420. MANDATORY CHECK AND REPORT REQUIREMENTS.

Any person killing black bear, moose, bighorn sheep, mountain goat, gray wolf, or mountain lion ~~in a unit with no quota~~, must; comply with mandatory check and report requirements within ten (10) days of the date of kill, ~~or a. Any person killing mountain lion in a unit with a quota, or a grizzly bear, a grizzly bear or species to which a hunt closure quota applies~~ must, within five (5) days of the date of kill, comply with the mandatory check and report requirements by: Mandatory check and reports requirements are: (3-31-22)()

01. Harvest Report. Completing ~~the relevant harvest report (big game mortality report or other report form as required)~~ form for the species taken, or other report form as may be specified by proclamation for the hunt. (3-31-22)()

02. Presentation of Animal Parts. Presenting ~~the following animal parts so that Department personnel may collect biological data and mark the animal parts:~~ (3-31-22)()

a. Black Bear: Skull and portion of the hide with evidence of sex attached 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. (3-31-22)

b. Grizzly Bear: Skull and portion of the hide with evidence of sex attached to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. (3-31-22)

c. Mountain Lion: Skull and portion of the hide with evidence of sex attached to be presented to a conservation officer ~~or~~, regional office, or official checkpoint for removal and retention of a premolar tooth, and to have the hide marked. (3-31-22)()

d. Gray Wolf: Skull and portion of the hide with evidence of sex attached to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. (3-31-22)

e. Moose: ~~Antlers from antlered animals~~ Skulls and antlers (if antlered) to be presented to a

conservation officer or regional office. (3-31-22)()

f. Bighorn Sheep: ~~Ram-h~~ Horns to be presented to a regional office ~~for marking, ewe horns to be presented to a regional office,~~ with ram horns to be marked. (3-31-22)()

g. Mountain Goat: Horns to be presented to a conservation officer or regional office. (3-31-22)

03. Return of Tags by Unsuccessful Hunters. Hunters who are not successful in killing a bighorn sheep, mountain goat, grizzly bear, or moose must 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. ()

034. Possession of Raw Pelts of Black Bear, Grizzly Bear, Mountain Lion, and Gray Wolf. No person may have in possession, except during the respective time period after lawful harvest allowed for mandatory check in ~~this Section 420 of these rules~~ (five (5) or ten (10) days), depending on species), any raw black bear, mountain lion, grizzly bear, or gray wolf pelt, without an official state export tag attached, unless that person possesses a fur buyer or taxidermist license or appropriate import documentation. (3-31-22)()

045. Authorized Representative. A person 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. (3-31-22)

421. MANDATORY REPORTS FOR PRONGHORN, DEER, AND ELK ~~REPORT REQUIREMENTS~~.

01. Mandatory Report. Any hunter that obtains a pronghorn, deer, or elk tag must submit to the Department an accurately completed Mandatory Report for the respective species on a form prescribed by the Department, within ten (10) days of killing such animal, or if the hunter does not kill such animal, within ten (10) days of the closing date of the appropriate season. (3-31-22)

02. Failure to Report. Failure to submit the pronghorn, deer, or elk Mandatory Report as required in this section will render the person ineligible to obtain any license until a late Mandatory Report permit is submitted with the Department. (3-31-22)

422. MANDATORY TELEPHONE REPORT.

In addition to other check and reporting requirements, any hunter killing a grizzly bear must report the harvest within twenty-four (24) hours by calling the Grizzly Bear Reporting Number, a toll-free telephone number published in the grizzly bear season and rules brochure available at Department offices and on the Department website. (3-31-22)

423. -- ~~499~~49. (RESERVED)

450. BIOLOGICAL SAMPLE COLLECTION.

Any person killing a big game animal must comply with requirements for biological sampling for detection of disease or other population management, as established by proclamation or order of the Commission or director. ()

451. -- 499. (RESERVED)

500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

In addition to the closures specified in IDAPA 13.01.07.300, "Rules Governing Taking of Wildlife." (3-31-22)

01. Mountain Lions and Gray Wolves. No person may hunt or pursue mountain lion or gray wolf within one-half (1/2) mile of any active Department big game feeding site, except on private property. (3-31-22)()

02. Black Bear, Grizzly Bear, and Gray Wolves. No person may hunt or pursue black bear, grizzly bear, or gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (3-31-22)

501. -- ~~75~~99. (RESERVED)

8600. EMERGENCY DEPREDAATION HUNTS.

01. Eligibility. (3-31-22)

a. Only ~~Idaho~~ residents with a valid ~~Idaho~~ hunting or combination license are eligible to apply ~~to participate in for big game~~ emergency depredation hunts. Section 36-106(e)(5), Idaho Code provides an exception for tag issuance to nonresident landowners residing in a contiguous state. (3-31-22)()

b. ~~Persons submitting a~~Applications for emergency depredation hunts ~~are eligible to apply for does not affect eligibility for general hunts or other~~ controlled hunts ~~or may hunt in the general season.~~ (3-31-22)()

02. Applications. (3-31-22)

a. A person may submit no more than one (1) emergency depredation hunt application per year for each species ~~—deer, elk, pronghorn, black bear, or gray wolf.~~ Applications submitted for the same species in more than one (1) region will result in disqualification from all regions. (3-31-22)()

b. ~~An individual or a group may apply. A group is defined as t~~Two (2) ~~hunters applying people may apply as a group~~ for the same depredation hunt on the same application. If a group application is selected, both hunters will be offered depredation hunt tags if two (2) or more tags are available. If an An individual who submits applications s for more than one (1) species, ~~he~~ does not have to apply in the same group or area for each application. (3-31-22)()

c. Any form not properly completed ~~will be~~ is ineligible for selection. (3-31-22)()

~~d. Any holder of an antlerless or doe/fawn, or black bear controlled hunt tag will be considered an applicant for any depredation hunt for that species which is:~~ (3-31-22)

i. ~~Held prior to the antlerless or doe/fawn, or black bear controlled hunt; and~~ (3-31-22)

ii. ~~Is in the same area as the depredation.~~ (3-31-22)

~~e. Any holder of an antlerless or doe/fawn, or black bear controlled hunt tag may also apply for a depredation hunt in any region.~~ (3-31-22)

~~f.~~ d. A list of depredation hunt applications received will be maintained for the time period July 1 to June 30. Applications are valid only for the time period for which they are submitted. (3-31-22)

03. Selection of Participants. The Department will place all applications (individual or group) for each depredation hunt received by June 30 in random order. All applications received after June 30 will be placed at the end of the list in the order received, except ~~that priority will be given to~~ military personnel returning from active duty ~~will be given priority.~~ The Department will select participants for a hunt in the order in which applicants appear on the list. ()

04. Controlled Hunt Tagholder Exception. ~~except f~~ For ~~those emergency depredation~~ hunts that precede, ~~or at the discretion of the Regional Supervisor, follow a controlled hunt for or run concurrently with a doe/fawn, or antlerless, animals or black bear. If a depredation hunt is scheduled before or, at the discretion of the Regional Supervisor, after a doe/fawn or antlerless hunt or black bear hunt in the same unit, the holders of the doe/fawn or antlerless tags or black bear tag will be given the option to hunt in the depredation hunt. If no doe/fawn or antlerless or black bear hunts are scheduled in that unit, or if some depredation hunt tags are not taken by controlled hunt hunters, participants will be selected from applicants for that depredation hunt. If a group application is selected, both hunters will be offered depredation hunt tags~~ controlled hunt in the same area, the holders of those controlled hunt tags will be given the option to use that controlled hunt tag in the depredation hunt for that species before tags are made available to individuals on the application list. The regional supervisor has discretion to: (1) allow holders of unfilled doe/fawn, antlerless, or black bear controlled hunt tags for hunts that have ended in the same area to use

those tags in the depredation hunt; (2) waive weapon restrictions that apply to a controlled hunt tag if used in the area of the depredation hunt. (3-31-22)()

05. Effect on Bag/Possession Limits. A depredation hunt tag authorizes the take of one (1) big game animal, which may be in addition to the annual bag and possession limits for that species by use of another controlled or general hunt tag. ()

601. -- 609. (RESERVED)

610. HERD HEALTH KILL AUTHORIZATION.

01. Authorization. The director may issue herd health kill authorizations to private landowners for the control, eradication, minimization, or management of wildlife disease. Private landowners or their designees may take the number of animals authorized by the director, only on the private property of the landowner to whom the authorization was issued, and subject to compliance with any requirements specified in the authorization. ()

02. Possession for Personal Use. The director's authorization may allow landowners or their designee(s) to keep edible portions of animals taken for their personal use, in addition to other big game animals they may lawfully possess, provided they comply with any specified sampling requirements. ()

03. Tag Eligibility. The use or possession of a herd health kill authorization does not affect the possessor's eligibility for other game tags. ()

611. -- 699. (RESERVED)

700. USE OF BAIT FOR HUNTING BIG GAME.

Bait may be used to hunt only black bear and only under the following conditions, except gray wolf may be taken incidentally to bear baiting. ()

01. Time. ()

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 bait may be placed one (1) week prior to the opening of bear season in Units 10, 12, 16A, 17, 19, 20, 20A, 26, and 27. ()

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); except bait, bait containers, and materials may remain in Units 10 and 12 between the dog training season and the fall season. ()

02. Location. ()

a. No bait site may be located within two hundred (200) feet of any water (lake, pond, reservoir, year-round free flowing spring, or year-round free flowing stream). ()

b. No bait site may be located within two hundred (200) yards from any maintained trail or any established roadway; except in the Panhandle and Clearwater Regions, no bait site may be located within two hundred (200) feet from any maintained trail or any established roadway. ()

c. No bait site may be located within one-half (1/2) mile of any designated campground or picnic area, administrative site, or dwelling. ()

03. Types. ()

a. No person may use any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife for bait or scent. ()

b. The skin must be removed from any mammal parts or carcasses used as bait. ()

c. No person may use salt in any form (liquid or solid) for bait. ()

04. Containers. ()

a. No bait may be contained within paper, glass, wood, plastic, or other non-biodegradable 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. ()

b. No bait may be contained in any excavated hole greater than four (4) feet in diameter. ()

05. Establishment of Bait Sites. ()

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 after the close of each season (spring, fall, or black bear dog training). ()

b. All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. ()

701. BAITING PERMIT.

01. Baiting Permit. ()

a. Baiting permits are issued by mail or in person from Department offices beginning March 1 of each year. ()

b. Baiting permits are valid for the calendar year in which they are issued. ()

02. Use of Baiting Permit. ()

a. Any person placing bait must possess a baiting permit issued by the Department. ()

b. A person may possess only one (1) baiting permit each year and may maintain not more than three (3) bait sites. A licensed outfitter may maintain additional bait sites if the number of sites is approved in writing by the landowner or land management agency. ()

c. No person may hunt over an unlawful bait site. ()

d. Guides and clients of outfitters (who have a bait permit and are licensed under title 36, chapter 21, Idaho Code) are exempt from possessing a baiting permit, provided they have a copy of the outfitter's permit in their possession while placing bait or hunting over the outfitter's permitted bait site. ()

702. USE OF BAIT BY A GRIZZLY BEAR.

Any person placing bait to hunt black bear, hunting at a bait site, or witnessing the use of a bait site by a grizzly bear must immediately report use of the bait by a grizzly bear to the Department. No person may hunt black bear over such a bait site for the remainder of the current black bear hunting season. The bait site(s) will be closed for the remainder of the current black bear hunting season and the bait must be removed as soon as possible. ()

~~801~~**703.** -- 999. (RESERVED)

IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.16 – TRAPPING OF WILDLIFE AND TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section [67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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\(a\)](#), 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:

This rulemaking concerns the comprehensive review of current IDAPA [13.01.16](#), “Trapping of Wildlife and Taking of Furbearing Animals,” in compliance with Executive Order [2020-01](#).

The agency added clarifying language in the ‘bait’ definition and increased accidental take reimbursement to \$25 for bobcat, otter, or fisher. Additional proposed changes included: a new allowance for director or supervisor discretion to authorize use of certain snow-covered routes, restrictions on trapping near wildlife crossing structures, clarification around trapping on private property, and improved agency flexibility regarding allowance of trapping on game preserves and agency owned or controlled lands.

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 October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, pages 237-243](#).

One change was made to the proposed rule that clarified language in a section regarding limits on trap sets.

FEE SUMMARY: Not applicable. The pending rule does not impose new fees or changes.

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

There is no fiscal impact to the General Fund.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

DATED this 26th day of November, 2025.

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

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\(a\)](#), 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 15, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking concerns the comprehensive review of current IDAPA 13.01.16, “Trapping of Wildlife and Taking of Furbearing Animals,” in compliance with [Executive Order 2020-01](#). The agency has identified some technical, duplicative, and non-substantive modifications to be evaluated for integration.

The agency added clarifying language in the ‘bait’ definition and increased accidental take reimbursement to \$25 for bobcat, otter, or fisher. Additional proposed changes include: a new allowance for director or supervisor discretion to authorize use of certain snow-covered routes, restrictions on trapping near wildlife crossing structures, clarification around trapping on private property, and improved agency flexibility regarding allowance of trapping on game preserves and agency owned or controlled lands.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2024 Idaho Administrative Bulletin, [Volume 24-5, pages 192-193](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 4th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 13-0116-2401

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

13.01.16 – TRAPPING OF WILDLIFE AND TAKING OF FURBEARING ANIMALS

000. LEGAL AUTHORITY.

Sections 36-104(b) and 36-1101(a), Idaho Code, ~~authorize the Commission to adopt rules concerning trapping of wildlife and taking of furbearing animals.~~ (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~The title for this chapter for citation is IDAPA 13.01.16, “Trapping of Wildlife and Taking of Furbearing Animals.”~~
These rules govern the trapping of wildlife and taking of furbearing animals. (3-31-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

IDAPA 13.01.06, ~~“Rules Governing Classification and Protection of Wildlife”~~ defines game animals, furbearing animals, and unprotected wildlife. Section 36-201, Idaho Code, defines predatory wildlife. (3-31-22)()

01. Bait. Any animal parts; except bleached bones or natural liquid scent. (3-31-22)()

02. Sets. (3-31-22)

a. Ground Set. Any foothold trap, body-gripping trap, or snare originally set in or on the land (soil, rock, etc.), which includes any traps elevated up to a maximum of thirty-six (36) inches above the natural ground level. (3-31-22)

b. Water Set. Any trap or snare originally set in or on any body of water, which includes traps on floats in the water and those that are set with a minimum of one-third (1/3) of the trap submerged. Water sets includes traps set on beaver dams, in bank holes and in the water at bank slides. (3-31-22)()

c. Other Sets. Any set not defined as a ground or water set, including without limitation, elevated sets originally set thirty-six (36) inches or more above natural ground level. (3-31-22)

03. Public Trail. Any trail designated by any city, county, state, or federal transportation or land management agency on the most current official map of the agency. (3-31-22)

011. -- 099. (RESERVED)

100. IDENTIFICATION TAGS FOR TRAPS.

All traps or snares, except those used for pocket gophers, ground squirrels or other unprotected rodents, shall have attached to the snare or the chain of every trap, a metal tag bearing: (3-31-22)

01. Name and Address. In legible English the name and current address of the trapper; or (3-31-22)

02. Number. A six (6) digit number, to be obtained by the trapper from any Department office upon the issuance of the trapper's first trapping license. (3-31-22)()

~~**a.** Any person assigned a six (6) digit number to mark his traps or snares must notify the Department in writing or in person at any Department Office within thirty (30) days of any change in address.~~ (3-31-22)

101. -- 149. (RESERVED)

150. CONTROLLED TRAPPING PERMITS.

01. General. No person may trap in a controlled trapping unit for the designated species without having a valid permit for that controlled trapping unit in possession. A permit issued based on erroneous information

will be invalidated by the Department. The Department will notify the individual of the invalidation, and that person will not be eligible for a controlled trapping permit that year or in a succeeding year to which a waiting period applies. (3-31-22)

02. Eligibility. Any person possessing a valid Idaho trapping license is eligible to apply for a controlled trapping unit permit. (3-31-22)

03. Applications. Applications for controlled trapping permits will be made on a form prescribed by the Department. The Department will only consider applications received at ~~the its~~ Headquarters Office ~~of the Department~~ or postmarked not later than September 15 of each year. Any application that is unreadable, has incomplete or incorrect trapping license numbers, or lacks mandatory information or fee will be declared void and will not be entered in the drawing. All applications will be considered final and cannot be resubmitted after correction. (3-31-22)()

a. No person may submit more than one (1) application per species for a controlled trapping permit. (3-31-22)

b. No group applications will be accepted. (3-31-22)

04. Controlled Trapping Permit Drawing. (3-31-22)

a. Applications not drawn for the first-choice unit will automatically be entered into a second-choice drawing, provided the second choice applied for has not been filled. (3-31-22)()

b. If an insufficient number of “first choice” applications are received for a unit, remaining permits will be filled from applications listing the unit as a second choice. (3-31-22)

c. Any permits left unfilled after the second-choice drawing may be issued on a first-come, -first-served basis. (3-31-22)()

05. Successful Applicants. Successful applicants will be notified by mail and must contact the person listed on the notice by October 14 to obtain the permit. The permittee, upon agreeing to follow trapping instructions for the unit, will be issued a permit. (3-31-22)

06. Revocation of Permits. ~~The Department may revoke the permit of A~~any permittee who does not comply with Title 36, Idaho Code, administrative rules, or trapping unit instructions ~~may have his permit revoked.~~ (3-31-22)()

07. Alternative Permittee. Any revoked permit may be issued to an alternate, selected at the time of the drawing. If there is no alternate, or the alternate fails to comply with Subsection 150.05 above, the permit may be issued to the first eligible trapper answering a notification of vacant trapping ~~U~~unit as approved by the Regional Supervisor. (3-31-22)()

151. -- 199. (RESERVED)

200. TRAPS.

01. Checking Traps. (3-31-22)

a. No person may place snares or traps for gray wolf, furbearing animals, predatory or unprotected wildlife, except pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once every seventy-two (72) hours and removing any catch therein. (3-31-22)

b. Trappers acting as government employees or contractors are exempt from this rule. (3-31-22)

02. Removing Trapped Animals of Another. No person may remove wildlife from the trap or snare of another except licensed trappers with written permission from the owner. (3-31-22)

03. Release of Non-Target Catches. (3-31-22)

a. All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed or is in excess of the trapper's limit. (3-31-22)

b. Any trapper who catches a non-target species that is dead shall: (3-31-22)

i. Promptly record the date and species of animal caught and include this information in the mandatory furtaker harvest report. (3-31-22)

ii. Remove the animal from the trap and take it into possession. (3-31-22)

iii. Notify the Department through the local Conservation Officer or Department office within seventy-two (72) hours to make arrangements ~~to transfer the animal to the Department~~ with the Department for disposition of the animal. (3-31-22)()

c. The Department will reimburse trappers ~~ten~~ twenty-five dollars (\$~~10~~25) for each bobcat, ~~lynx,~~ wolverine, otter, or fisher caught accidentally and turned in. (3-31-22)()

201. -- 399. (RESERVED)

400. FURBEARING ANIMALS – METHODS OF TAKE.

No person may take beaver, muskrat, mink, marten, or otter by any method other than trapping. No person may use dogs for the taking of furbearing animals, except in accordance with IDAPA 13.01.15, ~~“Rules Governing the Use of Dogs.”~~ (3-31-22)()

401. -- 449. (RESERVED)

450. LIMITS ON TRAPPING.

01. Game Animals. No person may trap for game birds or game animals, except gray wolf. (3-31-22)

02. Bait. No person trapping for gray wolf, furbearing animals, or predatory or unprotected wildlife may use for bait or scent: (3-31-22)

a. Any part of a game bird, big game animal, upland game animal, game fish, or protected nongame wildlife; EXCEPT: (3-31-22)

i. Trappers may use portions of game birds, game animals, and game fish that are not edible portions, as defined by Section 36-1202, Idaho Code, and may use parts of accidentally killed wildlife salvaged in accordance with IDAPA 13.01.10, ~~“Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife,” Subsections Paragraphs~~ 300.02.c. and 300.02.d., unless such use is prohibited in areas identified by Commission Proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. (3-31-22)()

ii. Trappers may place sets near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes do not include any man-caused mortality. (3-31-22)

b. Live animals. (3-31-22)

03. Limits on Sets. No person trapping for gray wolf, furbearing animals, or predatory or unprotected wildlife may: (3-31-22)

a. Use any set within thirty (30) feet of any visible bait. (3-31-22)

b. Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (3-31-22)

c. Place any ground sets on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. (3-31-22)

d. Place any ground set on, across, or within any public highway as defined in [Section 36-202, Idaho Code](#); ~~except ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way.~~ (3-31-22)()

i. ~~Except ground sets by may placed on snow-covered routes where authorized at the discretion of the director or regional supervisor; or~~ ()

ii. ~~Except ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way, where they are not part of a wildlife crossing structure (overpass or underpass, and any related fencing, constructed to pass wildlife across the public highway).~~ ()

e. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area; except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. (3-31-22)

f. Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. (3-31-22)

g. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. (3-31-22)

h. Place or operate, except as a waterset, any body-gripping trap that has a maximum jaw opening, when set, of greater than seven and one-half (7 1/2) inches measured from the inside edges of the body-gripping portions of the jaws, within thirty (30) feet of any bait, lure, or other attractant. (3-31-22)

i. Place or operate, except as a waterset, any body-gripping trap that has a maximum jaw opening, when set, greater than six and one half (6 1/2) inches and less than seven and one-half (7 1/2) inches measured from the inside edges of the body-gripping portions of the jaws, unless one (1) of the following is met: (3-31-22)()

i. The trap is in an enclosure and the trap trigger is recessed seven (7) inches or more from the top and front most portion of the open end of the enclosure; (3-31-22)

ii. No bait, lure, or other attractant is placed within thirty (30) feet of the trap; or (3-31-22)

iii. The trap is elevated at least three (3) feet above the surface of the ground or snowpack. (3-31-22)

451. -- 454. (RESERVED)

455. GRAY WOLF TRAPPING.

01. Limits on Sets. No person trapping for gray wolf may: (3-31-22)

a. Use any set, EXCEPT a ground set. (3-31-22)

b. Trap for any gray wolf within one-half (1/2) mile of any active Department big game feeding site, ~~except on private property.~~ (3-31-22)()

c. Trap for gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (3-31-22)

d. Place or set any ground set snare without two (2) diverters in an area identified by Commission Proclamation as requiring their use (based on levels of non-target catch of animals whose capture may be avoided by diverter use). (3-31-22)

456. -- 499. (RESERVED)

500. MANDATORY CHECK AND REPORT – PELT TAGS.

01. Mandatory Check and Report. Any person taking ~~river otter, bobcat, or gray wolf~~ the following species must comply with the specified mandatory check, report and pelt tag requirements by: (3-31-22)()

a. Bobcat: Present the pelt to any Department office or official check point to obtain the appropriate pelt tag and complete a harvest report. (3-31-22)

b. River otter: Present the pelt to the Department office in the region in which the animal was taken within seventy-two (72) hours of taking, to obtain the appropriate pelt tag and complete a harvest report. 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. (3-31-22)()

c. Gray wolf: Comply with mandatory check and report provisions in IDAPA 13.01.08.420, “Rules Governing Taking of Big Game Animals.” (3-31-22)()

d. Wildlife listed on the federal list of threatened and endangered species: Report any capture within twenty-four (24) hours to the Department. ()

02. Pelt Tags. (3-31-22)

a. No person may have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt without an official state export tag attached, unless that person has a fur buyer or taxidermist license or appropriate import documentation. (3-31-22)

b. No person may 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. (3-31-22)

c. No person may 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, unless that person has a fur buyer or taxidermist license or appropriate import documentation. (3-31-22)

501. -- 599. (RESERVED)

600. TRAPPING ON GAME PRESERVES AND ~~WILDLIFE MANAGEMENT AREAS~~ DEPARTMENT-OWNED OR CONTROLLED LANDS.

01. Game Preserves ~~and Wildlife Management Areas.~~ All The Commission may, by proclamation, open state game preserves (established by Title 36, Chapter 19, Idaho Code) for and Department Wildlife Management Areas (WMAs) are open to the taking of furbearing animals during the open season declared for the areas in which they lie, provided that any person desiring to trap on a WMA must register in advance, either at WMA headquarters or at the Department regional office. (3-31-22)()

02. ~~Restrictions~~ Department-Owned or Managed Land. The Regional Supervisor where a wildlife management area (WMA) is located may establish limits on the number of trappers allowed on the WMA, a method of equitable allocation of trapping opportunity on a WMA, the number and types of sets allowed, and posting and reporting requirements. Any person desiring to trap on Department-owned or controlled lands must register in advance at the Department Regional office or the office for the specific Wildlife Management Area. The Regional Supervisor may establish and post, pursuant to IDAPA 13.01.03, additional restrictions or requirements for trapping on a property-specific basis. (3-31-22)()

601. – 699. (RESERVED)

700. COMMON SEASON BOUNDARIES FOR STREAMS AND RIVERS.

Whenever a stream or river forms a boundary between two (2) different trapping areas, the stream or river channel proper will open for trapping on the earlier opening date and close on the later closing date of the two (2) seasons involved. (3-31-22)

701. – 799. (RESERVED)

800. TRAPPING REPORTS.

01. Trapping Report Completion. ~~By July 31, all trappers~~ A trapping license holder shall ~~fill out~~ complete the mandatory furtaker (trapping) harvest report, including both target and non-target catch, for the trapping license year by submission on the Department form via the Department website, in person at a Department office, or by mailing to Box 25, Boise, Idaho 83707. ~~Any trapper failing to make such a report by July 31 will be refused a~~ Unless a trapping license holder has submitted a report for that respective trapping license year, that person is not eligible for a trapping license ~~to trap animals~~ for the ~~ensuing~~ following trapping license year ~~until a late report is submitted.~~ (3-31-22)()

02. Return of Reports and Permits. All permittees shall return their controlled trapping unit permits and controlled trapping reports to the person from whom they obtained their controlled trapping unit permits within ten (10) days of the close of the season for the controlled trapping unit. (3-31-22)

801. -- 999. (RESERVED)

IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.17 – RULES GOVERNING USE OF BAIT FOR HUNTING BIG GAME ANIMALS

DOCKET NO. 13-0117-2401 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section [67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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\(b\)](#), [36-409](#), [36-1101A](#), and [36-1105](#), 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:

This rulemaking concerns the comprehensive review of current IDAPA [13.01.17](#), “Rules Governing the Use of Bait for Hunting Big Game Animals,” in compliance with Executive Order [2020-01](#). Upon review, the Department determined the content of this chapter is best suited in IDAPA [13.01.08](#), Rules Governing Taking of Big Game Animals. As such, the Department is proposing to repeal IDAPA 13.01.17 and add the reviewed and edited content to IDAPA 13.01.08. Rulemaking meetings evaluated the content of 13.01.17, independent of chapter 13.01.08. The result of the rulemaking meetings and public comment is reflected in new language added to chapter 13.01.08.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, page 244](#).

FEE SUMMARY: Not applicable. The pending rule does not impose new fees or changes.

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

There is no fiscal impact to the General Fund.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

DATED this 2nd day of November, 2025.

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

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\(b\)](#), [36-409](#), [36-1101A](#), and [36-1105](#), 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 15, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking concerns the comprehensive review of current [IDAPA 13.01.17](#), “Rules Governing the Use of Bait for Hunting Big Game Animals,” in compliance with [Executive Order 2020-01](#). Upon review, the Department determined the content of this chapter is best suited in [IDAPA 13.01.08](#), Rules Governing Taking of Big Game Animals. As such, the Department is proposing to repeal IDAPA 13.01.17 and add the reviewed and edited content to IDAPA 13.01.08. Rulemaking meetings evaluated the content of 13.01.17, independent of chapter 13.01.08. The result of the rulemaking meetings and public comment is reflected in new language added to chapter 13.01.08.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2024 Idaho Administrative Bulletin, [Volume 24-5](#), pages 194-195.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 4th day of August, 2025.

IDAPA 13.01.17 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.

IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME

13.01.19 – RULES FOR SELECTING, OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

DOCKET NO. 13-0119-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section [67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 [36-301](#) and [36-307](#), 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:

This rulemaking concerns the comprehensive review of current chapter IDAPA [13.01.19](#), “Rules for Selecting, Operating, Discontinuing, and Suspending Vendors,” in compliance with Executive Order [20201-01](#).

The agency removed vendor classifications to simplify the approval process, added a ‘community benefit’ component to allow for applicants who previously would have not been qualified, added language to make vendor application disqualification or contract cancellations more structured and easier to understand and enforce, removed eligibility for out-of-state applicants (except those grandfathered in), and added a provision to allow vendors to collect a credit card fee.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, pages 245-251](#).

FEE SUMMARY: Not applicable. The pending rule does not impose new fees or changes.

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

There is no fiscal impact to the General Fund.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

DATED this 26th day of November, 2025.

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

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 [36-301](#) and [36-307](#), 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 15, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking concerns the comprehensive review of current chapter [IDAPA 13.01.19](#), “Rules for Selecting, Operating, Discontinuing, and Suspending Vendors,” in compliance with [Executive Order 2020.01](#). The agency has identified some technical, duplicative, and non-substantive modifications to be evaluated for integration.

The agency removed vendor classifications to simplify the approval process, added a ‘community benefit’ component to allow for applicants who previously would have not been qualified, added language to make vendor application disqualification or contract cancellations more structured and easier to understand and enforce, removed eligibility for out-of-state applicants (except those grandfathered in), and added a provision to allow vendors to collect a credit card fee.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025 Idaho Administrative Bulletin, [Volume 25-5, pages 44-45](#).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amber Worthington at (208) 334-3771 or amber.worthington@idfg.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 4th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 13-0119-2501

13.01.19 – RULES FOR SELECTING, OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

000. LEGAL AUTHORITY.

Sections 36-301 and 36-307, Idaho Code ~~authorize the Commission to adopt rules governing issuance and sale of licenses and authorization and accountability of license vendors.~~ (3-31-22)()

001. ~~TITLE AND SCOPE.~~

The title of this chapter for citation is IDAPA 13.01.19, “Rules for Selecting, Operating, Discontinuing, and Suspending Vendors.” These rules ~~This Chapter~~ establishes standards for license vendors and related administration. (3-31-22)()

002. -- 099. (RESERVED)

~~100. VENDOR CLASSIFICATION:~~

The Department classifies vendor applications into the following designations for record keeping, approval, and statistical purposes. (3-31-22)

~~01. Class One.~~ A sporting goods store carrying a complete line of hunting and fishing supplies and other sporting equipment, and open at least five (5) days a week year-round except for major holidays. (3-31-22)

~~02. Class Two.~~ A store with a section carrying a complete line of hunting and fishing supplies and other sporting equipment, and open at least five (5) days a week year-round except for major holidays. (3-31-22)

~~03. Class Three.~~ A store that specializes in a single aspect of hunting or fishing such as gun, archery or fly fishing shops. (3-31-22)

~~04. Class Four.~~ (3-31-22)

~~a. Strategic.~~ A business or government agency located in an area where the Department has determined there is a need for the public to have licenses available. This may be in areas where there is no or very limited license availability within a twenty-five (25) mile radius from established license vendors. (3-31-22)

~~b. Exceptional Service.~~ A business that can provide exceptional license availability in comparison to existing license vendors in the vicinity, such as a business open twenty-four (24) hours a day, seven (7) days a week that would not be classified as a class one, two, or three vendor. (3-31-22)

~~05. Class Five.~~ A business not open on a twelve (12) month basis such as a summer fishing resort that would otherwise qualify for any class one through four, which may include an outfitter or guide business with a permanent business location open to the public. (3-31-22)

~~06. Class Six.~~ All other businesses that provide no special or exceptional service to the Department or public. (3-31-22)

~~101.0.~~ APPLICATION.

01. Form. Applications will be on a form prescribed by the Department. (3-31-22)

02. Department Review. (3-31-22)

a. Application Review. ~~The Department will evaluate and determine approval or denial of vendor applications quarterly, on or before March 1, June 1, September 1, and December 1.~~ The Department will have thirty (30) calendar days after receipt of all necessary forms to review and investigate the application. ~~The date received plus thirty (30) days will determine into which quarterly evaluation each vendor application will be considered.~~ Applications from the same area will be compared to determine which will best meet vendorship needs in that area.

~~Exceptions may be made by the Department when there are overriding needs for an immediate replacement of a license vendor in an area. This will primarily occur where there would be no vendor services available to the public within a twenty-five (25) mile radius.~~ (3-31-22)()

b. Field Review. After the License Section has received the application form and all other required information from an applicant, they will contact the ~~R~~regional ~~Conservation Officer~~ supervisor or a designated regional enforcement officer for a recommendation on the application. The ~~R~~regional ~~Conservation Officer~~ supervisor or enforcement officer will have ten (10) business days to provide the License Section with a recommendation on the application. (3-31-22)()

03. Applicant. (3-31-22)

a. Application. The Department will only consider license vendorship applications completed in their entirety and accompanied by an original copy of a current credit rating from a recognized credit bureau. The Department will only consider completed applications received by the License section no later than sixty (60) days after the date of the application transmittal letter. The Department may grant an applicant's request to extend this period for up to thirty (30) additional days. Any false or misleading response will void the application. (3-31-22)

b. Approved Application. If the Department approves an application, the applicant will have sixty (60) days from the date of the applicant's approval letter to provide the Department with a signed vendorship contract, and any bond, deposit, or documentation the Department may require. Failure to meet this deadline will void the approval except for extenuating circumstances approved by the Department. (3-31-22)

1021. SELECTION.

The following factors will be considered for selecting an applicant to become a license vendor: (3-18-22)

~~01. Low Numbered Vendors~~**Community Benefit.** ~~Applicants classified in lower-numbered vendor classifications will be given priority over applicants in higher-numbered classifications from the same general location~~ Community benefit applicants may demonstrate a need within the community. The department will consider proximity to other vendors and relevance to hunters and anglers. (3-18-22)()

~~02. Class Six Applicants.~~ Class six (6) applicants will be approved only when they demonstrate a significant public benefit to have a license vendorship at their location. (3-18-22)

~~032.~~ **Unsettled Debts.** Applicants who have unsettled debts listed with a credit bureau will not be approved. Unsettled debts that are in dispute will not be considered against the applicant. (3-18-22)

~~043.~~ **Surety Bond.** The Department may require an applicant to provide for each location, a ten-thousand-dollar (\$10,000) surety bond from a corporate surety authorized to do business in the state of Idaho, which guarantees the payment of all state funds collected as a result of licenses issued by the vendor if it appears from the application or other information that an undue risk might otherwise be placed upon the Department in the absence of such bonding. Applicants who otherwise qualify for a vendorship and have been in business less than three (3) years will be required to furnish the Department with a ten thousand dollar (\$10,000) surety bond in the form and length as determined by the Director. Upon request, at the completion of two (2) years of service, the Department may release the vendor from the bonding requirement based on a review of financial risk. (3-18-22)()

~~054.~~ **Permanence and Accessibility.** Applicants who do not have a permanent place of business open and accessible to all segments of the public will not be approved. (3-18-22)

~~065.~~ **Number of Existing Vendors in Area.** The three (3) closest existing vendors, their hours and days of operation, classification, accessibility to the public, and other pertinent information, including their distance to the applicant, will be compared to the applicant. (3-18-22)()

~~076.~~ **Minimum Sales Volume.** If the applicant is seeking to replace an existing vendor at the prior vendor's location, the prior vendor's sales volume will be used to estimate the applicant's sales volume. (3-18-22)

~~087.~~ **Performance Record.** An applicant who was a license vendor or the manager for a vendor within

the past five (5) years will not be approved unless the applicant's performance record was satisfactory.

(3-18-22)()

098. ~~Fish and Game Violations.~~ ~~No owner or store manager (if the applicant is a corporation) may have had a fish and game violation other than an infraction within the past five (5) years. An application will not be approved if any owner, store manager, or employee who is currently or prospectively issuing products for the department has: a vendor contract violation that has resulted in or may result in termination or suspension; or any fish and game violation other than an infraction within the past three (3) years; or any felony conviction within the past five (5) years.~~

(3-18-22)()

1032. ACTIVE VENDOR CEILING.

The number of active vendors, including approved vendor applicants, is limited to four hundred ~~seventy-five~~ (475400).

(3-31-22)()

1043. LICENSING SYSTEM.

01. License Issuance. A vendorship must issue licenses according to statutes, administrative rules, the vendorship contract, the License Vendor Manual, and Department instructions. (3-31-22)

02. Deposit Schedule. Amounts collected from the sale and issuance of licenses, along with the Department's share of the license issuance fee for each license will be deposited not less frequently than once every seven (7) calendar days in a bank account ~~prescribed by~~ from which the License Vendor ~~has authorized remittance to the Department for its share of fees.~~ (3-31-22)()

03. Reporting Time Period. The accounting and reporting time period is a calendar week (Sunday through Saturday). (3-31-22)

1054. -- 109. (RESERVED)

110. OUT-OF-STATE VENDORS.

~~In general, a~~ An out-of-state location will not be approved to sell licenses ~~unless it is located in close proximity (within fifty (50) miles) to the Idaho border or deemed to have a compelling benefit for the Department, but existing out-of-state vendors may continue to be approved by the Department.~~ (3-31-22)()

111. VENDOR LOCATION NOT MOVABLE.

No vendorship may be relocated to another area (address) without advanced written consent from the Department. (3-31-22)

112. TYPES OF LICENSES SOLD BY VENDOR.

The Department will determine what licenses each vendor may issue. (3-31-22)

113. -- 119. (RESERVED)

120. CONTRACT AGREEMENT VIOLATIONS.

01. Notices of Contract Violations. The Department will issue notices of contract violations whenever a vendor fails to make deposits, submit reports, ~~or send in voided or canceled licenses on time,~~ or issue licenses as instructed. (3-31-22)()

02. Intent to Suspend. Prior to suspending a vendor, a written notice of intent to suspend will be sent to the vendor, except where the Department determines that an emergency or a risk to the public is created by the vendor's conduct or where the vendor has failed to pay for any fund deficiency within the prescribed time, in which cases the Department may terminate the vendor's agreement immediately. The vendor will have fifteen (15) days ~~in which~~ to submit a written dispute to the Department. (3-31-22)()

121. TERMINATION OR SUSPENSION OF VENDOR.

- 01. Grounds.** The Department may terminate or suspend a license vendor on the following grounds: (3-31-22)
- a.** Failure to have sufficient funds for the electronic funds transfer (EFT) to the Department more than once during any twelve (12) month period. (3-31-22)
 - b.** Failure to make good any fund deficiency to the Department within three (3) days of notification. (3-31-22)
 - c.** Failure to follow any procedures specified by the Department for selling or reporting sales. (3-31-22)
 - d.** Failure to comply with any terms of the contract agreement or failure to maintain the original criteria used in determining vendor eligibility. (3-31-22)
 - e.** Fraud or deception in the vendor application. (3-31-22)
 - f.** ~~Negligence in~~ Failure to obtaining proof of residence or completion of the application portion of the license ~~could constitute grounds for suspension of a vendorship, whether intentionally or due to recurring negligence.~~ (3-31-22) ()
- 02. Immediate Termination/Suspension.** (3-31-22)
- a.** A vendorship will be terminated immediately upon the following grounds: (3-31-22)
 - i.** Notice from the bonding company that the vendor's bond has been canceled. (3-31-22)
 - ii.** ~~Inactivity for a year.~~ (3-31-22)
 - iii.** Receipt of two (2) suspensions in any three (3) year period. (3-31-22)
 - iv.** ~~Sale of the business that is the vendorship.~~ (3-31-22)
 - iv.** Felony conviction, or any conviction resulting in the revocation of fishing, hunting, or trapping privileges, by the owner, store manager, or employee issuing products on behalf of the Department. ()
 - b.** A vendorship will be suspended immediately and may be terminated immediately upon the following grounds: (3-31-22)
 - i.** ~~Wildlife V~~ violation of Fish and Game laws or rules, other than an infraction, by an owner, store manager, or employee issuing products on behalf of the Department. (3-31-22) ()
 - ii.** Violation in the issuance of a license or in performance as a vendor. (3-31-22)
 - iii.** Alteration of any license. (3-31-22)
 - iv.** Three contract violations within any twelve- (12) month period. The vendorship will be suspended for up to one (1) year following such a third violation. (3-31-22)
- 03. Terminations – Minimum Sales.** (3-31-22)
- a.** Incorporated City. ~~When a v~~ Vendors located within an incorporated city ~~that~~ fails to ~~sell at least three hundred (300) licenses~~ complete three hundred fifty (350) sales transactions during the first year of operation, or sell at least six hundred twenty-five (625) licenses during the second and subsequent years, ~~will be terminated~~ will be at the end of the calendar year. (3-31-22) ()
 - b.** ~~All Other~~ Unincorporated Areas. ~~All other v~~ Vendors ~~who~~ located in unincorporated areas that fail

to ~~sell at least one hundred twenty-five (125) licenses~~ complete three hundred (300) sales transactions during the first year of operation, or at least ~~two hundred twenty-five (225) licenses~~ six hundred (600) transactions during the second and subsequent years, will be terminated at the end of the calendar year. (3-31-22)()

c. A vendorship not ~~selling the minimum number of licenses~~ completing the minimum number of transactions will not be terminated if the Department determines the service is necessary. (3-31-22)()

04. Application After Termination. An application after termination for reason of inactivity, sale of the business, or nonpayment of license fees will be processed as a new application. The Department will not consider an application for a vendorship terminated for nonpayment of license fees until the applicant makes payment in full of all outstanding fees, including interest charged at the legal rate for judgments. (3-31-22)

122. -- 129. (RESERVED)

130. ISSUING LICENSES AND TAGS.

01. Identification. A vendor will confirm proper identification and proof of residence as defined in IDAPA 13.01.04, ~~“Rules Governing Licensing,”~~ for every individual before issuing a resident license. Nonresident licenses and daily fishing licenses do not require identification. (3-31-22)()

02. Social Security Numbers. A vendor will enter into the licensing system the digits of social security number for any person who purchases a license, ~~as specified for compliance~~ in accordance with Section 73-122, Idaho Code, while protecting that number as confidential information and preventing its use for other purposes or release to any third party. (3-31-22)()

131. -- 149. (RESERVED)

150. PUBLIC MONIES.

All monies collected by a vendor are public monies of the state of Idaho and the state has a prior claim upon these monies over all creditors, assignees, or other claimants. (3-31-22)

151. VOIDED AND CANCELLED LICENSES.

No correction, alteration, or erasure may be made to an issued license. In case of error to an issued license, the vendor ~~will must~~ cancel the license via the license terminal through the cancel function ~~and return the original voided license and cancellation receipt to the Department at the week's end, to be postmarked on or before the following Wednesday. If the original license is not received when due, the vendor may be charged for the value of the license and immediately discard the license. Vendors may only cancel products in their possession.~~ (3-31-22)()

152. LOSS OF DOCUMENTS AND FEES.

A vendor is responsible for all lost documents and blank license stock, regardless of the reason for loss, and will keep all documents and blank license stock in a safe and secure place, preferably in a fireproof box or vault. The vendor will immediately notify the Department of any loss and submit a detailed report of the loss. (3-31-22)

153. INSPECTION AND AUDIT.

License records are subject to inspection and audit at all times by an authorized employee or agent of the Department or the State Controller's Office. (3-31-22)

154. TRANSFER AND SALE OF DOCUMENTS ISSUED TO VENDORS.

A vendor may only transfer blank license stock to a location not listed on the original application or to another license vendor with advance written permission from the Department. (3-31-22)

155. RETURN OF EQUIPMENT, LICENSE STOCK, FORMS, AND SUPPLIES.

A vendor will return any equipment and unused blank license stock, forms, and supplies to the Department immediately upon termination or request by the Department. (3-31-22)

156. INTERNET SERVICE PROVIDER (ISP).

Each ~~L~~icense ~~V~~endor will provide their own Internet Service Provider (ISP), at ~~V~~endor's cost, for the

computerized license system. The ISP ~~can be dial-up or any type of high-speed~~ must provide internet access sufficient to process license sales transactions. (3-31-22)()

157. CREDIT CARD FEES.

Vendors may collect a credit card processing fee from customers for products purchased with a credit card equal to the amount of fees charged to the vendor for completing the transaction. Vendors may not collect any other fees in addition to the license and credit card fee. ()

~~157~~8. -- 199. (RESERVED)

200. CONTRACT TO TAKE LICENSE APPLICATIONS BY TELEPHONE OR OTHER ELECTRONIC METHODS.

The Department may contract with one (1) or more suppliers to take applications for licenses by telephone or other electronic methods, provided license issuance complies with this chapter and any contract provisions. Any such contract will provide for the deposit of any license fees collected by the supplier to be deposited with the State Treasurer within twenty-four (24) hours of effective receipt of the monies. The Department may, by written contract, allow the supplier ~~may to~~ collect a fee in addition to the license fee, which may be retained by the supplier. ~~This contract between the Department and supplier will establish the fee.~~ (3-31-22)()

201. – 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.03.02 – RULES GOVERNING MINED LAND RECLAMATION
DOCKET NO. 20-0302-2401 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section [67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 [58-1304](#) and [58-104\(6\)](#), 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:

- Section 155 modifications:
 - Title; for word count reduction
 - Subsection 155.02; for word count reduction and clarity
 - Subsection 155.03; deleted section for word count reduction and statute congruence

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 October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, pages 263 to 302](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

No new fees will be imposed or increased in 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:

This rule will have no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Andy Mork at (208) 334-0247.

DATED this 18th day of November, 2025.

Andrew Smyth
Resource Protection and Assistance Bureau Chief
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720 Boise, Idaho 83720-0050
Phone: (208) 666-8702
rulemaking@idl.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with [Sections 67-5220\(1\)](#) and [67-5220\(2\)](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to [Section 58-104\(6\)](#) and [58-105](#), Idaho Code, and [Title 47, Chapter 15](#), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, October 7, 2025 2:00 p.m. (MT)
Idaho Department of Lands Boise Bureau Office Garnet Meeting Room 300 N. 6th Street, Suite 103 Boise, ID 83720
To attend any meeting via Microsoft Teams: Meeting Link: Join the meeting now Meeting ID: 282 279 897 290 9 Passcode: By3pT9aC
To attend by telephone call: +1 469-998-7393 Phone conference ID: 612 566 364#
All meetings will be available for video teleconference via a link posted on Idaho Department of Lands website at Rulemaking for IDAPA 20.03.02 - Department of Lands

The meeting sites will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting by contacting the department at the address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Following [Executive Order 2020-01: Zero-Based Regulation](#), this rule chapter is scheduled to be assessed and rewritten by the agency in 2025 for review during the 2026 legislative session. The department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words during the rewrite of the rule chapter. The department reviewed the rule with stakeholders to solicit comments on the draft rules. The department seeks to modify language for consistency within the rule, with statutes, and with other state rules.

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 as a result of this rulemaking: This rule will have no fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2, 2025 Idaho Administrative Bulletin, [Vol. 25-4, pages 33-35](#).

INCORPORATION BY REFERENCE: Pursuant to [Section 67-5229\(2\)\(a\)](#), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents incorporated by reference in this rule chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Andy Mork, PG, Minerals Program Manager at (208) 334-0247 or amork@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 29th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 20-0302-2401

Italicized text indicates amendments to the proposed text as adopted in the pending rule.

20.03.02 – RULES GOVERNING MINED LAND RECLAMATION

000. LEGAL AUTHORITY.

~~Title 47, Chapter 15 (“chapter”), Idaho Code, authorizes the Board to promulgate rules pertaining to mineral exploration; mining operations; reclamation of lands affected by exploration and mining operations, including review and approval of reclamation and permanent closure plans; requirements for financial assurance for reclamation and permanent closure, and to establish a reasonable fee for reviewing and approving reclamation plans and permanent closure plans, including the reasonable cost to employ a qualified independent party, acceptable to the applicant and the Board, to verify the accuracy of cost estimates for reclamation plans and permanent closure plans.~~ [Title 58, Chapter 1, Idaho Code, and Title 67, Chapter 52, Idaho Code.](#) The Board has delegated to the ~~d~~Director of the Department the duties and powers under the ~~chapter Act~~ and these rules; however, the Board retains responsibility for administrative review. (3-18-22)()

001. ~~TITLE AND~~ SCOPE.

~~01. Title.~~ These rules are titled ~~IDAPA 20.03.02, “Rules Governing Mined Land Reclamation,”~~ [IDAPA 20, Title 03, Chapter 02.](#) (3-18-22)

~~02. Scope.~~ These rules establish the notification requirements for exploration and the application, operation, and reclamation requirements for mined lands. In addition, they establish the application and closure requirements for cyanidation facilities. These rules also establish the reclamation and financial assurance requirements for all these activities, and describe the processes used to administer the rules in an orderly and predictable manner. (3-18-22)()

~~031. Other Laws.~~ Operators engaged in exploration, mine operation, and operation of a cyanidation facility ~~shall~~ **must** comply with all applicable laws and rules of the state of Idaho including, but not limited to the following: (3-18-22)()

- a. ~~Idaho water quality standards established in Title 39, Chapters 1, Idaho Code, and Title 39, Chapter~~

36, Idaho Code; IDAPA 58.01.02, “~~Water Quality Standards~~”; and IDAPA 58.01.11, “~~Ground Water Quality Rule~~,” administered by the Department of Environmental Quality (DEQ). (3-18-22)()

b. ~~Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including, IDAPA 58.01.05, “Rules and Standards for Hazardous Waste” and IDAPA 58.01.06, “Solid Waste Management Rules,” administered by the DEQ.~~ (3-18-22)()

c. ~~Section 39-118A, Idaho Code, and applicable rules for ore processing by cyanidation as promulgated and administered by the DEQ as defined in IDAPA 58.01.13, “Rules for Ore Processing by Cyanidation.”~~ (3-18-22)()

d. ~~Section 39-175C, Idaho Code, and applicable rules for the discharge of pollutants to waters of the United States as promulgated and administered by DEQ in IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program.”~~ (3-18-22)()

e. ~~Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources.~~ (3-18-22)()

f. ~~Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules promulgated and administered by the Idaho Department of Water Resources.~~ (3-18-22)()

042. Applicability. These rules are to be read and applied in conjunction with the ~~chapter~~ Act. These rules apply to all exploration, mining operations, and permanent closure of cyanidation facilities on all lands in the state, regardless of ownership. (3-18-22)()

a. These rules apply to mining operations or exploration operations commenced after January 1, 1997. These rules in no way affect, alter, or modify the terms or conditions of any approved reclamation plan, reclamation plan amendment, or financial assurance for reclamation obtained prior to January 1, 1997. If a material change arises and is regulated in accordance with Subsection 090.01, then the operator ~~shall~~ must submit a reclamation plan amendment. (3-18-22)()

b. These rules do not apply to: (3-18-22)

i. Any surface mining operations performed prior to May 31, 1972. An operator will not be required to perform reclamation activities on any pit or overburden pile as it existed prior to May 31, 1972. (3-18-22)

ii. Mining operations for which the Idaho Dredge and Placer Mining Protection Act requires a permit, or which are otherwise regulated by that act. (3-18-22)

iii. Extraction of minerals from within the right-of-way of a public highway by a public or governmental agency for maintenance, repair or construction of a public highway, provided the affected land is an integral part of such highway. (3-18-22)

iv. Underground mines that existed prior to July 1, 2019, and have not expanded their surface disturbance by 50% or more after that date. (3-18-22)

c. Sand and gravel mining operations in state-owned beds of navigable lakes, rivers or streams ~~shall~~ will constitute an approved mining plan for the purpose of these rules if the operator has all of the following: (3-18-22)()

i. A valid riverbed mineral lease granted by the Board in accordance with IDAPA 20.03.05, “Rules Governing Riverbed Mineral Leasing”; with a valid mineral lease bond; (3-18-22)()

ii. An approved plan of operations for the riverbed mineral lease; and (3-18-22)

iii. A valid stream channel alteration permit issued by the Idaho Department of Water Resources

(IDWR).

(3-18-22)()

d. Surface mining operations, conducted by a public or governmental agency for maintenance, repair, or construction of a public highway, which: (3-18-22)

i. Disturb more than two (2) acres will comply with the provisions of Section 069; or (3-18-22)

ii. Disturb less than two (2) acres will comply with Subsections 060.06.a. through 060.06.e. (3-18-22)

e. A cyanidation facility with a permit approved by the Idaho Department of Environmental Quality (DEQ) prior to July 1, 2005, is subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005; however, if there is a material modification or material expansion to a cyanidation facility after July 1, 2005, these rules ~~shall~~ will apply to the modification or expansion. (3-18-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in the ~~chapter~~ Act, the following definitions apply to these rules:

(3-18-22)()

01. Act. The Mined Land Reclamation Act, Title 47, Chapter 15, Idaho Code. ()

042. Adit. A nearly horizontal passage from the surface into an underground mine. (3-18-22)

023. Approximate Previous Contour. A contour that is reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography. (3-18-22)

04. Authorized Land. The area of land specified in an application that may become affected lands at a mine or cyanidation facility. ()

035. Best Management Practices (BMP). Practices, techniques or measures developed or identified by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (3-18-22)

04. Chapter. The Mined Land Reclamation Act, Title 47, Chapter 15, Idaho Code. (3-18-22)

06. Coarse and Durable Rock Armor. A layer of rock placed on a slope to protect it from erosion. The rock must be sufficiently sound, dense, durable, angular, resistant to weathering, and substantially free of fines. The thickness must be at least equal to the dimension of the largest rock used, or eighteen (18) inches, whichever is greater. ()

057. Department. The Idaho Department of Lands. (3-18-22)

068. Discharge. With regard to cyanidation facilities, when used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (3-18-22)

079. Ground Water. Any water of the state that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-18-22)

0810. Land Application. A process or activity involving application of liquids or slurries potentially containing cyanide from the cyanidation facility to the land surface for the purpose of treatment, neutralization, disposal, or groundwater recharge. (3-18-22)

0911. Material Change. A change that deviates from the approved reclamation plan or permanent closure plan and causes one (1) or more of the following to occur: (3-18-22)

a. Results in a substantial adverse effect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailings ~~facilities~~ infrastructure, cyanidation facilities or pit walls; (3-18-22)()

b. Substantially modifies surface water management or a water management plan, not to include routine implementation and maintenance of BMPs; (3-18-22)

c. Exceeds the ~~permitted~~ authorized acreage; or (3-18-22)()

d. Increases overall estimated reclamation costs by more than fifteen percent (15%). (3-18-22)

102. Material Modification or Material Expansion. With regard to cyanidation facilities: (3-18-22)

a. Any change to an ~~permitted~~ approved cyanidation facility, except as provided in Subsection 010.102.b., that the Department determines will: (3-18-22)()

i. Cause or increase the potential to cause degradation of waters, such as a new cyanidation process or cyanidation facility component; or (3-18-22)

ii. Change the capacity, location, or process of an existing cyanidation facility component; or (3-18-22)

iii. Change the site condition in a manner that is not adequately described in the original permit application. (3-18-22)

b. Reclamation and closure related activities at a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005 are not material modifications or material expansions of the cyanidation facility. (3-18-22)

143. Material Stabilization. Managing or treating spent ore, tailings, other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. (3-18-22)

124. Motorized Earth-Moving Equipment. Backhoes, bulldozers, front-loaders, trenchers, core drills, and other similar equipment. (3-18-22)

135. Neutralization. Treatment of process waters such that discharge or final disposal of those waters does not, or will not, violate any applicable standards and criteria. (3-18-22)

146. Operating Plan. A plan that describes how a mining operation will be constructed and operated to avoid or minimize surface disturbance and potential impacts to waters of the state, and to prepare for final reclamation. (3-18-22)

157. Permanent Closure. Those activities that result in neutralization, material stabilization, and decontamination of cyanidation facilities or the facilities' final reclamation. (3-18-22)

168. Permit. When used without qualification, any written authorization, license, or equivalent control document issued by the DEQ. This includes authorizations issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.13, "~~Rules for Ore Processing by Cyanidation,~~" and those issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.25. (3-18-22)()

179. Pollutant. Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials that, when discharged, cause or contribute adverse effects to any beneficial use or for any other reason may impact waters of the state. (3-18-22)

4820. Process Waters. Any liquids intentionally or unintentionally introduced into any portion of the

cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (3-18-22)

~~1921.~~ **Real Property.** Land and appurtenances as defined in Section 55-101, Idaho Code. (3-18-22)

~~202.~~ **Reclamation.** The process of restoring an area affected by a mining operation or cyanidation facility to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. (3-18-22)

~~213.~~ **Reclamation Plan.** A plan using a combination of maps, drawings, and descriptions that describes how a mine is constructed and how reclamation of a mine's affected land is accomplished. (3-18-22)

~~224.~~ **Revegetation.** The establishment of the premining vegetation or a comparable vegetative cover on the land ~~disturbed~~ affected by mining operations. (3-18-22)()

~~235.~~ **Shaft.** A vertical or inclined passage from the surface into an underground mine. (3-18-22)

~~246.~~ **Surface Waters.** The surface waters of the state of Idaho. (3-18-22)

~~257.~~ **Treatment.** Any method, technique or process, including neutralization, that changes the physical, chemical, or biological character or composition of a waste for the purpose of disposal, or the end result of such action. (3-18-22)

~~268.~~ **Water Balance.** An inventory and accounting process capable of being reconciled that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (3-18-22)

~~279.~~ **Water Management Plan.** A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state, unless permitted or otherwise approved by the DEQ. (3-18-22)

~~2830.~~ **Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof that are wholly or partially within, flow through or border upon the state of Idaho. These waters ~~shall~~ will not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (3-18-22)()

~~011.~~ **ABBREVIATIONS:**

~~01.~~ **BMP.** Best Management Practices. (3-18-22)

~~02.~~ **DEQ.** Department of Environmental Quality. (3-18-22)

~~03.~~ **IPDES.** Idaho Pollutant Discharge Elimination System. (3-18-22)

~~04.~~ **SWPPP.** Storm Water Pollution Prevention Plan. (3-18-22)

~~05.~~ **U.S.C.** United States Code. (3-18-22)

~~0121.~~ -- ~~049.~~ **(RESERVED)**

~~050.~~ **ADMINISTRATION:**

The Department will administer these rules under the direction of the director. (3-18-22)

~~051.~~—059. (RESERVED)

060. EXPLORATION OPERATIONS AND ~~REQUIRED~~ RECLAMATION.

01. **Diligence.** All reclamation activities ~~required to be~~ conducted on exploration sites must be performed in a good, workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, or trench, within one (1) year after abandonment thereof. (3-18-22)()

02. **When Exploration Is Mining.** Exploration operations may under some circumstances constitute mining operations as described in Section 47-1503(7), Idaho Code. (3-18-22)

03. **Notification.** Any operator desiring to conduct exploration using motorized earth-moving equipment to locate minerals for immediate or ultimate sale ~~shall~~ must notify the Department ~~prior to or~~ within seven (7) days after beginning exploration operations. The notification must include the information listed in Section 47-1506(e), Idaho Code. No application fee or financial assurance is required for exploration that is not a mining operation. (3-18-22)()

~~04. Contents of Notification.~~ The notification shall include: (3-18-22)

~~a. The name and address of the operator;~~ (3-18-22)

~~b. The legal description of the exploration and its starting and estimated completion date; and~~ (3-18-22)

~~c. The anticipated size of the exploration and the general method of operation.~~ (3-18-22)

~~05. Confidentiality.~~ Any such notification is treated as confidential in accord with Section 180. (3-18-22)

~~064.~~ **Exploration Reclamation (Less Than Two Acres).** Every operator who conducts exploration affecting less than two (2) acres ~~shall~~ must: (3-18-22)()

~~a. Wherever possible, contour~~ Regrade the affected lands to their approximate previous contour where possible; and (3-18-22)()

~~b. Conduct revegetation activities in accordance with Subsection 140.11. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners;~~ (3-18-22)()

~~c. Plug~~ Exploration drill holes ~~must be plugged~~ within thirty (30) days of drilling the holes. Upon request, the ~~director~~ Department may allow the holes to be temporarily left unplugged for up to a year, but until they are plugged the holes must be left so as to eliminate hazards to humans and animals; (3-18-22)()

~~d. Reclaim~~ Pits or trenches on mining claims ~~showing discovery may be within one (1) year of verification if left open pending federal verification by federal mining examiners but shall.~~ The pits and trenches must not create a hazard to humans or animals. Such abandoned pits and trenches must be reclaimed within one (1) year of verification. prior to reclamation; and (3-18-22)()

~~e. If water runoff from exploration causes siltation of surface waters in amounts more than normally results from runoff, the operator shall reclaim affected lands and adjoining lands under his control as is necessary to meet state water quality standards~~ Control nonpoint source pollution by reclaiming affected lands and adjoining lands and implementing appropriate Best Management Practices (BMPs). (3-18-22)()

~~075.~~ **Exploration Reclamation (More Than Two Acres).** Reclamation of lands where exploration has affected more than two (2) acres must be completed as set forth in Subsection 060.06 and all the following additional requirements: (3-18-22)()

a. Abandoned exploration roads must be cross-ditched as necessary to minimize erosion. The ~~director~~ ~~Department~~ may request in writing, or may be petitioned in writing, that a given road or road segment be left for a specific purpose and not be cross-ditched or revegetated. If the ~~director~~ ~~Department~~ approves the petition, the operator cannot thereafter be required to conduct reclamation activities with respect to that given road or road segment. (3-18-22)()

b. Ridges of overburden must be leveled ~~so as~~ to have a minimum width of ten (10) feet at the top. (3-18-22)()

c. Peaks of overburden must be leveled ~~so as~~ to have a minimum width of fifteen (15) feet at the top. (3-18-22)()

d. Overburden piles must be reasonably prepared to control erosion. (3-18-22)

e. Abandoned lands affected by exploration must be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration, with that type of overburden that ~~is conducive to the control of~~ minimizes erosion ~~or the~~ and promotes growth of vegetation that the operator elects to plant thereon. (3-18-22)()

f. Any water containment structure created in connection with exploration must be reasonably prepared so as not to constitute a hazard to humans or animals. (3-18-22)

086. Additional Reclamation. The operator and the director may agree, in writing, to complete additional reclamation beyond the requirements established in the chapter and these rules. (3-18-22)

061. -- 067. (RESERVED)

068. APPLICATION FEES

01. Base Application Fees. The following base fee schedule will be used for all reclamation plans and permanent closure plans and amendments to those plans. For plans processed under Section 069 of these rules, this base fee covers up to twenty (20) hours of staff time for review and processing. For plans processed under Section 070 of these rules, the applicant may instead enter an agreement with the Department as described in Subsection 068.03 of these rules. The applicable acreage is based on the proposed reclamation plan area identified in the application:

Type of Plan	Fee (Dollars)
Section 069 of these rules, Reclamation Plan 0 to 5 acres	Five hundred (\$500)
Section 069 of these rules, Reclamation Plan > 5 to 40 acres	Six hundred (\$600)
Section 069 of these rules, Reclamation Plan over 40 acres	Seven hundred fifty (\$750)
Section 070 of these rules, Reclamation Plan 0 to 100 acres	One thousand (\$1,000)
Section 070 of these rules, Reclamation Plan > 100 to 1,000 acres	One thousand five hundred (\$1,500)
Section 070 of these rules, Reclamation Plan > 1,000 acres	Two thousand (\$2,000)
Section 071 of these rules, Permanent Closure Plan	Five thousand (\$5,000)

(3-18-22)()

02. Additional Fees for Applications Submitted Under Section 069. Plans processed under Section 069 of these rules that require more than twenty (20) hours of staff time due to an incomplete application will result in additional fees being charged. After a revised application has been received and determined to be complete with the exception of the fee, IDL will send an invoice to the operator at a rate of forty dollars per hour (\$40/hour) for the additional review time over the initial twenty (20) hours. If this additional fee is not paid prior to the sixty (60) day

approval deadline, the application will be denied. If the additional fee is paid within 30 days of the denial, the application will be considered complete and the time requirements of Subsection 080.03 will apply. (3-18-22)

03. Alternative Fee Agreement for Applications Submitted Under Section 070. In lieu of paying a fee at the time the application is submitted, an applicant under Section 070 of these rules may enter into an agreement with the Department for actual costs incurred to process an application, verify a reclamation cost estimate submitted under ~~Idaho Code § Section 47-1512(c), Idaho Code~~, and issue a final decision. The applicant ~~shall~~ **must** not commence operations until the terms of the agreement have been met, including that the Department has been reimbursed for all actual costs incurred for the permitting process. (3-18-22)()

069. APPLICATION PROCEDURE AND REQUIREMENTS FOR QUARRIES, DECORATIVE STONE, BUILDING STONE, AND AGGREGATE MATERIALS INCLUDING SAND, GRAVEL AND CRUSHED ROCK.

01. Approval Required. ~~No operator may conduct mining operations on any lands in the state until the reclamation plan has been approved by the Department, and the operator has filed the required financial assurance.~~ Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. (3-18-22)()

02. No Operator Shall Conduct Mining Operations. ~~No operator shall conduct mining operations on any lands in the state until the reclamation plan has been approved by the director, and the operator has filed financial assurance that meets the requirements of the chapter and these rules.~~ (3-18-22)

03. Application Package. The operator must submit a complete application package, for each separate mine or mine panel, before the reclamation plan will be approved. Separate mines are individual, physically disconnected operations. A complete application package consists of: (3-18-22)

- a. An application provided by the ~~director~~ **Department**; (3-18-22)()
- b. A map or maps of the proposed mining operation which includes the information required under Subsection 069.04; (3-18-22)()
- c. A reclamation plan, in map and narrative form, which includes the information required under Subsection 069.04; ~~and~~ (3-18-22)()
- d. An out-of-state operator ~~shall~~ **will** designate an in-state agent authorized to act on behalf of the operator. In case of an emergency that requires an action or actions to prevent environmental damage, both the operator and the authorized agent will be notified; ~~and~~ (3-18-22)()
- e. The correct fee listed in Section 068 of these rules. (3-18-22)

04. Map Requirements. ~~A vicinity map must be prepared on standard United States Geological Survey ("USGS") seven and one-half (7.5) minute quadrangle maps or equivalent. A map of the proposed mining operation site must be of sufficient scale to show: A minimum of three (3) maps will be required. Based on individual site complexity, more than three (3) maps may be submitted to clearly identify map items listed in this section. Additional maps may be necessary to meet the requirements of Subsection 069.04.~~ (3-18-22)()

a. A vicinity map must be prepared on standard United States Geological Survey seven and one-half (7.5) minute quadrangle maps or equivalent. The map must show the proposed location with respect to roads and other readily identifiable local landmarks, and the approximate location and names, if known, of drainages, streams, creeks, or water bodies within one thousand (1,000) feet of the mining operation. ()

b. A site detail map must be prepared to illustrate the proposed mining operation features. The site detail map must be of sufficient scale to show the following items: ()

i. The location of existing ~~and new access~~ roads, ~~access~~, and main haul roads to be constructed or reconstructed in conjunction with the mining operation ~~and the approximate dates for construction, reconstruction,~~

and abandonment; (3-18-22)()

~~b. The approximate location and names, if known, of drainages, streams, creeks, or water bodies within one thousand (1,000) feet of the mining operation;~~ (3-18-22)

~~eii. The approximate boundaries of the lands to be utilized in the designated for mining operations, including a legal description to the quarter-quarter section;~~ (3-18-22)()

~~diii. The approximate boundaries and acreage of the lands that will become affected land as a result of the due to mining-operation activity during the first year of operations;~~ (3-18-22)()

~~eiv. The currently planned storage locations of fuel, equipment maintenance products, wastes, and chemicals that will be utilized in the mining operation;~~ (3-18-22)()

~~fv. The currently planned location and configuration of pits, overburden piles, crusher reject materials, mineral stockpiles, topsoil storage, wash plant ponds and sediment ponds that will be utilized;~~ (3-18-22)()

~~vi. A surface ownership map of appropriate scale for boundary identification; and~~ ()

~~gvii. At least two (2) Sscaled cross-sections by length and height showing surface profiles prior to mining; and, at the end of mining, and after reclamation is complete. All three (3) profiles may be represented in one (1) cross section.~~ (3-18-22)()

~~h. A surface and mineral control or ownership map of appropriate scale for boundary identification;~~ (3-18-22)

~~c. A drainage control map showing surface water drainage patterns and the location of BMPs that will be implemented to control erosion and water quality impacts during mining and reclamation activities;~~ ()

054. Reclamation Plan Requirements. Reclamation plans must be submitted in map and narrative form and include the following: (3-18-22)

~~a. Where waters of the state are likely to be impacted or when requested by the director Department, documents identifying and assessing foreseeable, site-specific sources of water quality impacts from mining operations and proposed management activities, such as BMPs or other measures and practices, to comply with water quality requirements;~~ (3-18-22)()

~~b. Scaled cross-sections by length and height, showing planned surface profiles and slopes after reclamation;~~ (3-18-22)

~~eb. Roads to be reclaimed;~~ (3-18-22)

~~dc. A plan description of activities for revegetation of affected lands including soil types, slopes, precipitation, seed rates, species, handling of topsoil or other growth medium, time of planting, method of planting and, if necessary, fertilizer and mulching rates;~~ (3-18-22)()

~~ed. The planned reclamation of wash plant or sediment ponds;~~ (3-18-22)

~~f. A drainage control map which identifies the location of BMPs that will be implemented to control erosion and water quality impacts during mining and reclamation activities;~~ (3-18-22)

~~ge. The location of any current 100-year floodplain in relation to the mining facilities if the floodplain is within one hundred (100) feet of the facilities, and the BMPs to be implemented that will keep surface waters from entering any pits and potentially changing the stream course.~~ (3-18-22)()

~~hf. For operations over five (5) acres, an estimate of total reclamation cost to be used in establishing a financial assurance amount. The cost estimate will include, but is not limited to, the approximate cost of grading;~~

~~revegetation, equipment mobilization, labor, and other pertinent direct and indirect costs of a third-party to complete reclamation.~~ See Section 120 of these rules for guidance on calculation of third-party reclamation costs. (3-18-22)()

~~ig.~~ If construction, mining, or reclamation will be completed in phases, a description of the tasks to be completed in each phase, an estimated schedule, and proposed adjustments of financial assurance related to each phase. (3-18-22)

070. APPLICATION PROCEDURE AND REQUIREMENTS FOR OTHER MINING OPERATIONS INCLUDING HARDROCK, UNDERGROUND AND PHOSPHATE MINING.

01. Reclamation Plan Approval Required. Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. No operator ~~shall may~~ conduct mining operations on any lands in the state until the reclamation plan has been approved by the ~~director~~ Department, and the operator has filed the required financial assurance. (3-18-22)()

02. Application Package. The operator must submit a complete application package for each separate mine or mine panel before the reclamation plan will be approved. Separate mines are individual, physically disconnected operations. A complete application package consists of: (3-18-22)

- a. All items and information required or allowed under Section 069 of these rules; (3-18-22)
- b. Any additional information required by Subsection 070.04 ~~of these rules~~; and (3-18-22)()
- c. An operating plan, if required by Section 47-1506(b), Idaho Code, prepared in accordance with Subsection 070.05 of these rules. (3-18-22)

03. Map Requirements. Maps must be prepared in accordance with Subsection 069.04~~3~~ of these rules with the addition of any tailings ~~facilities~~ infrastructure or process fluid ponds. (3-18-22)()

04. Reclamation Plan Requirements. Reclamation plans must include all of the information required under Subsection 069.0~~54~~, including but not limited to phases as described in Subsection 069.0~~54~~.~~ih~~, and the following additional information: (3-18-22)()

- a. A description of the planned reclamation of overburden disposal areas, tailings ~~facilities~~ infrastructure, and sediment ponds; and (3-18-22)()
- b. An estimate of total reclamation cost to be used in establishing the financial assurance amount. ~~The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, and other pertinent costs for third-party reclamation.~~ See Section 120 of these rules for guidance on calculation of third-party reclamation costs. (3-18-22)()
- c. To assist in meeting the requirements of ~~paragraph Subsection~~ 069.0~~54~~.a. in these rules, a summary of requirements from a stormwater pollution prevention plan (SWPPP), Idaho pollution discharge elimination system (IPDES) permit, ground water ~~p~~Point of ~~e~~Compliance (POC), and other permits or approvals or BMPs related to foreseeable water quality impacts on the affected land. (3-18-22)()
- d. Structures that will be built to help implement a SWPPP, IPDES permit, Point of Compliance POC, or other permits or approvals related to foreseeable water quality impacts on the affected land. (3-18-22)()
- e. Additional information regarding coarse and durable rock armor if any is proposed ~~to be used~~ for mine facility reclamation ~~of mine facilities~~. The ~~director~~ Department may, after considering the type, size, and potential environmental impact of the facility, require the operator to include additional information in the reclamation plan. Such information may include, but is not limited to, one (1) or more of the following: (3-18-22)()
 - i. A description of the quantities, size, geologic characteristics, and durability of the materials to be

used for final reclamation and armoring. (3-18-22)

ii. A description of how the coarse and durable materials will be handled and/or stockpiled, including a schedule for such activities that will ensure adequate quantities are available during reclamation. (3-18-22)

f. The ~~director~~ **Department** may, after considering the type, size, and potential environmental impact of the facility, require the operator to provide a geotechnical analysis and report. If failure of these structures can reasonably be expected to impact adjacent surface or ground waters, or adjacent private or state-owned lands, the analysis may be required to consider the long-term stability of these structures, the potential for ground water accumulation, and the expected seismic accelerations at the site. The report must bear the imprint of an Idaho licensed professional engineer that is both signed and dated by the engineer. The report ~~shall~~ **must** show that the following features, if present, are designed in a manner that is consistent with industry standards to minimize the potential for failure ~~of~~: (3-18-22)()

i. ~~Any w~~Waste rock or overburden stockpiles; (3-18-22)()

ii. ~~Any p~~Pit walls proposed to be more than one hundred (100) feet high; and (3-18-22)()

iii. ~~Any p~~Pit walls where geologic conditions could lead to failure of the wall regardless of the height. (3-18-22)()

g. Underground mines must provide the following additional information: (3-18-22)

i. Location and dimensions of all underground mine openings at the ground surface, including but not limited to vents, shafts, and adits; and (3-18-22)

ii. A description of how each mine opening in subparagraph 070.04.g.i of these rules will be secured during reclamation to eliminate hazards to human health and safety. (3-18-22)

h. A description of post-closure activities that includes the proposed length of the post-closure period and the following: (3-18-22)

i. A summary of procedures and methods for water management including any likely IPDES permit, stormwater permit, and monitoring required for any ground water ~~point-of-compliance~~ **POC**, along with sufficient information to support a cost estimate for such water management activities. (3-18-22)()

ii. Care and maintenance for facilities after mining has ceased. (3-18-22)

i. Other pertinent information the Department has determined is necessary to ensure that the operator will comply with the requirements of the ~~chapter~~ **Act**. (3-18-22)()

05. Operating Plan Requirements. A complete operating plan ~~shall~~ **must** consist of: (3-18-22)()

a. Ore, tailings, and waste rock handling flow sheets and diagrams. (3-18-22)

b. Waste rock management plan. (3-18-22)

c. Water quality monitoring locations. (3-18-22)

d. Anticipated concurrent reclamation prior to the cessation of mining. (3-18-22)

e. Estimated throughput and timeline for mining ~~and ore processing~~. (3-18-22)()

f. Types of ore processing and beneficiation. (3-18-22)

g. Process fluid pond volumes and anticipated contents, if applicable. (3-18-22)

06. Monitoring Data. The Department will, as needed and through consultation with DEQ, obtain the operator's baseline data on ground water or surface water gathered during the planning and permitting process for the operation, and may require the operator to furnish additional monitoring data during the ~~life of the project~~ duration. This will not require any additional monitoring data where such data is already provided under an IPDES permit, SWPPP, ground water ~~point of compliance~~ POC, or other federal or state requirements for collecting surface or ground water data. (3-18-22)()

071. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMANENT CLOSURE OF CYANIDATION FACILITIES.

01. Permanent Closure Plan Approval Required. No operator ~~shall~~ may operate a new cyanidation facility or materially modify or materially expand an existing cyanidation facility prior to obtaining a permit, approval from the ~~director~~ Department, and before the operator has filed financial assurance, as required by these rules. (3-18-22)()

02. Permanent Closure Plan Requirements. A permanent closure plan ~~shall~~ must: (3-18-22)()

a. Identify the current owner of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility; (3-18-22)

b. Include a timeline showing: (3-18-22)

i. The schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator is responsible for post-closure activities; and (3-18-22)

ii. If the operator plans to complete construction, operation, and/or permanent closure of the cyanidation facility in phases, the schedule to begin each phase of construction, operation, and/or permanent closure activities and any associated post-closure activities. (3-18-22)

c. Provide the objectives, methods, and procedures that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure; (3-18-22)

d. Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. The plan must be prepared in accordance with IDAPA 58.01.13, "~~Rules for Ore Processing by Cyanidation~~", administered by the DEQ, as required to meet the objectives of the permanent closure plan. (3-18-22)()

e. Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, and a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (3-18-22)

f. Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including the final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Prior to approval of a permanent closure plan, engineering designs and specifications for caps and covers must bear the imprint of an Idaho licensed professional engineer that is both signed and dated by the engineer; (3-18-22)

g. Include monitoring plans for surface and ground water during closure and post-closure periods, adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and the requirements of the ~~chapter~~ Act; (3-18-22)()

h. Provide an assessment of the potential impacts to soils, vegetation, and surface and ground waters for all areas to be used for the land application system and provide a mitigation plan, as appropriate. (3-18-22)

i. Provide information on how the operator will comply with ~~the Resource Conservation and Recovery Act, 42 U.S.C. United States Code~~ Section 6901 et seq.; ~~Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Chapter 44, Idaho Code; Idaho Solid Waste Management Act, Chapter 74, Title 39, Chapter 74, Idaho Code;~~ and appropriate state rules, during operation and permanent closure; (3-18-22)()

j. Provide sufficient detail to allow the operator to prepare an estimate of the reasonable costs to implement the permanent closure plan; (3-18-22)

k. Provide an estimate of the reasonable estimated costs to complete the permanent closure activities specified in the permanent closure plan in the event the operator fails to complete those activities. The estimate ~~shall~~ must; (3-18-22)()

i. Identify the incremental costs of attaining critical phases of the permanent closure plan and a proposed financial assurance release schedule; (3-18-22)

ii. Assume that permanent closure activities will be completed by a third party whose services are contracted for by the Board as a result of a financial assurance forfeiture under Section 47-1513, Idaho Code. (3-18-22)

l. ~~If the proposal is to complete cyanidation facility~~ Describe any phases proposed for construction, operation, and/or permanent closure ~~activities in phases of the cyanidation facility including~~; (3-18-22)()

i. ~~Describe how~~ Describe how these activities will be phased and how, after the first phase of activities, each subsequent phase will be distinguished from the previous phase or phases; and (3-18-22)()

ii. ~~Describe how~~ Describe how any required post-closure activities will be addressed during and after each subsequent phase has begun. (3-18-22)()

m. Provide any additional information that may be required by the Department to ensure compliance with the objectives of the permanent closure plan and the requirements of the ~~chapter Act~~. (3-18-22)()

03. Preapplication Conference. Prospective applicants are encouraged to meet with the Department well in advance of preparing and submitting an application package to discuss the anticipated application requirements and application procedures, and to arrange for a visit or visits to the proposed location of the cyanidation facility. The preapplication conference may trigger a period of collaborative effort between the Department, the DEQ, and the applicant in developing checklists to be used by the agencies in reviewing an application for completion, accuracy, and protectiveness. (3-18-22)

04. Application Package for Permanent Closure. An application and its contents submitted to the Department will be used to determine whether an applicant can complete all permanent closure activities in conformance with all applicable state laws. An application must provide information in sufficient detail to allow the ~~director~~ Department to make necessary application review decisions regarding cyanidation facility closure and protection of public health, safety, and welfare, in accordance with the ~~chapter Act~~. A complete application package must be submitted to the Department. ~~A complete application package for an operator proposing to use cyanidation shall and will~~ consist of: (3-18-22)()

a. A Department application form. ~~completed, signed, and dated by the applicant. This form shall contain the following information:~~ (3-18-22)()

i. ~~Name, location, and mailing address of the cyanidation facility;~~ (3-18-22)

ii. ~~Name, mailing address, and phone number of the operator. An out-of-state operator shall designate an in-state agent authorized to act on his behalf. In case of an emergency that requires actions to prevent environmental damage, both the operator and his agent will be notified;~~ (3-18-22)

iii. ~~Land ownership status (federal, state, private or public);~~ (3-18-22)

- iv. ~~The legal description to the quarter-quarter section of the location of the proposed cyanidation facility; and~~ (3-18-22)
- v. ~~The legal structure (corporation, partnership, etc.) and primary place of business of the operator.~~ (3-18-22)
- b. Evidence that the applicant is authorized by the Secretary of State to conduct business in the state of Idaho; (3-18-22)
- c. A permanent closure plan as prescribed in Subsection 071.02; (3-18-22)
- d. The DEQ application and supporting materials; and (3-18-22)()
- e. The fee as defined in Subsection 071.05.a. (3-18-22)
- 05. Application Fee.** The application fee ~~shall~~ will consist of two (2) parts: (3-18-22)()
- a. Processing and review fee. (3-18-22)
- i. The applicant ~~shall~~ must pay a nonrefundable five thousand dollar (\$5,000) fee upon submission of an application. Within thirty (30) days of receiving an application and this fee, the ~~director shall~~ Department will provide a detailed cost estimate to the operator which includes a description of the scope of the Department's review; the assumptions on which the Department's estimate is based; and an itemized accounting of the anticipated number of labor hours, hourly labor rates, travel expenses and any other direct expenses the Department expects to incur, and indirect expenses equal to ten percent (10%) of the Department's estimated direct costs, as required to satisfy its statutory obligation pursuant to the ~~chapter Act~~. (3-18-22)()
- ii. If the Department's estimate is greater than five thousand dollars (\$5,000), the applicant may agree to pay a fee equal to the difference between five thousand dollars (\$5,000) and the Department's estimate, or may commence negotiations with the Department to establish a reasonable fee. (3-18-22)
- iii. If, within twenty (20) days from issuance of the Department's estimate, the Department and applicant cannot agree on a reasonable application processing and review fee, the applicant may appeal to the Board. The Board ~~shall~~ will: (3-18-22)()
- (1) Review the Department's estimate; (3-18-22)
- (2) Conduct a hearing where the applicant is allowed to give testimony to the Board concerning the Department's estimate; and (3-18-22)
- (3) Establish the amount of the application review and processing fee. (3-18-22)
- iv. If the fee is more than five thousand dollars (\$5,000), the applicant ~~shall~~ must pay the balance of the fee within fifteen (15) days of the Board's decision or withdraw the application. (3-18-22)()
- v. Nothing in this section ~~shall~~ will extend the time in which the Board must act on a plan submitted. (3-18-22)()
- b. Permanent closure cost estimate verification fee. (3-18-22)
- i. Pursuant to Section 47-1506(g) and 47-1508(f), Idaho Code, the Department may employ a qualified independent party, acceptable to the operator and the Board, to verify the accuracy of the permanent closure cost estimate. (3-18-22)
- ii. The applicant is solely responsible for paying the Department's cost to employ a qualified independent party to verify the accuracy of the permanent closure cost estimate. The applicant may participate in the Department's processes for identifying qualified parties and selecting a party to perform this work. (3-18-22)

iii. If a federal agency has responsibility to establish the financial assurance amount for permanent closure of a cyanidation facility on federal land, the Department may employ the firm retained by the federal agency to verify the accuracy of the permanent closure cost estimate. If the ~~director~~ Department chooses not to employ the firm retained by the federal agency, ~~he shall~~ it will provide a written justification explaining why the firm was not employed. (3-18-22)()

072. -- 079. (RESERVED)

080. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION FOR A RECLAMATION PLAN OR PERMANENT CLOSURE PLAN.

01. Return of Application. ~~Within thirty (30) days after receipt of a reclamation plan or permanent closure plan by the Department, a~~ An application may be returned for correction and resubmission if either the reclamation plan or permanent closure plan are incomplete. Permanent closure plans must be returned within thirty (30) days of submittal if they are incomplete. Return of an application by the ~~director~~ Department will constitute a rejection in accordance with Section 47-1507(b), Idaho Code. (3-18-22)()

02. Agency Notification and Comments. (3-18-22)

a. Nonconfidential materials submitted under Sections 069, 070, and 071 will be forwarded by the ~~director~~ Department to ~~the Idaho Departments of Water Resources IDWR, Environmental Quality DEQ, and Department of Fish and Game~~ for review and comment. The ~~director~~ Department may decide not to circulate applications submitted under Section 069 if the ~~director~~ Department determines the impacts of the proposed activities are minor and do not involve surface or ground waters. The ~~director~~ Department may provide public notice on receipt of a reclamation plan or permanent closure plan. In addition, nonconfidential contents of an application will be provided to individuals who request the information in writing, ~~as required by the Idaho Public Records Act.~~ (3-18-22)()

b. Upon receipt of a complete application for a reclamation plan or a permanent closure plan, the ~~director~~ Department will provide notice to the cities and counties where the mining or cyanidation facility operation is proposed, in accordance with Section 47-1505(7), Idaho Code. ~~The notice shall include the name and address of the operator, the procedure and schedule for the Department's review, and an invitation to review nonconfidential portions of the application, if requested in writing. Such notice will be provided upon receipt of a reclamation plan, a permanent closure plan, or any amended plan for an existing operation, or an amended cost estimate to complete permanent closure of a cyanidation facility, if required under the chapter and these rules.~~ (3-18-22)()

03. Inspection. The Department may determine that an inspection of the proposed mining site or cyanidation facility location is necessary if the inspection will provide additional information or otherwise aid in processing the application. ()

a. If an inspection is determined necessary, the applicant will be contacted and asked that they or an authorized employee or agent be present at a mutually agreeable time. The Department may proceed with an inspection if the applicant or their designated employee or agent does not appear. ()

b. If weather conditions preclude an inspection, the Department will provide written notice to the applicant that review of the application has been suspended until weather conditions permit an inspection, and that the schedule for a decision will be extended up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1507(c), Idaho Code. ()

04. Public Hearing. The Department may call a public hearing to determine whether a proposed application complies with the Act and these rules. A hearing will be conducted in accordance with Section 110 of these rules. ()

05. Referral to Board. The Department may refer the decision concerning an application to the Board. This action will not extend the time period for a decision to approve or deny an application. ()

036. Decision on Reclamation Plans. The ~~director shall~~ Department will review a new reclamation plan or an amended reclamation plan pursuant to Sections 47-1507 and 47-1508, Idaho Code. (3-18-22)()

a. Approval. (3-18-22)

i. Within sixty (60) days of receipt of an application that complies with Subsections 069 and 070 of these rules, the Department shall provide written notice to the applicant that the reclamation plan or any amendment(s) to an approved reclamation plan is approved or denied and, if approved, the ~~amount of the~~ financial assurance amount required; or (3-18-22)()

ii. If the ~~director~~ Department does not take action within sixty (60) days, a reclamation plan or any amendments thereof is deemed to comply with the ~~chapter Act~~, unless the sixty (60) day ~~time~~ period is extended pursuant to Section 47-1507(c), Idaho Code. (3-18-22)()

~~iii. The operator and director may agree, in writing, to implement additional actions with respect to reclamation that extend beyond the requirements set forth in these rules.~~ (3-18-22)

~~b. Inspections. The director may determine that an inspection of the proposed mining site location is necessary if the inspection will provide additional information or otherwise aid in processing of the application.~~ (3-18-22)

~~i. If the director decides to perform an inspection, the applicant will be contacted and asked that he or an authorized employee or agent be present. This rule shall not prevent the Department from making an inspection of the site if the applicant does not appear.~~ (3-18-22)

~~ii. If weather conditions preclude an inspection of a proposed mining operation, the director shall provide written notice to the applicant that review of the reclamation plan or an amended reclamation plan has been suspended until weather conditions permit an inspection, and that the schedule for a decision will be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1507(c), Idaho Code.~~ (3-18-22)

047. Decision on Cyanidation Facility Permanent Closure Plans. Pursuant to Section 47-1507 and 47-1508, Idaho Code, following review of a complete application, the ~~director shall~~ Department will; (3-18-22)()

a. Coordination with DEQ. Initiate a coordinated interagency review of the application by providing a notice in writing to the DEQ Director that the Department has received an application for permanent closure of a cyanidation facility; (3-18-22)

b. Approval. (3-18-22)

i. Within one-hundred eighty (180) days of receipt of an application that complies with Subsection 071.04 of these rules, the Department shall provide written notice to the applicant that the permanent closure plan is approved or denied and, if approved, the ~~amount of the~~ permanent closure financial assurance amount required; or (3-18-22)()

ii. If the ~~director~~ Department does not take action within one-hundred eighty (180) days, a permanent closure plan, or any amendments thereof, is deemed to comply with the provisions of the ~~chapter Act~~, unless the one hundred eighty (180) day ~~time~~ period is extended in accordance with Section 47-1507(c), Idaho Code. (3-18-22)()

~~c. Inspections. The director may determine that it is necessary to inspect the proposed cyanidation facility location if the inspection will provide additional information or otherwise aid in processing of the application.~~ (3-18-22)

~~i. If the director determines to inspect the site, the applicant will be contacted and asked that he or an authorized employee or agent be present. The Department may proceed with an inspection if the applicant or his~~

~~designated employee or agent does not appear.~~ (3-18-22)

~~ii. If weather conditions preclude an inspection of the proposed cyanidation facility, the director shall provide written notice to the applicant that processing of the application has been suspended until weather conditions permit an inspection, and that the schedule for a decision is extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1507(e), Idaho Code.~~ (3-18-22)

058. Permanent Closure Plan Approval. (3-18-22)

a. The Department may condition its approval on issuance of a permit by the DEQ for the cyanidation facility. (3-18-22)

b. Except for the concurrent and additional permanent closure requirements that may be established in a permit issued by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, ~~“Rules for Ore Processing by Cyanidation,”~~ an approved permanent closure plan shall define the nature and extent of the operator’s obligation under the ~~chapter Act.~~ (3-18-22)()

c. The permanent closure plan, as approved by the Department in coordination with the DEQ, will be incorporated by reference into the cyanidation facility permit issued by DEQ as a permit condition and will be enforceable as such. The operator shall ensure that closure complies with the approved permanent closure plan and any additional permanent closure requirements as outlined in the permit issued by DEQ. (3-18-22)

d. No sooner than one hundred and twenty (120) days after an application for a permanent closure plan has been submitted to the Department, the applicant may submit a reclamation plan as required by Section 070 of these rules. The Department will review and approve the reclamation plan in accordance with Subsection 080 of these rules. (3-18-22)

e. Approval of a permanent closure plan by the Department is required even if approval of such plan has been or will be obtained from an appropriate federal agency. (3-18-22)

062. Denial of an Application. If the ~~director~~ **Department** rejects an application, ~~the director shall~~ **it will** deliver in writing to the applicant a statement of the reasons the application has been rejected, the factual findings upon which the rejection is based, a statement of the applicable statute(s) and rule(s), the manner in which the application failed to fulfill the requirements of these rules, and the action that must be taken or conditions that must be satisfied to meet the requirements of the ~~chapter Act~~ and these rules. The applicant may submit an amended application in accordance with Sections 069, 070 or 071 of these rules for review and, if appropriate, approval by the Department. The ~~director shall~~ **Department will** deny a reclamation plan, permanent closure plan, or any amendments thereof if: (3-18-22)()

a. The application is inaccurate or incomplete; (3-18-22)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect public safety, health, and welfare, in accordance with the scope and intent of these rules, or to protect beneficial uses of the waters of the state, as determined by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, ~~“Rules for Ore Processing by Cyanidation”~~ and other DEQ rules cited therein. (3-18-22)()

~~07. Public Hearing. The director may call a public hearing to determine whether a proposed application complies with the chapter and these rules. A hearing will be conducted in accordance with Section 110 of these rules.~~ (3-18-22)

~~08. Referral to Board. The director may refer the decision concerning an application to the Board. This action will not extend the time period for a decision to approve or deny an application.~~ (3-18-22)

0910. Appeal of Final Order. Any final order of the Board regarding an application for a mining reclamation plan or for permanent closure of a cyanidation facility may be appealed as set forth in Section 47-1514, Idaho Code. (3-18-22)

081. -- 089. (RESERVED)

090. AMENDING AN APPROVED RECLAMATION PLAN.

01. Cause for Reclamation Plan Amendment. In the event circumstances arise that necessitate amendments to an approved reclamation plan, the operator ~~shall~~ **must** submit an application to amend the plan and state the reasons the amendment is necessary. Either the operator or the ~~director~~ **Department** may initiate a process to amend an approved reclamation plan. If the ~~director~~ **Department** identifies a material change ~~he it~~ believes requires a change in the reclamation plan, ~~the director must it will~~ deliver in writing to the operator a detailed statement identifying the material change and the action(s) necessary to address the material changes. Plan amendments have the same requirements as described in Section 069 and 070 of these rules. (3-18-22)()

02. Review of Amendment. The ~~director~~ **Department** will process an application to amend a plan in accordance with Sections 080 and 110 of these rules, provided, however, that no land or aspect or provision of an approved reclamation plan that would not be affected by the proposed amendment, is subject to the amendment, review or reapproval in connection with processing the application. Approval of an amendment ~~shall will~~ not be conditioned upon the performance of any actions not required by the approved reclamation plan or the proposed amendment itself; unless the operator agrees to perform such actions. (3-18-22)()

03. Adjustments. Adjustments to an approved reclamation plan may be made by agreement between the ~~director~~ **Department** and the operator; if the adjustment is consistent with the overall objectives of the approved reclamation plan and so long as applicable surface and ground water quality standards will be met. Adjustments are due to changes that are smaller than material changes. (3-18-22)()

091. AMENDING AN APPROVED PERMANENT CLOSURE PLAN.

01. Cause for Permanent Closure Plan Amendment. In the event circumstances arise that necessitate amendments to an approved permanent closure plan, the operator ~~shall~~ **must** submit an application to amend the permanent closure plan and state the reasons the amendment is necessary. Either the operator or the ~~director~~ **Department** may initiate a process to amend an approved permanent closure plan. Circumstances that could require a permanent closure plan to be amended include: (3-18-22)()

a. A material modification or material expansion in the cyanidation facility design or operation for which the approved permanent closure plan is no longer adequate; (3-18-22)

b. Conditions substantially different from those anticipated in the original permit for which the approved permanent closure plan is no longer adequate; or (3-18-22)

c. A material change as defined in Subsection 010.0910 of these rules. (3-18-22)()

02. Modifications at an Operator's Request. Requests from an operator to modify a permanent closure plan must be submitted to the Department in writing. The ~~director shall~~ **Department will** process an application for amendment in accordance with Section 080 of these rules. An application to amend a permanent closure plan ~~shall must~~ include: (3-18-22)()

a. A written description of the circumstances that necessitate the amendment; (3-18-22)

b. Data supporting the request; (3-18-22)

c. The proposed amendment; (3-18-22)

d. A description of how the amendment will impact the estimated cost to complete permanent closure pursuant to the ~~chapter~~ **Act**; (3-18-22)()

e. A cost estimate to implement the amended permanent closure plan, prepared in accordance with Subsection 071.02 of these rules; and (3-18-22)

f. Payment of a reasonable fee as may be determined by the ~~director~~ Department in accordance with Section 47-1508, Idaho Code. (3-18-22)()

03. **Modification at Request of ~~Director~~ Department.** If, following consultation with the DEQ, the ~~director~~ Department determines that cause exists to amend the permanent closure plan ~~the director shall~~ it will notify the operator in writing of ~~his~~ its determination and explain the circumstances that have arisen which require the permanent closure plan to be amended. Within thirty (30) days or as agreed by the operator and the Department, the operator ~~shall must~~ submit an application to amend the permanent closure plan in accordance with Subsection 091.02. (3-18-22)()

04. **Adjustment.** Adjustments to an approved permanent closure plan may be made by agreement between the ~~director~~ Department and the operator, if the adjustment is consistent with the overall objectives of the approved permanent closure plan and so long as applicable surface and ground water quality standards will be met. (3-18-22)()

092. -- 099. (RESERVED)

100. DEVIATION FROM AN APPROVED RECLAMATION PLAN.

01. **Unforeseen Events.** If a mining operator finds that unforeseen events or unexpected conditions require immediate change from an approved plan, the operator may continue mining in accordance with the procedures dictated by the changed conditions, pending submission and approval of an amended plan, even though operations do not comply with the approved reclamation plan on file with the Department. This ~~shall will~~ not excuse the operator from complying with the requirements of Sections 140 and 120 of these rules. (3-18-22)()

02. **Notification.** The operator ~~shall must~~ notify the ~~director~~ Department, in writing, within ten (10) days of the discovery of conditions that require deviation from the approved plan. A proposed amendment to the reclamation plan must be submitted by the operator within thirty (30) days of the discovery of those conditions. (3-18-22)()

101. -- 109. (RESERVED)

110. PUBLIC HEARING.

01. **Call for a Hearing.** A public hearing called by the ~~director~~ Department following receipt of a complete application submitted in accordance with Sections 069, 070, or 071 of these rules is conducted in accordance with Section 47-1507(d), Idaho Code. The ~~director~~ Department may call for a hearing following ~~his~~ the preliminary review of an application for a new operation or an amendment application for an existing operation when one (1) or more of the following circumstances arises: (3-18-22)()

a. **Public Concern.** The public, potentially affected landowners, any governmental entity, or any other interested parties who may be affected by the operations proposed under the ~~chapter~~ Act have registered, in writing, a concern with the ~~director~~ Department regarding the proposed operations or cyanidation facility. The purpose of the public hearing is to gather written and oral comments as to whether the proposed reclamation plan or permanent closure plan meets the requirements of the ~~chapter~~ Act and these rules. (3-18-22)()

b. **Agency Concern.** The ~~director~~ Department determines, after consultation with the ~~IDepartment of Water Resources~~, DEQ, the Department of Fish and Game, and affected Indian tribes that the proposed mining or cyanidation facility operations could reasonably be expected to significantly degrade adjacent surface and/or ground waters or otherwise threaten public health, safety or welfare. The purpose of a public hearing held under this subsection will be to receive written and oral comments on the measures the operator is proposing to use to protect surface and/or ground water quality from nonpoint source pollution. (3-18-22)()

02. **Consolidation.** If the ~~director~~ Department determines that a hearing should be held, ~~he shall~~ it will order that such proceedings be consolidated. The applicant and the public ~~must will~~ be advised of the specific subjects to be discussed at the hearing at least twenty (20) days prior to the hearing. The Department will coordinate with the DEQ, as appropriate, for any hearings relating to permanent closure of a cyanidation facility to streamline

application processing.

(3-18-22)()

03. Location. A hearing will be held in the locality of the proposed mine or a proposed cyanidation facility at a reasonably convenient time and place for public participation. The ~~director~~ Department may call for more than one hearing when conditions warrant.

(3-18-22)()

04. Notice of Hearing. The ~~director shall~~ Department will provide at least twenty (20) days' advance notice of the date, time, and place of the hearing to: federal, state, and local governmental agencies, Indian tribes who may have an interest in the decision as shown on the application, and the public; to all persons who petitioned for a hearing; and to any person identified by the applicant under Subsection 070.02 as a legal owner of the land that will likely be affected by the proposed operations. Notice to the applicant ~~must will~~ be sent by certified mail and postmarked not less than twenty (20) days before the scheduled public hearing date.

(3-18-22)()

05. Publication of Notice. The ~~director shall~~ Department will provide at least twenty (20) days advance notice to the general public of the date, time, and place of the hearing. A newspaper advertisement will be placed once a week, for two (2) consecutive weeks, in the locale of the area covered by the application.

(3-18-22)()

a. In the event a hearing is ordered under Section 110, the notice ~~shall will~~ describe: (3-18-22)()

i. The potentially significant surface water quality impacts from the proposed mining operation and the operator's description of the measures that will be used to prevent degradation of adjacent surface and ground waters from sources of pollution; or

(3-18-22)

ii. The objectives of a permanent closure plan that have been submitted for review. (3-18-22)

b. A copy of the application will be placed for review in a public place in the local area of the proposed mining operation or cyanidation facility, in the closest Department area office, and the Department's administrative office in Boise.

(3-18-22)

06. Hearing Officer. The hearing will be conducted by the ~~director~~ Department or ~~his~~ its designated representative. Both oral and written testimony will be accepted. Proceedings of the hearing will be recorded ~~on audio tape~~ and a verbatim transcript will be prepared.

(3-18-22)()

07. Consideration of Hearing Record. The Department will consider the hearing record when reviewing reclamation plans or permanent closure plans for final approval or rejection.

(3-18-22)

111. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan as follows:

(3-18-22)

a. Within two (2) years of the final addition of new cyanide to the ore process circuit; or (3-18-22)

b. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years.

(3-18-22)

02. Submittal of a Permanent Closure Report. The operator must submit a permanent closure report to the Department for review and approval. A permanent closure report must be of sufficient detail for the ~~directors of~~ the Department and DEQ to issue a determination that permanent closure, as defined by Subsection 010.157 of these rules, has been achieved. The permanent closure report ~~shall must~~ address:

(3-18-22)()

a. The effectiveness of material stabilization; (3-18-22)

b. The effectiveness of the water management plan and the adequacy of the monitoring plan; (3-18-22)

- c. The final configuration of the cyanidation facility and its operational/closure status; (3-18-22)
- d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities; (3-18-22)
- e. The operational/closure status of any land application site of the cyanidation facilities; (3-18-22)
- f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short- and long-term discharge of pollutants from the cyanidation facility, unless otherwise ~~permitted~~ approved; (3-18-22)()
- g. The short- and long-term water quality trends in surface and ground water through the statistical analysis of the existing monitoring data pursuant to the ore-processing by cyanidation permit; (3-18-22)
- h. Ownership and responsibility for the site upon permanent closure during the defined post-closure period; (3-18-22)
- i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed cyanidation facilities; and (3-18-22)
- j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (3-18-22)

03. Review of a Permanent Closure Report. The Department will immediately forward a copy of the permanent closure report to DEQ for their review and comment. (3-18-22)

112. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. Receipt of a Permanent Closure Report. Within sixty (60) days of receipt of a permanent closure report, the ~~director shall~~ Department will issue to the operator a ~~director's~~ determination of approval or disapproval of the permanent closure report. (3-18-22)()

02. Permanent Closure Report Is Disapproved. The ~~director~~ Department's determination to approve or disapprove a permanent closure report will be based on the permanent closure report's demonstration that permanent closure has resulted in long-term neutralization of process waters and material stabilization. If a permanent closure report is disapproved, the ~~director shall~~ Department will provide in writing identification of: (3-18-22)()

- a. Errors or inaccuracies in the permanent closure report; (3-18-22)
- b. Issues or details that require additional clarification; (3-18-22)
- c. Failures to fully implement the approved permanent closure plans; (3-18-22)
- d. Failures to ensure protection for public health, safety, and welfare or to prevent degradation of waters of the state; (3-18-22)
- e. Outstanding violations or other noncompliance issues; and (3-18-22)
- f. Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (3-18-22)

113. -- 119. (RESERVED)

120. FINANCIAL ASSURANCE REQUIREMENTS.

01. Submittal of Financial Assurance Before Mining. Prior to beginning any mining on a mine panel covered by a reclamation plan, an operator ~~shall~~ **will** submit to the ~~director~~ **Department**, on a Department form, financial assurance meeting the requirements of this rule. The initial financial assurance amount must at a minimum cover the anticipated affected acres over the first year of operations. (3-18-22)()

02. Submittal of Financial Assurance Before Operating a Cyanidation Facility. Prior to beginning operation of a cyanidation facility, an operator will submit to the ~~director~~ **Department**, on a Department form, financial assurance meeting the requirements of Section 47-1512(a)(2), Idaho Code. The financial assurance will be in an amount equal to the total costs estimated under ~~p~~**Paragraph** 071.02.k. and Section 120 of these rules. (3-18-22)()

03. Timely Financial Assurance Submittal. Financial assurance must be received by the Department within twenty-four (24) months of reclamation or permanent closure plan approval or the Department will cancel the respective plan without prejudice. If financial assurance is not received within eighteen (18) months of a plan approval, the Department will notify the operator that financial assurance is required prior to the twenty-four (24) month deadline. Extensions will be granted by the ~~director~~ **Department** for reasonable cause given if a written request is received prior to the deadline. If financial assurance or an extension request is not received by the deadline, the plan will be canceled. The operator must then submit a new plan application and application fee to restart the approval process. (3-18-22)()

04. Phased Financial Assurance. If the Department approves a reclamation plan or permanent closure plan with phased financial assurance, then financial assurance may increase or decrease incrementally commensurate with the additional reclamation or permanent closure liability. After construction and operation of the initial phase has commenced and after filing by an operator of the initial financial assurance, an operator will not construct any component of a subsequent phase or phases of the subject mine or cyanidation facility before filing the additional financial assurance amount that is required by the Board. If phased financial assurance is not authorized, the operator is required to file the financial assurance amount required to complete reclamation or permanent closure of all ~~planned phases prior to any construction of the mine or operation of the cyanidation facility~~ lands affected over the next calendar year. (3-18-22)()

05. Financial Assurance for Mines with Five (5) or Less ~~Disturbed~~ Acres of Authorized Land. Financial assurance will be a minimum of five thousand dollars (\$5,000) per acre unless the operator or the Department determine that the estimated reasonable costs of reclamation require a different amount. No financial assurance may exceed fifteen thousand dollars (\$15,000) for a given acre of affected land unless the condition in Subsection 120.07 of these rules have been met. (3-18-22)()

06. Financial Assurance for Cyanidation Facility ~~Affecting with~~ Five (5) or Less ~~Disturbed~~ Acres of Authorized Land. The Board may require financial assurance in excess of five million dollars (\$5,000,000) if the conditions in Subsection 120.07 of these rules have been met. (3-18-22)()

07. Process for Requiring Higher Financial Assurance. Financial assurance in excess of the amounts in Subsections 120.05 and 06 of this rule may only be obtained if: (3-18-22)

a. The Board has determined that such financial assurance is necessary to meet the requirements of the ~~chapter~~ **Act**; and (3-18-22)()

b. The Board has delivered to the operator, in writing, a notice setting forth the reasons it believes such financial assurance is necessary; and (3-18-22)

c. The Board has conducted a hearing where the operator is allowed to give testimony to the Board concerning the amount of the proposed financial assurance, as provided by Section 47-1512, Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. (3-18-22)

08. Financial Assurance for Mine or Cyanidation Facility with More than Five (5) ~~Disturbed~~ Acres of Authorized Land. The amount of financial assurance ~~must~~ **will** be the amount necessary for the Board to pay the estimated reasonable costs of reclamation required under the reclamation plan or permanent closure plan,

including indirect costs in Section 120 of these rules.

(3-18-22)()

09. Mobilization Costs are Direct Costs. Mobilization and demobilization costs will be included in financial assurance calculations as a direct cost. Costs will be calculated to the mine from the nearest community that has at least two (2) contractors able to perform the reclamation. (3-18-22)

10. Indirect Costs for Reclamation Cost Calculations. Reclamation and permanent closure cost calculations ~~shall~~ will include the following indirect costs and should fall within the percentages given. If a different percentage is used, then a justification must be given. Alternatively, an operator may propose the use of an industry recognized standardized reclamation cost estimation tool for use in reclamation and/or permanent closure cost estimates and the use of the tool's associated indirect costs which are established using the project direct costs as identified: (3-18-22)()

- a. Contractor profit at six percent to ten percent (6% to 10%) of direct costs; (3-18-22)
- b. Contractor overhead at four percent to eight percent (4% to 8%) of direct costs; (3-18-22)
- c. Contractor insurance at one and a half percent (1.5%) of labor costs; (3-18-22)
- d. Contractor bonding at two and a half percent to three and a half percent (2.5% to 3.5%) of direct costs; (3-18-22)
- e. Contract administration at five percent to nine percent (5% to 9%) of direct costs; (3-18-22)
- f. Re-engineering for mines or cyanidation facilities with direct reclamation costs over five hundred thousand dollars (\$500,000). Re-engineering will be three percent to seven percent (3% to 7%) of direct costs; (3-18-22)
- g. Scope contingency at six percent to eleven percent (6% to 11%) of direct costs; (3-18-22)
- h. Bid contingency at six percent to eleven percent (6% to 11%) of direct costs; and (3-18-22)
- i. Other site specific costs as appropriate. (3-18-22)

11. Salvage Value Not Allowed. Reclamation or permanent closure costs will not be reduced by assigning a salvage value to structures or fixtures to be removed during reclamation. (3-18-22)

12. Mining Operation Conducted by Public or Government. Notwithstanding any other provision of law to the contrary, the financial assurance provisions of the ~~chapter~~ Act and these rules do not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. (3-18-22)()

13. Annual Financial Assurance Review for Reclamation Plans. At the beginning of each calendar year, the operator ~~shall~~ must notify the ~~director~~ Department of any increase in the acreage of affected land beyond that covered by the existing financial assurance which will result from planned mining activity within the next twelve (12) months. A commensurate increase in the financial assurance will be required for an increase in affected acreage. Any additional financial assurance required must be submitted on the appropriate form within ninety (90) days of operator's receipt of notice from the Department that an additional amount is required. In no event will mining operations be conducted that would affect additional acreage until the appropriate form and financial assurance has been submitted to the Department. Acreage on which reclamation is complete will be reported in accordance with Subsection 120.16 of these rules and after release of this acreage from the reclamation plan by the ~~director~~ Department, the financial assurance will be reduced by the amount appropriate to reflect the completed reclamation. (3-18-22)()

14. Financial Assurance Provided to the Federal Government. Any financial assurance provided to the federal government that also meets the requirements of Section 120 of these rules will be sufficient for the purposes of these rules. A mine providing financial assurance through an order under the Comprehensive

Environmental Response, Compensation, and Liability Act is not required to submit financial assurance to the Department as described in ~~Idaho Code Section 47-1512(n)~~, ~~Idaho Code~~. (3-18-22)()

15. Financial Assurance Reduction for Mines. (3-18-22)

a. An operator may petition the ~~director~~ Department for a change in the initial financial assurance amount. The ~~director~~ Department will review the petition and if satisfied with the information presented a revised financial assurance amount will be determined. The revised amount will be based upon the estimated cost that the ~~director~~ Department would incur should a forfeiture of financial assurance occur and it became necessary for the ~~director~~ Department, through contracting with a third party, to complete reclamation to the standards established in the plan. (3-18-22)()

b. Upon finding that any land covered by financial assurance will not be affected by mining, the operator will notify the ~~director~~ Department. The amount of the financial assurance will be reduced by the amount being held to reclaim those lands. (3-18-22)()

c. Any request for financial assurance reduction will be answered by the ~~director~~ Department within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-18-22)()

16. Financial Assurance Release Following Mine Reclamation. Upon completion of all or a portion of the reclamation or post-closure activity specified in the plan, the operator may notify the ~~director~~ Department of ~~his~~ ~~its~~ desire to secure release from financial assurance. When the ~~director~~ Department has verified that the requirements of the reclamation plan have been substantially met as stated in the plan, the financial assurance will be released. (3-18-22)()

a. Any request for financial assurance release will be answered by the ~~director~~ Department within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-18-22)()

b. If the ~~director~~ Department finds that a specific portion of the reclamation or post-closure has been substantially completed, the financial assurance may be reduced to the amount required to complete the remaining reclamation or post-closure. The following schedule will be used to complete these financial assurance reductions unless the ~~director~~ Department determines in a specific case that this schedule is not appropriate and specifies a different schedule, or the approved reclamation plan has a different schedule based on site-specific conditions. (3-18-22)()

i. Sixty percent (60%) of the financial assurance may be released when the operator completes the required backfilling, regrading, topsoil replacement, and drainage control of a specific area in accordance with the approved reclamation plan; and (3-18-22)

ii. After revegetation activities have been performed by the operator on the regraded lands, according to the approved reclamation plan, the Department may release an additional twenty-five percent (25%) of the financial assurance. (3-18-22)

c. The remaining financial assurance ~~shall~~ will not be released: (3-18-22)()

i. As long as the affected lands are contributing suspended solids to surface waters outside the affected area in excess of state water quality standards and in greater quantities than existed prior to the commencement of mining operations; (3-18-22)

ii. Until final removal of equipment and structures related to the mining activity or until any remaining equipment and structures are brought under an approved reclamation plan and financial assurance by a new operator; and (3-18-22)

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved reclamation plan and financial assurance by a new operator. (3-18-22)

17. Corporate Guarantee Released First. If an operator provides part of their financial assurance through a corporate guarantee, then the corporate guarantee will be released prior to any other type of financial assurance being released. Other types of financial assurance will only be released after the corporate guarantee has been completely released. (3-18-22)

18. Cooperative Agreements. The ~~director~~ Department may through private conference, conciliation, and persuasion reach a cooperative agreement with the operator to correct deficiencies in complying with the reclamation plan and thereby postpone action to forfeit the financial assurance and cancel the reclamation plan if all deficiencies are satisfactorily corrected within the time specified by the cooperative agreement. (3-18-22)()

19. Permanent Closure Financial Assurance Review. The Department will periodically review all financial assurances filed for permanent closure to determine their sufficiency to complete the work required by an approved permanent closure plan. For reviews conducted under paragraphs a and b the ~~director~~ Department may employ a qualified independent party to verify the accuracy of the revised permanent closure cost estimate as described in ~~p~~Paragraph 071.05.b. of these rules. (3-18-22)()

a. Once every three (3) years, the operator must submit an updated permanent closure cost estimate to the Department for review. The ~~director~~ Department will review the updated estimate to determine whether the existing financial assurance amount is adequate to implement the permanent closure plan, as approved by the Department. Any resulting change in the financial assurance amount does not in and of itself require an amendment to the permanent closure plan as may be required by Section 091 of these rules. The ~~director~~ Department will review the estimate to determine whether the existing financial assurance amount is adequate to complete permanent closure of the cyanidation facility. (3-18-22)()

b. When the ~~director~~ Department determines that there has been a material change in the estimated reasonable costs to complete permanent closure: (3-18-22)()

i. The ~~director~~ Department will notify the operator in writing of ~~his~~ its intent to reevaluate the financial assurance amount. Within a reasonable time period determined by the Department, the operator will provide to the Department a revised cost estimate to complete permanent closure as approved by the Department. (3-18-22)()

ii. ~~The Department will then notify the operator in writing. Within thirty (30) days of receipt of the revised cost estimate, the director will notify the operator in writing of his determination of financial assurance adequacy; if the estimate is complete; and~~ (3-18-22)()

iii. Within ninety (90) days of notification of the ~~director~~ Department's assessment, the operator will make the appropriate adjustment to the financial assurance or the ~~director~~ Department will reduce the financial assurance as appropriate. (3-18-22)()

c. The Department may conduct an internal review of the amount of each financial assurance annually to determine whether it is adequate to complete permanent closure. (3-18-22)

20. Permanent Closure Financial Assurance Release. (3-18-22)

a. A financial assurance filed for permanent closure of a cyanidation facility will be released according to the schedule in the permanent closure plan. The schedule will include provisions for the release of the post-closure monitoring and maintenance portions of the financial assurance. The schedule may be adjusted to reflect the operator's performance of permanent closure activities and their demonstrated effectiveness. (3-18-22)

b. Upon completion of an activity required by an approved permanent closure plan, the operator may request in writing a financial assurance reduction for that activity. The Department will notify the operator within thirty (30) days whether or not the activity meets the requirements of the permanent closure plan. When the ~~director~~ Department, in consultation with DEQ, has verified that the activity meets the requirements of the permanent closure plan, the financial assurance will be reduced by an amount to reflect the activity completed. (3-18-22)()

c. Upon the ~~director~~ Department's determination that all activities specified in the permanent closure

plan have been successfully completed, the Department will, in accordance with Section 47-1512(i), Idaho Code, release the balance remaining after partial financial assurance releases. (3-18-22)()

21. Liabilities for Reclamation Costs Not Covered by Financial Assurance. An operator who is not required to furnish financial assurance by these rules but fails to reclaim may be subject to a civil penalty under Section 47-1513(c), Idaho Code. The amount of ~~the~~ civil penalty will be the estimated cost of reasonable reclamation of affected lands as determined by the ~~director~~ Department. Reasonable reclamation of the site will be presumed to be in accordance with the standards established in the approved reclamation plan. The amount of the civil penalty is in addition to those described in Section 47-1513(f), Idaho Code. (3-18-22)()

22. Appeal Process for Financial Assurance Decisions. All decisions regarding financial assurance extension requests, plan cancellation, financial assurance reduction, or financial assurance release as described in Section 120 of these rules are subject to appeal as described in Section 58-104, Idaho Code, and Section 47-1514, Idaho Code. (3-18-22)()

121. (RESERVED)

122. FORM OF FINANCIAL ASSURANCE.

01. Corporate Surety Bond. (3-18-22)

a. A corporate surety bond is an indemnity agreement executed for the operator and a corporate surety licensed to do business in the state of Idaho, filed on the appropriate Department form. The bond must be payable to the state of Idaho and conditioned to require the operator to faithfully perform all requirements of the ~~chapter~~ Act, and the rules in effect on the date that a reclamation plan or a permanent closure plan was approved by the Department. (3-18-22)()

b. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties in Circular 570 of the U.S. Department of the Treasury. (3-18-22)

c. When replacement financial assurance is submitted, the following rider must be filed with the Department as part of the replacement before the existing financial assurance will be released: “[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas ~~disturbed~~ affected in connection with reclamation plan or permanent closure plan [number], both prior to and subsequent to the date of this rider.” (3-18-22)()

02. Collateral Bond. A collateral bond is an indemnity agreement executed by or for the operator, payable to the state of Idaho, pledging cash deposits, government securities, real property, time deposit receipts, or certificates of deposit of any financial institution authorized to do business in the state. Collateral bonds are subject to the following conditions. (3-18-22)

a. The ~~director shall~~ Department will obtain possession of cash or other negotiable collateral bonds, and, upon receipt, deposit them with the state treasurer to hold them in trust for the purpose of bonding reclamation or permanent closure performance. (3-18-22)()

b. The ~~director shall~~ Department will value the collateral at its current market value minus any penalty for early withdrawal, not its face value. (3-18-22)()

c. Certificates of deposit or time deposit receipts are issued or assigned, in writing, to the state of Idaho and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand and after written release by the Department, to the operator or another person who posted the collateral bond. (3-18-22)

d. Amount of an individual certificate of deposit or time deposit receipt may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. (3-18-22)

e. Financial institutions issuing certificates of deposit or time deposit receipts will waive all rights of set-off or liens which it has or might have against such certificates, and will place holds on those funds that prevent the operator from withdrawing funds until the Department sends a written release to the bank. (3-18-22)

f. Certificates of deposit and time deposit receipts must be automatically renewable. (3-18-22)

03. Letters of Credit. A letter of credit is an instrument executed by a bank doing business in Idaho, made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit are subject to the following conditions. (3-18-22)

a. All credits must be irrevocable and prepared in a format prescribed by the ~~director~~ Department. (3-18-22)()

b. All credits must be issued by an institution authorized to do business in the state of Idaho or through a correspondent bank authorized to do business in the state of Idaho. (3-18-22)

c. The account party on all credits must be identical to the entity identified in the reclamation plan or in the permanent closure plan and on the cyanidation facility permit as the party obligated to complete reclamation or permanent closure. (3-18-22)

04. Real Property. Real property used as a collateral bond must be a perfected, first lien security interest in real property located within the state of Idaho, in favor of the state of Idaho, which meets the requirements of these rules using a deed of trust form acceptable to the Department for all lands forty (40) acres or less, or a mortgage form approved by the Department for all lands over forty (40) acres. (3-18-22)

a. The following information must be submitted for real property collateral: (3-18-22)

i. The value of the real property. The property will be valued at the difference between the fair market value and any reasonable expense anticipated by the Department in selling the property. The fair market value will be determined by an appraisal conducted by a licensed appraiser. The appraiser will be selected by the Department and the Department will provide appraisal instructions; however, the operator may propose an appraiser to the Department. The appraisal will be performed in a timely manner, and a copy sent to the Department and the operator. The expense of the appraisal will be borne by the operator. The real property will be reappraised every three (3) years; (3-18-22)

ii. A description of the property and a site improvement survey plat to verify legal descriptions of the property and to identify the existence of recorded easements; (3-18-22)

iii. Proof of ownership and title to the real property; (3-18-22)

iv. A current title binder which provides evidence of clear title containing no exceptions, or containing only exceptions acceptable to the ~~director~~ Department; and (3-18-22)()

v. Phase I environmental assessment. (3-18-22)

b. Real property will not include any lands in the process of being mined, reclaimed, or planned to be mined under an approved reclamation plan. The operator may offer any lands within a reclamation plan that have received full release of financial assurances. In addition, any land used as a security will not be mined or otherwise ~~disturbed~~ affected while it is a security. The acceptance of real property within the permit boundary will be at the discretion of the ~~director~~ Department. (3-18-22)()

05. Trusts. Trusts are subject to the requirements of Section 47-1512(l) and 68-101, Idaho Code. The proposed trustee, range of investments, initial funding, schedule of payments, trustee fees, and expected rate of return are subject to review and approval by the Department through a memorandum of agreement with the operator. The trustee will invest the principal and income of the fund in accordance with general investment practices. Investments can include equities, bonds, and government securities and be well diversified in accordance with the following conditions: (3-18-22)

a. The joint party on the trust must be identical to the entity identified in the reclamation plan or in the permanent closure plan as the party obligated to complete reclamation or permanent closure. (3-18-22)

b. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. (3-18-22)

c. Equities may include stock funds, stock index funds, or individual stocks, but an individual stock may not exceed five percent (5%) of the total value of the trust. Direct investments in the operator's company or parent company are not allowed. Corporate equities must not exceed seventy percent (70%) of the total value of the trust fund. (3-18-22)

d. Bonds or money market funds must be investment-grade rated securities from a nationally recognized securities rating service. Individual corporate bonds may not exceed five percent (5%) of the total value of the trust. (3-18-22)

e. Payments into the trust will be made as follows: (3-18-22)

i. When used to cover reclamation or permanent closure costs, the trust fund will be initially funded in an amount needed to cover any surface disturbance in the first year of the trust fund. Annual payments into the trust will occur as needed prior to the disturbance of additional affected land at the mine or cyanidation facility. (3-18-22)

ii. When used to cover a portion of reclamation or permanent closure costs in combination with other types of financial assurance, the initial and annual payments will be the pro-rata amount of the reclamation or permanent closure costs as described in subparagraph 122.05.e.i of these rules. (3-18-22)

iii. When used to cover the anticipated post-closure costs, a payment schedule will be created in the memorandum of agreement. The trust fund, together with the anticipated earnings, must be enough at the expected start of the post-closure period to cover the costs of the post-closure period. (3-18-22)

f. Disbursements from the trust will only occur upon written authorization of the Department. Disbursements include payments to the trustee or any other payment of funds not related to financial assurance release and not specifically mentioned in the memorandum of agreement. (3-18-22)

g. Trusts will be irrevocable. (3-18-22)

h. Income accrued on trust funds will be retained in the trust, except as otherwise agreed by the ~~director~~ Department under the terms of an agreement governing the trust. (3-18-22)()

06. Corporate Guarantees. (3-18-22)

a. Up to fifty percent (50%) of required financial assurance for reclamation costs may be provided by a corporate guarantee. Post-closure costs for reclamation plans and permanent closure plans cannot be covered by a corporate guarantee. (3-18-22)

b. Only operators who submit plans under Sections 070 or 071 of these rules may provide a corporate guarantee. (3-18-22)

c. Operators who want to provide financial assurance through a corporate guarantee must provide an audited financial statement from a third-party certified public accountant that meets the requirements of IDAPA 24.30.01, ~~the Idaho Accountancy Rule~~. The audited financial statement must show the operator meets two (2) of the following three (3) criteria and the criteria in paragraph d of this section: (3-18-22)()

i. Ratio of total liabilities to stockholder's equity is less than two (2) to one (1); (3-18-22)

ii. Ratio of sum of net income plus depreciation, depletion, and amortization to total liabilities greater than ten one-hundredths (0.1) to one (1); or (3-18-22)

- (1). iii. Ratio of current assets to current liabilities greater than one and fifty one-hundredths (1.5) to one (3-18-22)
- d. The following financial criteria must also be met for a corporate guarantee: (3-18-22)
- i. Net working capital and tangible net worth are each equal to or greater than the total reclamation or permanent closure cost estimate; (3-18-22)
- ii. Tangible net worth of at least ten million dollars (\$10,000,000); and (3-18-22)
- iii. At least ninety percent (90%) of the corporation's total assets are in the United States, or the total assets in the United States are at least six (6) times greater than total reclamation or permanent closure cost estimate. (3-18-22)
- e. A corporate guarantee can be provided by a parent company guarantor if that guarantor meets the conditions of paragraphs (c) and (d) in this section as if it were the operator. The terms of this corporate guarantee will provide for the following: (3-18-22)
- i. The operator and the parent company will submit to the Department an indemnity agreement signed by corporate officers from both companies who are authorized to bind their corporations. The operator or parent company must also provide an affidavit certifying that such an agreement is valid under all applicable federal and state laws. The indemnity agreement will bind each party jointly and severally; (3-18-22)
- ii. If the operator fails to complete reclamation or permanent closure, the parent company guarantor will do so or the guarantor will be liable under the indemnity agreement to provide funds to the Department sufficient to complete reclamation or permanent closure as per the plan, but not to exceed the financial assurance amount; (3-18-22)
- iii. The corporate guarantee will remain in force unless the parent company guarantor sends notice of cancellation by certified mail to the operator and to the Department at least ninety (90) days in advance of the cancellation date, and the Department accepts the cancellation; ~~and~~ (3-18-22)()
- iv. The cancellation will be accepted by the Department only if the operator obtains replacement financial assurance before the cancellation date or if the lands for which the corporate guarantee, or portion thereof, was accepted have not been ~~disturbed~~, ~~affected~~; and (3-18-22)()
- v. If the operator is a partnership or joint venture, the indemnity agreement will bind each partner or member who has a beneficial interest, directly or indirectly, in the operator. (3-18-22)
- f. The operator, or parent company guarantor, is required to either complete the approved reclamation or permanent closure plan for the lands in default, or pay to the Department an amount necessary to complete the approved reclamation, not to exceed the amount established in Section 120 of these rules. (3-18-22)
- g. The operator or parent company guarantor will submit an annual update of the information required under paragraphs (c) and (d) of this section by April 1 following the issuance of the corporate guarantee. (3-18-22)
- h. If the operator or parent company guarantor's financial fitness falls below the eligibility for providing a corporate guarantee they will immediately notify the Department, and the Department will require the operator to submit replacement financial assurance within ninety (90) days of being notified. (3-18-22)
- i. The Department may require the operator or parent company guarantor to provide an update of the information in paragraphs (c) and (d) in this section at any time. The update must be provided within thirty (30) days of being requested. The requirements of paragraph (h) in this Section will then apply. (3-18-22)
- 07. Blanket Financial Assurance.** Where an operator is involved in more than one (1) reclamation plan or permanent closure plan ~~permitted~~ approved by the Department, the ~~director~~ Department may accept a blanket

financial assurance in lieu of separate reclamation or permanent closure financial assurances under the approved plans. The amount of such financial assurance must be equal to the total of the requirements of the separate financial assurances being combined into a single financial assurance, as determined pursuant to Section 47-1512, Idaho Code, and in accordance with Section 120 of these rules. The principal is liable for an amount no more than the financial assurance filed for completion of reclamation activities or permanent closure activities if the Department takes action against the financial assurance pursuant to Section 47-1513, Idaho Code and Section 123 of these rules.

(3-18-22)()

08. Reclamation Fund. Reclamation plans processed under Section 069 of these rules may provide financial assurance through the Reclamation Fund established by Section 47-18, Idaho Code, and IDAPA 20.03.03. If financial assurance is provided through the Reclamation Fund, no other type of financial assurance may be combined with it on an individual mine site.

(3-18-22)

09. Multiple Forms of Financial Assurance Accepted. An operator may combine more than one type of financial assurance, within the limitations of each type of financial assurance, to reach the full amount of the required financial assurance for a reclamation plan or permanent closure plan.

(3-18-22)

123. FORFEITURE OF FINANCIAL ASSURANCE.

A financial assurance may be forfeited in accordance with Section 47-1513, Idaho Code, when the operator has not conducted the reclamation or has not conducted permanent closure in accord with an approved plan and the applicable requirements of these rules.

(3-18-22)

124. -- 129. (RESERVED)

130. ~~TRANSFER~~ASSIGNMENT OF APPROVED PLANS.

01. Reclamation Plans. A reclamation plan may be ~~transferred~~ assigned from one (1) operator to another only after the Department's approval. To complete ~~a transfer an assignment~~, the new applicant must file a notarized ~~assumption of reclamation plan form as prescribed by the~~ Department ~~form~~ and provide replacement financial assurance. The new operator is responsible for the past operator's obligations under the ~~chapter Act~~, these rules, and the reclamation plan.

(3-18-22)()

02. Permanent Closure Plans. An approved permanent closure plan permit may be ~~transferred~~ assigned to a new operator if ~~he they~~ provides written notice to the ~~director~~ Department that includes a specific date for ~~transfer assignment~~ of permanent closure responsibility, coverage, and liability between the old and new operators no later than ten (10) days after the date of closure. An operator is required to provide such notice at the same time ~~he they~~ provides notice to the DEQ as required ~~in~~ IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." To complete ~~a transfer an assignment~~, the new applicant must:

(3-18-22)()

a. File a notarized ~~assumption of permanent closure plan form as prescribed by the~~ Department ~~form~~;

(3-18-22)()

b. File a replacement permanent closure plan financial assurance ~~on a form approved by the~~ Department.

(3-18-22)()

131. -- 139. (RESERVED)

140. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR MINING OPERATION AND PERMANENT CLOSURE OF CYANIDATION FACILITIES.

These are the minimum standards expected for all activities covered by these rules. Specific standards for individual mines may be appropriate based on site specific circumstances, and must be described in the plan.

(3-18-22)

01. Nonpoint Source Control.

(3-18-22)

a. Appropriate BMPs for nonpoint source controls will be designed, constructed, and maintained with respect to site-specific mining operations or permanent closure activities. Operators ~~shall~~ must utilize BMPs designed to achieve state water quality standards and to protect existing beneficial uses of adjacent waters of the state. State

water quality standards, as administered by DEQ, is the standard that must be achieved by BMPs. (3-18-22)()

b. If the BMPs utilized by the operator do not result in compliance with Subsection 140.01.a., the ~~director shall~~ Department will require the operator to modify or improve such BMPs to meet the controlling, water quality standards as set forth in current laws, rules, and regulations. (3-18-22)()

02. Sediment Control. In addition to proper mining techniques and reclamation measures, the operator shall ~~must~~ take necessary steps at the close of each operating season to assure that sediment movement associated with surface runoff over the area is minimized in order to achieve water quality standards, or to preserve the condition of water runoff from the mined area prior to commencement of the subject mining or exploration operations, whichever is the more appropriate standard. Sediment control measures refer to best management practices carried out within and, if necessary, adjacent to the ~~disturbed area~~ affected land and consist of utilization of proper mining and reclamation measures, as well as specific necessary sediment control methods, separately or in combination. Specific sediment control methods may include, but are not limited to: (3-18-22)()

a. Keeping the ~~disturbed area~~ affected land to a minimum at any given time through progressive reclamation; (3-18-22)()

b. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; (3-18-22)

c. Retaining sediment within the ~~disturbed area~~ affected land; (3-18-22)()

d. Diverting surface runoff around the ~~disturbed area~~ affected land; (3-18-22)()

e. Routing runoff through the ~~disturbed area~~ affected land using protected channels or pipes so as not to increase sediment load; (3-18-22)()

f. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and (3-18-22)

g. Use of adequate sediment ponds, with or without chemical treatment. (3-18-22)

03. Clearing and Grubbing. Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Operators are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the operator is required to meet the applicable surface water quality standards on all such areas. Where practicable, trees and slash should be stockpiled for use in seedbed protection and erosion control. (3-18-22)

04. Overburden/Topsoil. To aid in the revegetation of affected lands where mining operations result in the removal of substantial amounts of overburden including any topsoil, the operator should remove the available topsoil or other growth medium as a separate operation for such area. Unless there are previously affected lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium will be stockpiled and protected from erosion and contamination until such areas become available. (3-18-22)

a. Overburden/Topsoil Removal. (3-18-22)

i. Any overburden/topsoil to be removed should be removed prior to any other mining activity to prevent loss or contamination; (3-18-22)

ii. Where overburden/topsoil removal exposes land area to potential erosion, the ~~director~~ Department, under the reclamation plan, may require BMPs necessary to prevent violation of water quality standards; and (3-18-22)()

iii. Where the operator can show that an overburden material other than topsoil is conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be

allowed as a substitute for or a supplement to the available topsoil. (3-18-22)

b. Topsoil Storage. Topsoil stockpiles will be placed to minimize rehandling and exposure to excessive wind and water erosion. Topsoil stockpiles will be protected as necessary from erosion by use of temporary vegetation or by other methods which will control erosion, including, but not limited to, silt fences, chemical binders, seeding, and mulching. (3-18-22)

c. Overburden Storage. Stockpiled ridges of overburden will be leveled in such a manner as to have a minimum width of ten (10) feet at the top. Peaks of overburden will be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top. The overburden piles will be reasonably prepared to control erosion using best management practices; such activities may include terracing, silt fences, chemical binders, seeding, mulching or slope reduction. (3-18-22)

d. Topsoil Placement. ~~Abandoned~~ Where appropriate slope angle allows, affected lands must be covered with topsoil or other type of overburden that is conducive to plant growth, to the extent such materials are readily available, in order to achieve a stable uniform thickness. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution will be timed so that seeding, or other protective measures, can be readily applied to prevent compaction and erosion. (3-18-22)()

e. Fill. Backfill and fill materials should be compacted in a manner to ensure stability. (3-18-22)

05. Roads. (3-18-22)

a. Roads must be constructed to minimize soil erosion, which may require restrictions on the length and grade of the roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. (3-18-22)

b. All access and haul roads must be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. (3-18-22)

c. Culverts that are to be maintained for more than one (1) year must be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. (3-18-22)

d. Roads and water control structures will be maintained at periodic intervals as needed. Water control structures serving to drain roads must not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. (3-18-22)

e. Roads that will not be recontoured to approximate original contours upon abandonment will be cross-ditched and revegetated, as necessary, to control erosion. (3-18-22)

f. Roads that are not abandoned and continue to be used under the jurisdiction of a governmental or private landowner, will comply with the nonpoint source sediment control provisions of Subsection 140.02 until the successor assumes control. (3-18-22)

06. Backfilling and Grading. (3-18-22)

a. Every operator who conducts mining or cyanidation facility operations which disturb less than two (2) acres ~~shall will~~, where possible, contour the ~~disturbed~~ affected land to its approximate previous contour. These lands must be revegetated in accordance with Subsection 140.11. (3-18-22)()

b. An operator who conducts mining or cyanidation facility operations which disturb two (2) acres or more ~~shall will~~ reduce all waste piles and depressions to the lowest practicable grade. This grade ~~shall must~~ not exceed the angle of repose or maximum slope of natural stability for such waste or generate erosion in which sediment enters waters of the state. (3-18-22)()

c. Backfill and fill materials should be compacted in a manner to ensure mass and surface stability.

(3-18-22)

d. After the ~~disturbed~~ affected area has been graded, slopes will be measured for consistency with the approved reclamation plan or the permanent closure plan. (3-18-22)()

07. Disposal of Waste in Areas Other Than Mine Excavation. Waste material not used to backfill mined areas will be transported and placed in a manner designed to stabilize the waste piles and control erosion. (3-18-22)

a. The available disposal area should be on a moderately sloped, naturally stable area. The site should be near the head of a drainage to reduce the area of watershed above the fill. (3-18-22)

b. All surface water flows within the disposal area must be diverted and drained using accepted engineering practices such as a system of French drains, to keep water from entering the waste pile. These measures must be implemented in accordance with standards prescribed by the Idaho Stream Channel Protection Act, [Title 42, Chapter 38](#), Idaho Code, and the Idaho Dam Safety Act, Sections [42-1710](#) through [42-1721](#), Idaho Code, if applicable. (3-18-22)

c. The waste material not used in backfilling mined areas should be compacted, where practical, and should be covered and graded to allow surface drainage and ensure long-term stability. (3-18-22)

d. The operator may, if appropriate, use terraces or slope reduction to stabilize the face of any fill. Slopes of the fill material should not exceed angle of repose or generate erosion in which sediment enters waters of the state. (3-18-22)

e. Unless adequate drainage is provided through a fill area, all surface water above the fill must be diverted away from the fill area into protected channels, and drainage ~~shall~~ will not be directed over the unprotected face of the fill. (3-18-22)()

f. The operator will conduct revegetation activities with respect to such waste piles in accordance with Subsection 140.11 of these rules. (3-18-22)

08. Settling Ponds; Minimum Criteria. (3-18-22)

a. Sediment Storage Volume. Settling ponds will provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. (3-18-22)

b. Water Detention Time. Settling ponds ~~shall~~ will have an adequate theoretical detention time for water inflow and runoff entering the pond, but theoretical detention time may be reduced by improvements in pond design, chemical treatment, or other methods. (3-18-22)()

c. Emergency Spillway. In addition to the sediment storage volume and water detention time, settling ponds must be designed to withstand and release storm flows as required by the Idaho Dam Safety Act, Section [42-1710](#) through [42-1721](#), Idaho Code, and Safety of Dams Rules, where applicable. (3-18-22)()

09. Tailings ~~Facilities~~ Ponds. All tailings ponds, dams, or other types of tailings ~~facilities~~ infrastructure must be designed, constructed, operated, and decommissioned so that upon their abandonment, the dam and impoundment area will meet applicable surface and ground water quality standards and not otherwise constitute a hazard to human or animal life. (3-18-22)()

a. Design criteria, construction techniques, and decommission techniques for tailings dams and impoundments ~~shall~~ must comply with the Idaho Dam Safety Act, Sections [42-1710](#) through [42-1721](#), Idaho Code, and applicable rules and regulations. (3-18-22)()

b. Topsoil will be removed from the area to be affected by the impounding structure, tailings pond, or other tailings ~~facilities~~ infrastructure in accordance with Subsection 140.04 of these rules. (3-18-22)()

- c. Abandonment and Decommissioning of Tailings Impoundments. (3-18-22)
- i. Dewatering. Tailings ponds will be dewatered to the extent necessary to provide an adequate foundation for the approved post-mining use. (3-18-22)
- ii. Control of surface waters. Surface waters ~~shall~~ will either be channeled around the reservoir and impoundment structure or through the reservoir and breached structure. Permanent civil structures must be designed and constructed to implement either method of channeling. The structure ~~shall~~ must provide for erosion-free passage of waters and adequate energy dissipation prior to entry into the natural drainage below the impounding structure. (3-18-22)()
- iii. Detoxification. Hazardous chemical residues within the tailings pond must be detoxified or covered with an adequate thickness of non-toxic material, to the extent necessary to achieve water quality standards in waters of the state. (3-18-22)
- iv. Reclamation. After implementing the required dewatering, detoxification, and surface drainage control measures, the reservoir and impounding structure will be covered with topsoil or other material conducive to plant growth, in accordance with Subsection 140.04 of these rules. Where such soils are limited in quantity or not available, and upon approval by the Department, physical or chemical methods for erosion control may be used. All such areas are to be revegetated in accordance with Subsection 140.11 of these rules, unless specified otherwise. (3-18-22)
- d. When the operator requests termination of its reclamation or permanent closure plan, pursuant to Section 150 of these rules, impoundment structures and any reservoirs retained as fresh water reservoirs after final reclamation or permanent closure are required to conform with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (3-18-22)

10. Permanent Cessation and Time Limits for Planting. (3-18-22)

- a. Seeding and planting of affected lands or a permanently closed cyanidation facility should be conducted during the first normal period for favorable planting conditions after final seedbed preparation. (3-18-22)
- b. Reclamation activities, where possible, are encouraged to be concurrent with the mining operation and may be included in the approved reclamation plan. Final reclamation must begin within one (1) year after the mining operations have permanently ceased on a mine panel. If the operator permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other affected land, the reclamation activity on each given area must start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other affected land, has not permanently ceased. (3-18-22)
- c. An operator is presumed to have permanently ceased mining operations on a given portion of affected land when no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the prior three (3) years. If an operator does not plan to use an affected area for three (3) or more years but intends thereafter to use the affected area for mining operations and desires to defer final reclamation until after its subsequent use, the operator must submit a notice of intent and request for deferral of reclamation to the ~~director~~ Department, in writing. If the ~~director~~ Department determines that the operator plans to continue the operation within a reasonable period of time, ~~the director shall~~ it will notify the operator and may require actions to be taken to reduce degradation of surface resources until operations resume. If the ~~director~~ Department determines that use of the affected land for mining operations will not be continued within a reasonable period of time, ~~the director~~ it may proceed as though the mining operation has been abandoned, but the operator will be notified of such decision at least thirty (30) days before taking any formal administrative action. (3-18-22)()

11. Revegetation Activities. (3-18-22)

- a. The operator ~~shall~~ must select and establish plant species that can be expected to result in

vegetation comparable to that growing on the affected lands or on a closed cyanidation facility prior to mining or cyanidation facility operations, respectively. Certified weed free seed should be used in revegetation. The operator may use available technical data and results of field tests for selecting seeding practices and soil amendments which will result in viable revegetation. These practices of selection may be included in an approved reclamation plan or permanent closure. (3-18-22)()

b. Unless otherwise specified in the approved reclamation or permanent closure plan, the success of revegetation efforts is measured against the existing vegetation on site prior to the mining or cyanidation facility operation, or against an adjacent reference area supporting similar types of vegetation. (3-18-22)

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation. (3-18-22)

ii. For purposes of this rule, ground cover is considered comparable if it has, on the area actually planted at least seventy percent (70%) of the premining ground cover for the mined area or adjacent reference area; (3-18-22)

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the ~~director~~ Department, in approving a reclamation or permanent closure plan, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species. (3-18-22)()

iv. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation. (3-18-22)

v. For previously mined areas that were not reclaimed to the standards required by Section 140, and which are affected by the mining or cyanidation facility operations, vegetation should be established to the extent necessary to control erosion, but ~~shall~~ will not be less than that which existed before redisturbance; and (3-18-22)()

vi. Vegetative cover ~~shall~~ will not be less than that required to control erosion. (3-18-22)()

c. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the affected land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species ~~shall~~ will not be used in revegetation. (3-18-22)()

d. By mutual agreement of the ~~director~~ Department, the landowner, and the operator, a site may be converted to a different, more desirable or more economically suitable habitat. (3-18-22)()

e. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. (3-18-22)

f. The operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs will be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. (3-18-22)

g. Reforestation. Tree stocking of forestlands should meet the following criteria: (3-18-22)

- i. Trees that are adapted to the site should be planted on the area to be revegetated in a density which can be expected over time to yield a timber stand comparable to premining timber stands; (3-18-22)
- ii. Trees will be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (3-18-22)
- iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (3-18-22)
- h. Revegetation is not required on the following areas: (3-18-22)
 - i. Affected lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; (3-18-22)
 - ii. Any mined area or overburden stockpiles proposed to be used in the mining operations for haulage roads, so long as those roads are not abandoned; (3-18-22)
 - iii. Any mined area or overburden stockpile, where lakes are formed by rainfall or drainage runoff from adjoining lands; (3-18-22)
 - iv. Any mineral stockpile; (3-18-22)
 - v. Any exploration trench which will become a part of a pit or an overburden disposal area; and (3-18-22)
 - vi. Any road which is to be used in mining operations, so long as the road is not abandoned. (3-18-22)
- i. Mulching. Mulch should be used on severe sites and may be required by the reclamation or permanent closure plan where slopes are steeper than three to one (3:1) or the mean annual rainfall is less than twelve (12) inches. When used, straw or hay mulch should be obtained from certified weed free sources. "Mulch" means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (3-18-22)

12. Petroleum-Based Products and Chemicals. All refuse, chemical and petroleum products and equipment should be stored and maintained in a designated location away from surface water and disposed of in such a manner as to prevent their entry into a waterway. (3-18-22)

141. -- 149. (RESERVED)

150. TERMINATION OF A PLAN.

01. Terminate upon Request of the Operator. A reclamation plan ~~shall~~ will terminate upon request of the operator, upon inspection by the ~~director~~ Department, and a determination that all reclamation activity has been completed to the standards specified in the plan, and following final approval by the ~~director~~ Department. Upon termination, the ~~director~~ Department will release the remaining financial assurance, notify the operator, and any authority to conduct any mining operations under the subject plan ~~shall~~ will terminate. (3-18-22)()

02. Terminate a Permanent Closure Plan. The ~~director shall~~ Department will terminate a permanent closure plan upon request of the operator, provided all the provisions and objectives of the permanent closure plan have been met, as determined by the ~~director~~ Department under Sections 111 and 112 of these rules. Upon a determination that permanent closure has been completed in accordance with the approved permanent closure plan and upon consultation with the DEQ that the operator's request to terminate a plan should be approved, the ~~director~~ Department will notify the operator that any authority to continue cyanidation operations ~~shall~~ will cease and ~~he it~~ it will release the balance of the financial assurance in accordance with Subsection 120.20. (3-18-22)()

151. -- 154. (RESERVED)

155. FIVE (5) YEAR UPDATES AND ~~PERIODIC~~ INSPECTIONS.

01. **Five (5) Year Updates.** The Department may require operators to submit an update on their mining operation at least every five (5) years. The update will be on a Department form, and will be used to assist the Department in determining whether or not adjustments are needed for financial assurance or if a plan amendment is required due to a material change. Failure by an operator to complete the form and return it to the Department, or an operator providing false statements on the form, may result in the penalties in Section 47-1513(g), Idaho Code. A mine plan update provided to the federal government for mines subject to financial assurance requirements may be considered to meet the requirement. (3-18-22)()

02. **Right of Inspection.** Authorized representatives of the Department have the right to enter upon lands affected or proposed to be affected by exploration, mining operations, or cyanidation facilities to determine compliance with the reclamation or permanent closure plans, the Act, and these rules, and adequacy of the financial assurance. Inspections will be conducted at reasonable times in the presence of the operator or his authorized representative. The operator ~~shall~~ will make such a person available for the purpose of inspection. This rule does not prevent the Department from making an inspection of the site if the operator fails to make a representative available on request. (3-18-22)()

~~03. Frequency of Inspection.~~ (3-18-22)

~~a. Mining operations with an approved reclamation plan will be inspected at least once every five (5) years to determine compliance with the approved plan and adequacy of the financial assurance. Inspections may need to be more frequent due to the large size, rapid pace of mining, complexity of an operation, or high financial assurance.~~ (3-18-22)

~~b. Cyanidation facilities with an approved permanent closure plan will be inspected as often as is needed, but at least once a year.~~ (3-18-22)

156. -- 159. (RESERVED)

160. ENFORCEMENT AND FAILURE TO COMPLY.

01. **Financial Assurance Forfeiture.** Upon request by the ~~director~~ Department, ~~the attorney general may institute~~ proceedings may be instituted to have the financial assurance for reclamation or permanent closure forfeited for violation of an order entered pursuant to Section 47-1513, Idaho Code, and these rules. (3-18-22)()

02. **Civil Penalty.** An operator with no financial assurance, or an operator who violates these rules by performing an act which is not included in an approved reclamation plan or an approved permanent closure plan that is not subsequently approved by the Department, will be subject to a civil penalty as authorized by Section 47-1513(c), Idaho Code. (3-18-22)

03. **Injunctive Procedures.** The ~~director~~ Department may seek injunctive relief and proceed with legal action, if necessary, to enjoin a mine operator or cyanidation facility operator who violates the provisions of the ~~chapter Act~~, these rules, or the terms of an existing approved reclamation or permanent closure plan. Any such action will follow the procedures established in Section 47-1513, Idaho Code. (3-18-22)()

04. **Appeal of Final Order.** An operator dissatisfied with a final order of the Board may, within sixty (60) days after receiving the order, file an appeal in accordance with Section 47-1514, Idaho Code. (3-18-22)

161. -- 169. (RESERVED)

170. COMPUTATION OF TIME.

Computation of time will be based on calendar days. In computing any period of time prescribed by the ~~chapter Act~~,

the day on which the designated period of time begins is excluded. The last day of the period is included unless it is a Saturday, Sunday or legal holiday when the Department is not open for business. In such a case, the ~~time~~ period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. Intermediate Saturdays, Sundays, or legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less.

(3-18-22)()

171. -- 179. (RESERVED)

180. PUBLIC AND CONFIDENTIAL INFORMATION.

01. Information Subject to Disclosure. Information obtained by the Department pursuant to the ~~chapter Act~~ and these rules is subject to disclosure under Title 74, Chapter 1, Idaho Code ("Public Records Act").

(3-18-22)()

02. Use by Board. Any plans, documents, or materials submitted as confidential and held as such ~~shall~~ will not prohibit the Board, ~~d~~Director, or Department from using the information in an administrative hearing or judicial proceeding initiated pursuant to Section 47-1514, Idaho Code.

(3-18-22)()

03. Plans and BMPs. An operator will not unreasonably designate as confidential portions of reclamation or permanent closure plans which detail proposed BMPs to meet state surface and ground water quality standards. Confidential portions of reclamation or permanent closure plans may be shared with DEQ in its coordinating role under these rules, as reasonably necessary.

(3-18-22)

181. -- ~~189.~~ (RESERVED)

~~**190. DEPOSIT OF FORFEITURES AND DAMAGES.**~~

~~All fees, penalties, forfeitures, and civil damages collected pursuant to the chapter, will be deposited with the state treasurer in the following accounts as appropriate:~~

(3-18-22)

~~**01. Mine Reclamation Fund.** The mine reclamation fund to be used by the director for mined land reclamation purposes and to administer the reclamation provisions of the chapter and these rules.~~

(3-18-22)

~~**02. Cyanidation Facility Closure Fund.** The cyanidation facility closure fund to be used by the director to complete permanent closure activities and to administer the permanent closure provisions of the chapter and these rules.~~

(3-18-22)

~~191. --~~ 199. (RESERVED)

200. COMPLIANCE OF EXISTING RECLAMATION PLANS.

~~**01. Plans Approved Prior to 2019.** Reclamation plans approved prior to July 1, 2019, or reclamation plans that have permanently ceased operations prior to July 1, 2019, are not subject to the 2019 legislative amendments to the ~~chapter Act~~ regarding financial assurance and post-closure. New reclamation plans or plan amendments received after July 1, 2019, will be subject to the 2019 legislative amendments to the ~~chapter Act~~.~~

(3-18-22)()

~~**02. Plans Submitted in 2019.** Reclamation plan applications submitted prior to July 1, 2019, but not yet approved, have until July 1, 2020 to submit post-closure plans and financial assurances as described in the 2019 legislative amendments to the chapter.~~

(3-18-22)

201. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.04 – RULES FOR THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section [67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 [58-1304](#) and [58-104\(6\)](#), 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:

Changes to the proposed rule are based on comments received and are simple grammatical changes for consistency, clarifying the definition of a commercial marina, and ensuring sentences have correct syntax.

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 3, 2025, Idaho Administrative Bulletin, [Vol. 25-9, pages 33-55](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

No new fees will be imposed or increased in 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:

This rule will have no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marde Mensinger at (208) 334-0248.

DATED this 18th day of November, 2025.

Marde Mensinger, Navigable Waterways Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83720-0050
Phone: (208) 334-0248
Fax: (208) 334-3698
rulemaking@idl.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 procedures. The action is authorized pursuant to Sections 58-1304 and 58-104(6), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, September 11, 2025 10:00 a.m. (MT)
Idaho Department of Lands Boise Bureau Office, Garnet Conference Room 300 N. 6th St., Suite 103 Boise, ID 83720
To join via Microsoft Teams: Link
Meeting ID: 247 072 447 001 4 Passcode: fb7ei7xd
To attend by telephone call: +1 (469) 998-7393 Conference ID: 533 914 872#

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:

Following [Executive Order 2020-01: Zero-Based Regulation](#), this rule chapter is scheduled to be repealed and replaced in 2025 for review during the 2026 legislative session. The department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The department reviewed the rule with stakeholders to ensure that it is right sized. The department seeks to modify language for consistency within the rule, with statutes, and with other state rules.

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 as a result of this rulemaking: This rule will have no fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2, 2025 Idaho Administrative Bulletin, [Vol. 25-4, pages 36-38](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

IDL has chosen to incorporate by reference the International Fire Code adopted through IDAPA 18.08.01 - Idaho Department of Insurance State Fire Marshal – Adoption of the International Fire Code, which helps IDL ensure that buildings, fueling stations, and commercial public encroachments meet minimum standards for safety over the water. The IFC is enforced through the Idaho State Fire Marshal or their deputy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Marde Mensinger at (208) 334-0248 or mmensinger@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2025.

DATED this 30th day of July, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 20-0304-2401

Italicized text indicates amendments to the proposed text as adopted in the pending rule.

**20.03.04 – RULES FOR ~~THE REGULATION OF BEDS, WATERS, AND AIRSPACE~~
~~OVER NAVIGABLE LAKES IN THE STATE OF IDAHO~~ ENCROACHMENTS ON NAVIGABLE LAKES**

000. LEGAL AUTHORITY.

~~This Chapter is adopted under the legal authorities of Sections 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Title 58, Chapter 13, Idaho Code; and Title 67, Chapter 52, Idaho Code.~~ (3-18-22)()

001. ~~TITLE AND SCOPE.~~

~~**01. Title.** These rules are titled IDAPA 20.03.04, “Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho.”~~ (3-18-22)

~~**02. Scope.** These rules govern encroachments on, in, or above navigable lakes in the state of Idaho.~~ (3-18-22)()

002. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final decision or order of the ~~b~~Board is entitled to judicial review pursuant to ~~the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01,~~ Title 58, Chapter 13, Sections 58-1305 and 58-1306, Idaho Code, and Sections 025, 030, and 080 of these rules. (3-18-22)()

003. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: (3-18-22)

01. IDAPA 24.39.10, “Rules of the Idaho Electrical Board.” IDAPA 24.39.10 is available at <https://adminrules.idaho.gov/rules/current/24/243910.pdf>. (3-18-22)

02. IDAPA 24.39.20, “Rules Governing Plumbing.” This rule is available at <https://adminrules.idaho.gov/rules/current/24/243920.pdf>. (3-18-22)

03. 33 CFR Part 62, revised as of July 27, 2015 (United States Aids to Navigation System). The Electronic Code of Federal Regulations (eCFR) is available at <https://www.ecfr.gov/cgi-bin/ECFR>. (3-18-22)()

04. IDAPA 18.08.01, “Idaho Department of Insurance State Fire Marshal – Adoption of the International Fire Code”. This rule is available at <https://adminrules.idaho.gov/rules/current/18/180801.pdf>. ()

004. -- 009. (RESERVED)

010. DEFINITIONS.

Additional definitions can be found in Title 58, Chapter 13, Idaho Code. ()

01. Adjacent. Contiguous or touching, and with regard to land or land ownership having a common boundary. (3-18-22)

02. Aids to Navigation (ATON). Buoys, beacons, warning lights, and other encroachments in aid of navigation intended to improve waterways for navigation used to determine position or safe courses. (3-18-22)()

03. ~~Artificial High Water Mark.~~ ~~The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line.~~ (3-18-22)

04. ~~Beds of Navigable Lakes.~~ ~~The lands lying under or below the “natural or ordinary high water mark” of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.~~ (3-18-22)

05. ~~Board.~~ ~~The Idaho State Board of Land Commissioners or its designee.~~ (3-18-22)

063. Boat Garage. A ~~structure~~ nonnavigational encroachment with one (1) or more slips that is completely enclosed with walls, roof, and doors, ~~but no temporary or permanent residential area.~~ (3-18-22)()

074. Boat Lift. A ~~mechanism~~ navigational encroachment for mooring boats partially or entirely out of the water. (3-18-22)()

085. Boat Ramp. A ~~structure~~ navigational encroachment or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers. (3-18-22)()

06. Breakwater. A navigational encroachment that is designed to protect moorage by reducing wave energy. ()

097. Commercial Marina. A commercial navigational encroachment whose ~~primary~~ purpose is to provide at least fifty percent (50%) of its moorage for rental or for free to the general public. (3-18-22)()

1008. Commercial Navigational Encroachment. A navigational encroachment used for commercial purposes. (3-18-22)

1109. Community Dock. A ~~structure~~ navigational encroachment that provides private moorage for three (3) or more than two (2) adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to homeowner’s associations. No public access is required for a community dock. (3-18-22)()

120. Covered Slip. A slip, or group of slips, ~~with a covered by a~~ frame, ~~fabrie~~ canopy, and eaves that do not extend beyond the underlying dock. (3-18-22)()

131. Department. The Idaho Department of Lands ~~or its designee.~~ (3-18-22)()

142. Director. The head of the Idaho Department of Lands or ~~his~~ their designee. (3-18-22)()

15. ~~Encroachments in Aid of Navigation.~~ ~~Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” is used interchangeably with the term “navigational encroachments.”~~ (3-18-22)

~~16. **Encroachments Not in Aid of Navigation.** Includes all other encroachments on, in, or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation, such as float homes and boat garages. The term “encroachments not in aid of navigation” is used interchangeably with the term “nonnavigational encroachments.” (3-18-22)~~

~~13. **Dredging.** The removal of earthen material below the ordinary or artificial high water mark. The term “dredging” may also be used interchangeably with “excavating”. ()~~

~~174. **Floating Home or Float Home.** A structure nonnavigational encroachment that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling and is not self-propelled. These structures are usually dependent for utilities upon a continuous utility linkage to a source originating on shore, and must have either a permanent continuous connection to a sewage system on shore, or an alternative method of sewage disposal that does not violate local, state, or federal water quality and sanitation regulations. (3-18-22)()~~

~~185. **Floating Toys.** Trampolines, inflatable structures, water ski courses, slides, and other nonnavigational recreational equipment that are not permanently anchored to the lake bed or an encroachment and are either located between the shoreline and the line of navigability or are waterward of the line of navigability for less than twenty-four (24) consecutive hours. (3-18-22)()~~

~~196. **Jet Ski Ramp, Port, or Lift.** A mechanism navigational encroachment for mooring jet skis or other personal watercraft similar to a boat lift. The lifts may be free standing or attached to a dock or pier. (3-18-22)()~~

~~2017. **Line of Navigability.** A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the bBoard when a line has not already been established for the body of water in question. (3-18-22)()~~

~~18. **Littoral Owner.** The fee owner of land adjacent to a navigable lake, or a lessee, or the owner of littoral rights that have been segregated from the fee specifically by deed, lease, or other grant. ()~~

~~19. **Littoral Right Lines.** Lines that extend waterward from the intersection of the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. ()~~

~~240. **Low Water Mark.** That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years, and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation. (3-18-22)~~

~~21. **Marine Motor Fuel-Dispensing Facility.** A nonnavigational encroachment where flammable and/or combustible liquids or gases used as fuel for watercraft are stored and dispensed from fixed equipment on shore, piers, wharves, floats or docks into the fuel tanks of marine craft and includes all other facilities used in connection therewith. ()~~

~~22. **Moorage.** A place to secure float homes, boat garages, and watercraft including, but not limited to, boats, personal watercraft, jet skis, etc. (3-18-22)()~~

~~23. **Natural or Ordinary High Water Mark.** The high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. (3-18-22)~~

~~24. **Navigable Lake.** Any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes. This definition does not include man-made reservoirs where the jurisdiction thereof is asserted and exclusively assumed by a federal agency. (3-18-22)~~

253. **Party.** Each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. (3-18-22)

264. **Person.** ~~A partnership, association, corporation, natural person, or entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government~~ Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (3-18-22)()

275. **Piling.** ~~A metal, concrete, plastic, or wood p~~ Posts that ~~is placed~~ are driven into the lakebed and used to secure floating docks and other structures. (3-18-22)()

28. **Plans.** ~~Maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same.~~ (3-18-22)

296. **Public Hearing.** The type of hearing where members of the public and other interested parties or agencies are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated ~~representative of the Department who acts as the~~ hearing coordinator officer. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A recording of any oral presentations at such these hearings will be taken ~~by the Department by tape recorder. The hearing coordinator exercises such control at hearings as necessary to maintain order, decorum and common courtesy among the participants.~~ (3-18-22)()

3027. **Public Trust Doctrine.** The duty of the State to its people to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at Title 58, Chapter 12, Idaho Code. (3-18-22)

3128. **Pylon.** ~~A metal, concrete, or wood post~~ that is placed into the lakebed and used to support fixed piers encroachments. (3-18-22)()

32. **~~Riparian or Littoral Rights.~~** ~~The rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake.~~ (3-18-22)

33. **~~Riparian or Littoral Owner.~~** ~~The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed, lease, or other grant.~~ (3-18-22)

34. **~~Riparian or Littoral Right Lines.~~** ~~Lines that extend waterward of the intersection between the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline.~~ (3-18-22)

35. **~~Side Tie.~~** ~~Moorage for watercraft where the dock or pier is on only one (1) side of the watercraft.~~ (3-18-22)

29. **Residential Area.** Any space used for habitation, whether temporarily or permanently, that may include, but is not limited to sleeping arrangements, cooking appliances, bathroom facilities, living amenities, recreational or entertaining space, or utility connections. ()

30. **Seawall.** A nonnavigational encroachment constructed to prevent erosion to an area of land. ()

361. **Single-Family Dock.** A structure navigational encroachment providing noncommercial moorage that serves one (1) waterfront owner ~~whose waterfront footage is no less than twenty-five (25) feet.~~ (3-18-22)()

372. **Slip.** Moorage for ~~boats~~ watercraft with pier or dock structures on at least two (2) sides of the moorage. (3-18-22)()

~~383.~~ **Submerged Lands.** The state-owned beds of navigable lakes, rivers and streams below the ~~natural~~ or ordinary high water marks. (3-18-22)()

~~394.~~ **Two-Family Dock.** A ~~structure~~ navigational encroachment providing noncommercial moorage that serves two (2) ~~separate~~ adjacent waterfront owners ~~having a combined waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common littoral property line.~~ (3-18-22)()

~~4035.~~ **Upland.** ~~The land bordering on~~ The land above the ordinary high water mark bordering on navigable lakes, rivers, and streams. (3-18-22)()

~~36.~~ **Water Line.** A nonnavigational encroachment used to collect or discharge water. ()

011. ABBREVIATIONS.

~~01.~~ **ATON.** Aids to Navigation. (3-18-22)

~~02.~~ **HDPE.** High-Density Polyethylene. (3-18-22)

~~01.~~ **O/AHWM.** Ordinary or Artificial High Water Mark. ()

012. POLICY.

~~01.~~ **Environmental Public Trust Resource** **Protection and Navigational or Economic Necessity, Justification, or Benefit.** It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the ~~State Board of Land Commissioners~~ to regulate and control the use or disposition of state-owned lake beds, ~~so as~~ to provide for their commercial, navigational, recreational or other public use. (3-18-22)()

~~02.~~ **No Encroachments Without Permit.** No encroachment on, in or above the beds or waters of any navigable lake ~~in the state~~ may be made ~~unless approval has been given~~ without approval as provided in these rules. ~~An encroachment permit does not guarantee the use of public trust lands without appropriate compensation to the state of Idaho~~ An encroachment permit may require a submerged land lease. An encroachment permit for a specific activity or encroachment does not guarantee continued use if the activity or encroachment is subsequently found to substantially interfere with navigation or commerce. (3-18-22)()

~~03.~~ **Permitting of Existing Encroachments.** (3-18-22)

~~a.~~ The provisions of Title 58, Chapter 13, Section 58-1312, Idaho Code, apply. (3-18-22)

~~b.~~ Any new encroachments, or any unpermitted encroachments constructed after January 1, 1975, are subject to these rules. (3-18-22)

013. -- 014. (RESERVED)

015. ENCROACHMENT STANDARDS.

~~01.~~ **Single-Family and Two-Family Docks.** ~~The following parameters govern the size and dimensions of single-family docks and two-family docks.~~ (3-18-22)()

~~a.~~ Total waterfront ownership must include at least twenty-five (25) linear feet of shoreline for single-family docks or fifty (50) feet of linear shoreline for two-family docks. ()

~~a.b.~~ No part of the ~~structure~~ encroachment waterward of the ~~natural or ordinary high water mark or~~

~~artificial high water mark~~ O/AHWM may exceed ten (10) feet in width, excluding the slip cut out. (3-18-22)()

~~bc.~~ Total surface decking area waterward of the ~~natural or ordinary or artificial high water mark O/ AHWM, including approach ramp and walkway~~ may not exceed seven hundred (700) square feet, ~~including approach ramp and walkway~~ for a single-family dock ~~and may not exceed~~ or one thousand one hundred (1,100) square feet, ~~including approach ramp and walkway~~ for a two-family dock. (3-18-22)()

~~ed.~~ No portion of the ~~docking facility encroachment~~ may extend beyond the line of navigability. ~~Shorter docks are encouraged whenever practical and new docks normally will be installed within the waterward extent of existing docks or the line of navigability.~~ (3-18-22)()

~~de.~~ A variance to the standards in this Subsection 015.01 ~~may will only~~ be approved by the Department when justified by site specific considerations, ~~such as the distance to the established line of navigability. Any variance granted may require a lease per IDAPA 20.03.17.~~ (3-18-22)()

02. Community Docks. (3-18-22)

~~a.~~ A community dock ~~is considered a commercial navigational aid for purposes of processing the application.~~ (3-18-22)

~~ba.~~ No part of the ~~structure encroachment~~ waterward of the ~~natural or ordinary high water mark or artificial high water mark O/AHWM~~ may exceed ten (10) feet in width except breakwaters when justified by site specific conditions and approved by the Department. (3-18-22)()

~~eb.~~ A community dock ~~may not have less than~~ Total waterfront ownership must have at least fifty (50) linear feet of combined shoreline frontage. ~~Moorage facilities will be limited in size as a function of the length of shoreline dedicated to the community dock. The surface decking area of the community dock is limited to the product of the length of shoreline multiplied by seven (7) square feet per lineal foot or a minimum of seven hundred (700) square feet. However, the Department, at its discretion, may limit the ultimate size when evaluating the proposal and public trust values.~~ (3-18-22)()

~~c.~~ The surface decking area of the community dock is limited to the greater of seven hundred (700) square feet or the product of the linear feet of the upland shoreline multiplied by seven (7) feet. The Department, in its sole discretion, may limit the surface decking area when site specific considerations justify a reduction to protect public trust resources. ()

~~d.~~ If a breakwater will be incorporated into the structure of a dock, and a need for the breakwater can be demonstrated, the Department may allow the surface decking area to exceed the size limitations of Paragraph 015.02.c of these rules The Department may allow the surface decking area of a community dock to exceed the size limitations if the need for a breakwater is demonstrated. (3-18-22)()

~~e.~~ A person with permit is required to convert an existing community dock ~~that desires to change the facility in~~ to a commercial marina ~~must submit the following information to the Department.~~ (3-18-22)()

~~i.~~ A new application for an encroachment permit. (3-18-22)

~~ii.~~ Text and drawings that describe which moorage will be public and which moorage will be private. (3-18-22)

03. Commercial Marina. (3-18-22)

~~a.~~ ~~Commercial marinas must have a minimum of~~ At least fifty percent (50%) of ~~their~~ moorage ~~available for use by the~~ at a commercial marina must be available to the general public on either a first come, first served basis for free or rent, or ~~a rent or lease agreement for a period of time up to one (1) for lease not to exceed one (1) year. Moorage contracts leases may be renewed annually, so long as a renewal term does not to exceed one (1) year. Moorage for use by the general public may~~ Public moorage must not include conditions that result in a transfer of ownership of moorage or real property, or require membership in a club or organization. (3-18-22)()

b. ~~Commercial marinas that are converted to a community dock must conform to all the community dock standards, including frontage requirements and square footage restrictions. This change of use must be approved by the Department through a new encroachment permit prior to implementing the change.~~ A permit is required to convert an existing commercial marina into any other type of encroachment. Commercial marinas must keep at least fifty percent (50%) of their moorage available to the general public. The permit application must illustrate and clearly depict which is public moorage and which is private moorage. (3-18-22)()

c. If local city or county ordinances governing parking requirements for marinas have not been adopted, commercial marinas must provide ~~a minimum of upland vehicle parking equivalent to~~ at least one (1) upland parking space per two (2) public watercraft or float home moorages. If private moorage is tied to ~~specific parking spaces or designated parking areas~~ designated parking spaces or areas, then the commercial marina must provide at least one (1) upland parking space per one (1) private watercraft or float home moorage ~~must be provided~~. In the event of conflict, the local ordinances prevail. (3-18-22)()

~~d. If a commercial marina can be accessed from a road, marina customers must be allowed access via that road.~~ (3-18-22)

e. Moorage that is not available for public use as described in Paragraph 015.03.a. of these rules is private moorage. (3-18-22)

f. When calculating the moorage percentage, the amount of public moorage is to be compared to the amount of private moorage. Commercial marinas with private float home moorage are required to provide either non-private float home moorage or two (2) public use boat moorages for ~~every~~ each private float home moorage in addition to any other required public use boat moorages. (3-18-22)()

g. When private moorage is permitted, the public moorage must be of similar size and quality as private moorage, except for float home moorage as provided in Paragraph 015.03.f. (3-18-22)

h. Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina; ~~and private submerged land, if present~~. This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under IDAPA 20.03.17, ~~“Rules Governing Leases on State-Owned Submerged lands and Formerly Submerged Lands.”~~ (3-18-22)()

i. ~~Existing commercial marinas that desire to change their operations and convert some of their moorage to private use must keep at least fifty percent (50%) of their moorage available for use by the general public. This change in operations must be approved by the Department through a new encroachment permit prior to implementation of the change. The permit application must describe, in text and in drawings, which moorage will be public and which moorage will be private.~~ (3-18-22)

04. Covered Slip. (3-18-22)

a. Covered slips, regardless of when constructed, may not have a temporary or permanent residential area. (3-18-22)

b. ~~Slip covers should have colors that blend with the natural surroundings and are approved by the Department.~~ Covered slips with hard roofs and up to three (3) walls may be maintained or replaced at their current size if previously permitted or constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages. (3-18-22)()

c. Covered slips may not be supported by extra piling nor constructed with hard roofs. (3-18-22)

d. ~~Slip covers with permanent roofs and up to three (3) walls may be maintained or replaced at their current size if they were previously permitted or if they were constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages.~~ Covered slips should have colors that blend with the natural surroundings and are approved by the Department. (3-18-22)()

e. ~~Fabric~~ Covered slips must be constructed as canopies without sides unless the following standards are followed: (3-18-22)()

i. At least two (2) feet of open space is left between the bottom of the cover and the dock or pier surface; and (3-18-22)

ii. Fabric for canopy and sides will transmit at least seventy-five percent (75%) of the natural light. (3-18-22)

05. Boat Garage. (3-18-22)

a. Boat garages ~~are considered nonnavigational encroachments~~ must only be used for mooring watercraft, and may not have separate fully enclosed rooms, overhead storage, or a residential area of any kind as defined by these rules. (3-18-22)()

b. Applications for permits to construct new boat garages, ~~expand the total square footage of the existing footprint, or raise the height will not be~~ or to expand the height or square footage of existing boat garage are no longer accepted unless the application is to support local emergency services. (3-18-22)()

c. ~~Existing permitted boat garages may be maintained or replaced with the current square footage of their existing footprint and height~~ A permit is required to replace or relocate an existing boat garage. A new boat garage may not be expanded in size or height, and must retain the original square footage and footprint. (3-18-22)()

~~d. Relocation of an existing boat garage will require a permit.~~ (3-18-22)

06. Breakwaters. Breakwaters ~~built upon the lake for use in aid of navigation~~ will not be authorized below the ~~level of normal~~ low water mark without an extraordinary showing of need, provided, however that this does not apply to floating breakwaters secured by piling and used to protect private property from recurring wind, wave, or ice damage, or used to control traffic in busy areas of lakes. The breakwater must be designed to counter wave actions of known wave heights and wave lengths. (3-18-22)()

07. Seawalls. Seawalls should be placed at or above the ~~ordinary high water mark, or the artificial high water mark O/AHWM, if applicable possible.~~ Seawalls are ~~not an aid to navigation, nonnavigational~~ and placement waterward of the ~~ordinary or artificial high water mark O/AHWM~~ will generally not be allowed. (3-18-22)()

08. Riprap. (3-18-22)

a. Riprap used to stabilize shorelines will consist of rock ~~or other materials~~ that ~~is~~ are appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock must be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap must overlie a distinct filter layer ~~which that~~ consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer must be keyed into the bed below the ~~ordinary or artificial high water mark O/AHWM~~, as applicable. If the applicant wishes to install riprap with different standards, they must submit a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho. (3-18-22)()

b. Riprap used to protect the base of a seawall or other vertical walls may not need to be keyed into the bed and may not require a filter layer, at the Department's discretion. (3-18-22)

09. Mooring Buoys. Buoys must be installed a minimum of thirty (30) feet away from littoral right lines of adjacent littoral owners. One (1) mooring buoy per littoral owner may be allowed ~~for single-family encroachments.~~ (3-18-22)()

10. Float Homes. (3-18-22)

a. Applications for permits to construct new float homes, ~~convert existing encroachments into float~~

~~homes~~, or to expand the total square footage of the existing footprint, will not be accepted. (3-18-22)()

~~b. Applications for relocation of~~ **A permit is required to relocate, rebuild, or add another story to existing** float homes ~~within a lake or from one (1) lake to another. Applications~~ are subject to the following requirements: (3-18-22)()

~~i. The applicant must provide P~~ proof of ownership or long term lease of the uplands ~~parcels~~ adjacent to the relocation site ~~must be furnished to the Department.~~ (3-18-22)()

~~ii. The applicant must provide detailed, scaled drawings approved by an engineer licensed in the state of Idaho that accurately illustrate and depict all interior and exterior features, layouts, and dimensions.~~ ()

~~iii. The applicant must show that all wastes and waste water will be transported to shore disposal systems by a method approved by the Idaho Department of Environmental Quality or the appropriate local health authority. Applicant must either obtain a letter from the local sewer district stating that the district will serve the float home or demonstrate that sewage will be appropriately handled and treated. Applicant must also provide a statement from a professional plumber licensed in the state of Idaho that the plumbing was designed in accordance with IDAPA 24.39.20, "Rules Governing Plumbing," as incorporated by reference in Section 003 of these rules, installed properly, and has been pressure tested.~~ (3-18-22)()

~~e. Encroachment applications and approved local permits are required for replacement of, or adding another story to, a float home.~~ (3-18-22)

~~d. All plumbing work on float homes must be done in accordance with IDAPA 24.29.20, "Rules Governing Plumbing" and IDAPA 29.39.10, "Rules of the Idaho Electrical Board," as incorporated by reference in Section 003 of these rules.~~ (3-18-22)

~~e. All float homes in Idaho that connect with upland sewer or septic systems must implement the following standards by December 31, 2012:~~ (3-18-22)

~~i. The holding tank with pump or grinder unit must be adequately sealed to prevent material from escaping and to prevent lake water from entering. The tank lid must have a gasket or seal, and the lid must be securely fastened at all times unless the system is being repaired or maintained. An audible overflow alarm must also be installed.~~ (3-18-22)

~~ii. Grinders or solids handling pumps must be used to move sewage from the float home to the upland system.~~ (3-18-22)

~~iii. If solids handling pumps are used, they must have a minimum two (2) inch interior diameter discharge, and the pipe to the shoreline must also have a minimum two (2) inch interior diameter. Connectors used on either end of this pipe may not significantly reduce the interior diameter.~~ (3-18-22)

~~iv. The pipeline from the float home to the shoreline must be a continuous line with no mechanical connections. Check valves and manual shutoff valves must be installed at each end of the line. Butt fused HDPE, two hundred (200) psi black polyethylene pipe, or materials with similar properties must be used. The pipeline must contain sufficient slack to account for the maximum expected rise and fall of the lake or river level. The pipeline must be buried in the lakebed for freeze protection where it will be exposed during periods of low water. Pipelines on the bed of the lake must be appropriately located and anchored so they will not unduly interfere with navigation or other lake related uses.~~ (3-18-22)

~~v. Manifolds below the ordinary, or artificial if applicable, high water mark that collect two (2) or more sewer lines and then route the discharge to the shore through a single pipe are not allowed. All float homes must have an individual sewer line from the float home to a facility on the shore.~~ (3-18-22)

~~f. All float home permittees will have their float homes inspected by a professional plumber licensed in the state of Idaho by December 31, 2012. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the float homes meet the standards in Paragraph 015.10.e. of these~~

rules, and will be provided to the Department before the above date. (3-18-22)

~~g. A float home permittee must request an extension, and give cause for the extension, if their float home does not meet the standards in paragraph 015.01.c. of these rules by December 31, 2012. Extensions beyond December 31, 2016 will not be allowed. A permittee's failure to either request the extension, if needed, or to meet the December 31, 2016 deadline will be a violation subject to the provisions of Section 080 of these rules.~~ (3-18-22)

~~h. Construction or remodel work on a float home that costs fifty percent (50%) or more of its assessed value will require an encroachment application and construction drawings stamped by an engineer licensed in the state of Idaho.~~ (3-18-22)

11. Excavated~~ing~~ or Dredged~~ing~~ Channel. (3-18-22)()

a. Excavating, ~~or~~ dredging, ~~or dredging channels~~ requires an encroachment permit and are processed in accordance with Section 030 of these rules. (3-18-22)()

b. ~~An excavated or dredged channel or basin to provide~~ Dredging to improve access to navigable waters must have a clear environmental, economic, or social benefit to the ~~people of the state~~ public, and must not result in any appreciable environmental degradation. ~~A channel or basin Dredging~~ will not be approved if the cumulative effects of these features ~~in the same navigable lake~~ would be adverse to fisheries or water quality. (3-18-22)()

c. Whenever practical, ~~such channels or basins dredging~~ must be located to serve benefit more than one (1) littoral owner or a commercial marina; provided, however, ~~that no basin or channel dredging~~ will not be approved that will provide access for watercraft to nonlittoral owners. (3-18-22)()

12. ATONs. Aids to Navigation will conform to the requirements established by the United States Aid to Navigation system. (3-18-22)

13. General Encroachment Standards. (3-18-22)

a. Square Footage. The square footage limitations in Subsections 015.01 and 015.02 include all structures ~~encroachments~~ beyond the ~~ordinary or artificial high water mark such as O/AHWM including~~ the approach, ramp, pier, dock, and all other floating or suspended structures that cover the lake surface, except for: (3-18-22)()

i. Boat lifts as allowed pursuant to Paragraph 015.13.b. (3-18-22)

ii. Jet ski ramp, port, or lift as allowed pursuant to Paragraph 015.13.b. (3-18-22)

iii. Slip covers. (3-18-22)

iv. Undecked portions of breakwaters. (3-18-22)

b. Boat Lifts and Jet Ski Lifts. (3-18-22)

i. Single-family docks are allowed ~~a single one (1)~~ boat lift and two (2) jet ski lifts, or two (2) boat lifts, ~~without adding their footprint to the dock which are not included in calculating total~~ square footage. Additional lifts will ~~require that include~~ fifty percent (50%) of the ~~footprint square footage~~ of the largest lifts ~~be included in the into calculating total~~ allowable square footage ~~of the dock or pier~~ as per Subsection 015.01. (3-18-22)()

ii. Two-family docks are allowed ~~either~~ two (2) boat lifts and four (4) jet ski lifts, or four (4) boat lifts, ~~without adding their footprint to the dock which are not included in calculating total~~ square footage. Additional lifts will ~~require that include~~ fifty percent (50%) of the ~~footprint square footage~~ of the largest lifts ~~be included in the allowable square footage of the dock or pier into calculating total allowable square footage~~ as per Subsection 015.01. (3-18-22)()

iii. A boat lift or jet ski lift within lines drawn perpendicular from the shore to the outside dock edges will not require a separate permit if the lift is outside the ten (10) foot adjacent littoral owner setback, the lift does not extend beyond the line of navigability, and the lift does not count toward the square footage of the dock as outlined in Subparagraphs 015.13.b.i. and 015.13.b.ii. The permittee must send a revised permit drawing with the lift location as an application to the Department. If the lift meets the above conditions, the application will be approved as submitted. Future applications must include the lifts. (3-18-22)

iv. Community docks are allowed either one (1) boat lift or two (2) jet ski lifts per moorage. Boat lifts placed outside of a slip must be oriented with the long axis parallel to the dock ~~structure~~. Additional lifts will require that fifty percent (50%) of their footprint be included in the allowable square footage of the dock or pier as per Subsection 015.02. (3-18-22)()

c. Angle from Shoreline. (3-18-22)

i. Where feasible, all docks, piers, or similar structures must ~~be constructed so as to protrude as nearly as possible~~ protrude at right angles to the general shoreline, ~~lessening the potential for as nearly as possible to minimize~~ infringement on adjacent littoral rights. (3-18-22)()

ii. Where ~~it is not feasible to place docks at~~ right angles to the ~~general~~ shoreline are not feasible, the Department will work with the applicant to ~~review and approve the applicant's proposed~~ design an acceptable alternative configuration and ~~location of the dock and the dock's~~ angle from shore. (3-18-22)()

d. Length of Community Docks and Commercial Navigational Encroachments. Docks, piers, or other ~~works~~ encroachments may extend ~~to a length that will provide as far as necessary to~~ access to a water depth that will afford sufficient draft for water craft ~~customarily in use on the particular body of water, except that no structure may extend beyond~~ within the normal accepted line of navigability ~~established through use unless additional length is authorized by permit or order of the Director. The Department may authorize a longer or shorter length if justified by specific site conditions.~~ If a ~~normally accepted~~ line of navigability has not been established through use, the ~~Director~~ Department may ~~from time to time as he deems necessary~~, designate a line of navigability for the purpose of effective administration of these rules. (3-18-22)()

e. Presumed Adverse Effect. It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines, and that commercial navigational encroachments, community docks or nonnavigational encroachments will have ~~a like an~~ adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral ~~owner or~~ owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments are subject to the above presumptions of adverse ~~ae~~ effects. (3-18-22)()

f. Weather Conditions. Encroachments and their building materials must be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices ~~for docks, float homes, etc.~~ must be reasonably resistant to puncture and other damage. (3-18-22)()

g. Markers. If the Department determines that an encroachment is not of sufficient size to be readily seen or poses a hazard to navigation, the permit will specify ~~that aids to navigation be used~~ the use of ATONs to clearly identify the ~~potential~~ navigational hazard. (3-18-22)()

h. All encroachments that connect with upland sewer or septic systems must implement the following standards: ()

i. The holding tank with pump or grinder unit must be adequately sealed to prevent material from escaping and to prevent lake water from entering. The tank lid must have a gasket or seal, and the lid must be securely fastened at all times unless the system is being repaired or maintained. An audible overflow alarm must also be installed. ()

ii. Grinders or solids handling pumps must be used to move sewage from the encroachment to the

upland system. ()

iii. If solids handling pumps are used, they must have a minimum two (2) inch interior diameter discharge, and the pipe to the shoreline must also have a minimum two (2) inch interior diameter. Connectors used on either end of this pipe may not significantly reduce the interior diameter. ()

iv. The pipeline to the shoreline must be a continuous line with no mechanical connections. Check valves and manual shutoff valves must be installed at each end of the line. Butt fused High-Density Polyethylene, two hundred (200) psi black polyethylene pipe, or materials with similar properties must be used. The pipeline must contain sufficient slack to account for the maximum expected rise and fall of the water level. The pipeline must be buried in the lakebed for freeze protection where it will be exposed during periods of low water. Pipelines on the bed of the lake must be appropriately located and anchored so they will not unduly interfere with navigation or other lake related uses. ()

v. Manifolds below the O/AHWM that collect two (2) or more sewer lines and then route the discharge to the shore through a single pipe are not allowed. All encroachments must have an individual sewer line from the encroachment to a facility on the shore. ()

vi. All permittees will have their encroachment inspected by a professional plumber licensed in the state of Idaho. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the encroachment meets the standards in Paragraph 015.13.h. of these rules, and will be provided to the Department within thirty (30) days of any modification that impacts plumbing. ()

i. All electrical work installed on encroachments must be done in accordance with IDAPA 24.39.10, as incorporated by reference in Section 003 of these rules. ()

j. All plumbing work on encroachments must be done in accordance with IDAPA 24.39.20, as incorporated by reference in Section 003 of these rules. ()

k. All encroachments beyond the O/AHWM mark must adhere to the safety standards set forth in IDAPA 18.08.01, as incorporated by reference in Section 003 of these rules. ()

h.l. Overhead Clearance. (3-18-22)

i. Overhead clearance between the ~~natural or ordinary high water mark or the artificial high water mark, if there be one, O/AHWM~~ and the structure or wires must be sufficient to pass the largest vessel that may reasonably be anticipated to use the ~~subject~~ waters in the vicinity of the encroachment. ~~In no case will the clearance be required to exceed~~ The clearance must not exceed thirty (30) feet unless ~~after public hearing~~, the Department determines ~~after public hearing that it a higher clearance is in the overall public interest that the clearance be in excess of thirty (30) feet. Irrespective of height above the water, approval of~~ necessary for the public's benefit. Approval of structures or wires presenting a ~~hazard for boating or other water related activities~~ navigational hazard may be conditioned upon ~~require~~ adequate safety marking to show clearance and ~~otherwise to~~ warn the public of the hazard, ~~which will be specified. The Department will specify in the permit the amount of overhead clearance and markings required.~~ (3-18-22)()

ii. When the permit provides for overhead clearance or safety markings under Paragraph 015.13.h~~i~~, the Department will consider the applicable requirements of the United States Coast Guard, the Idaho Transportation Department, the Idaho Public Utilities Commission and any other applicable federal, state, or local ~~regulations~~ laws. (3-18-22)()

im. Beaded Foam Flotation. Beaded foam flotation must be completely encased in a manner that will maintain the structural integrity of the foam. The encasement must be resistant to the entry of rodents. (3-18-22)

14. Floating Toys. (3-18-22)

a. Encroachment permits are not required for floating toys, except where noted in Paragraph 015.14.b. Counties and cities may regulate floating toys for public safety and related concerns. (3-18-22)

~~ba.~~ A floating toy becomes a nonnavigational ~~An~~ encroachment, ~~and an encroachment~~ permit is required, ~~when one (1) of the following occurs: for floating toys when they are anchored to the lakebed with an anchor that requires equipment for removal or when located waterward of the line of navigability for more than twenty-four (24) consecutive hours.~~ (3-18-22)()

i. It is anchored to the bed of the lake with a device that requires equipment to remove it from the bed of the lake, or; (3-18-22)

ii. It is located waterward of the line of navigability for more than twenty-four (24) consecutive hours. (3-18-22)

15. Marine Motor Fuel Dispensing Facilities. ()

a. Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit. ()

16. Fill Material. ()

a. The placing of any dredged or fill material on or in the beds or waters of any navigable lake is an encroachment and requires a permit from the Department. ()

157. Lake Specific Encroachment Permit Terms. (3-18-22)

a. The Department may use encroachment permit conditions specific to individual ~~lakes~~ waterways if the permit conditions are needed necessary to protect public trust ~~values~~ resources and the permit condition is approved by the Land Board. (3-18-22)()

b. Lake specific encroachment permit conditions may supplement, negate, or alter encroachment standards established in Section 015 of these rules. (3-18-22)

c. Lake specific encroachment permit conditions will be used to assist with implementing lake management plans authorized by Title 39, Chapter 66, Idaho Code; Title 39, Chapter 85, Idaho Code; Title 67, Chapter 43, Idaho Code; and Title 70, Chapter 2, Idaho Code. ~~The purpose for using such lake specific permit conditions is to address lake specific environmental concerns that require attention and create a need for a variance from what is allowed on other lakes.~~ (3-18-22)()

d. Lake specific encroachment permit terms may be read at the Idaho Department of Lands website: <https://www.idl.idaho.gov/>. (3-18-22)()

016. -- 019. (RESERVED)

020. APPLICATIONS.

01. Encroachment Applications. No ~~person shall hereafter make or cause to be made any~~ encroachment ~~s~~ on, in or above the beds or waters of any navigable lake in the state of Idaho are allowed without first making application to and receiving ~~written approval~~ an encroachment permit from the ~~d~~Department. ~~The placing of dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of any navigable lake in the state of Idaho shall be considered an encroachment and written approval by the department is required. If demolition is required prior to construction of the proposed encroachment, then t~~ Ihe application must ~~describe the~~ include a description of any demolition activities and the steps that will be taken to protect water quality and other public trust values. No demolition activities may proceed until the permit is issued. (3-18-22)()

02. Signature Requirement. Only persons who are littoral owners or lessees of a littoral owner ~~shall~~ be are eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner ~~shall is~~ also be eligible for an encroachment permit; the grantor of ~~such these~~ littoral rights, however, ~~shall~~ are no longer be eligible to apply for an encroachment permit. Except for waterlines or utility

lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit. (3-18-22)()

03. Other Permits. ~~Nothing in these rules shall excuse a~~ A person seeking to make an encroachment ~~from obtaining~~ must also obtain any additional approvals lawfully required by federal, local or other state agencies. (3-18-22)()

04. Repairs, Reinstallation of Structures. No permit is required to clean, maintain, or repair an existing permitted encroachment, but a permit is required to ~~completely~~ replace, enlarge, or extend an existing encroachment. Replacement of single-family and two-family docks ~~may will~~ not require a permit if ~~they meet the criteria in Section 58-1305(e), Idaho Code~~ the replacement is within current standards as provided in Idaho Code § 58-1305(e). ~~Reinstalling~~ Replacing the top or decking of a dock, wharf or similar structure ~~shall be an encroachment is~~ considered a repair; ~~reinstallation.~~ Replacement of winter-damaged or wind and water-damaged of wind or water damaged pilings, docks, or floats ~~logs shall be is~~ considered a repair. ~~Repairs, or replacements under Section 58-1305(e), Idaho Code, Any repair or replacement~~ that adversely affects the bed of the lake ~~will be considered is~~ a violation of these rules. (3-18-22)()

05. Dock Reconfiguration. (3-18-22)

a. ~~Rearrangement~~ Reconfiguration or rearrangement of single-family and two-family docks will require a new application for an encroachment permit. (3-18-22)()

b. Reconfiguration or Rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal and navigational. The ~~d~~Department ~~shall must~~ be consulted prior to commencement of modifications ~~being made, and shall use will consider~~ the following ~~criteria~~ to help determine if a new permit ~~must be submitted is required~~; (3-18-22)()

i. Overall footprint does not change in dimension or orientation; (3-18-22)

ii. No increase in the square footage, as described in the existing permit ~~and in accordance with Paragraph 015.13.a., occurs.~~ This only applies to community docks; (3-18-22)()

iii. The entrances and exits of the ~~facility~~ encroachment do not change; (3-18-22)()

iv. The number of slips does not change. ()

06. RedredgingDredging. ~~Redredging A permit is required before dredging or redredging a channel or basin shall be considered a new encroachment and a permit is required unless redredging is specifically authorized by the outstanding an existing permit. Water quality certification from the Idaho Department of Environmental Quality is required regardless of how redredging is addressed in any existing or future permit.~~ (3-18-22)()

07. Forms, Filing. Applications ~~and plans shall must~~ be filed on forms provided by the Department together with filing fees and costs of publication when required by these rules. Costs ~~of preparation of incurred to prepare~~ the application, including all necessary maps and drawings, ~~shall must~~ be paid by the applicant. (3-18-22)()

a. Plans ~~shall must~~ include detailed information to demonstrate compliance with the applicable standards of these rules, and the following information at a scale sufficient to show the information requested: (3-18-22)()

i. Lakebed profile in relationship to the proposed encroachment. The lakebed profile ~~shall show must clearly depict~~ the ~~summer and winter water levels~~ O/AHWM, the line of navigability, and the low water mark. (3-18-22)()

ii. Copy of most recent survey or county plat showing the full extent of the applicant's ~~lot upland parcel~~ and the adjacent ~~littoral lots~~ upland parcels. (3-18-22)()

- iii. Proof of current ownership or control of ~~littoral~~ upland property or littoral rights. (3-18-22)()
- iv. ~~A general vicinity map~~ Scaled maps accurately depicting the location of all encroachments and their dimensions. (3-18-22)()
- v. Scaled air photos or maps ~~showing~~ accurately depicting the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, distance to littoral lines, and the location and orientation of the proposed encroachment in the lake. (3-18-22)()
- vi. Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface. (3-18-22)
- vii. Names and current mailing addresses of adjacent littoral landowners. (3-18-22)
- viii. Plans submitted for enclosed encroachments must accurately depict all interior and exterior features. Public, commercial, and residential encroachments may require engineered plans approved by a professional engineer licensed in the state of Idaho. ()
- b. Applications must be submitted or approved by the littoral owner or, if the encroachment will lie over or upon private lands between the ~~natural or ordinary high water mark~~ OHWM and the ~~artificial high water mark~~ AHWM, the application must be submitted or approved by the owner of ~~such those~~ lands. When the littoral owner is not the applicant, the application ~~shall~~ must bear the owner's signature as approving the encroachment prior to filing. (3-18-22)()
- c. If more than one (1) littoral owner exists, the application must bear the signature of all littoral owners, or the signature of an authorized officer of an entity or a designated homeowner's or property management association. (3-18-22)()
- d. Applications for noncommercial ~~encroachments intended to improve waterways for navigation~~ ATONs, wildlife habitat, and ~~other~~ recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make ~~such those~~ improvements. Application fees are not required for these encroachments. (3-18-22)()
- e. The following applications ~~shall~~ must be accompanied by the respective nonrefundable filing fees together with a deposit toward the cost of newspaper publication, which ~~deposit shall~~ will be determined by the ~~director~~ Department at the time of filing: (3-18-22)()
 - i. Nonnavigational encroachments require a fee of one thousand dollars (\$1,000); except that nonnavigational encroachments for bank stabilization and erosion control require a fee of five hundred fifty dollars (\$550). (3-18-22)
 - ii. Commercial navigational encroachments require a ~~base~~ fee of two thousand dollars (\$2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by ~~Title 58, Chapter 13, Section~~ Idaho Code 58-1307, Idaho Code; (3-18-22)()
 - iii. Community navigational encroachments require a fee of two thousand dollars (\$2,000); and (3-18-22)
 - iv. Navigational encroachments extending beyond the line of navigability require a fee of one thousand dollars (\$1,000). (3-18-22)
- f. Applicants ~~shall~~ must pay any balance due ~~on publication costs~~ before written approval will be issued. The Department ~~shall~~ will refund ~~any excess at or before final action on the application~~ any publication costs if the notice is not published. (3-18-22)()
- g. Application for a single-family or two-family dock not extending beyond the line of navigability or

a nonnavigational encroachment for a buried or submerged water ~~intake~~ line serving four or less households ~~shall~~ must be accompanied by a nonrefundable ~~filing~~ fee of four hundred twenty-five dollars (\$425). (3-18-22)()

h. No publication cost is required for applications ~~s~~ for noncommercial navigational encroachments ~~s~~ not extending beyond the line of navigability or for application for installation of buried or submerged water ~~intake~~ lines and utility lines. (3-18-22)()

i. Applications and plans ~~shall~~ must be stamped with the date ~~of filing~~ received by the Department. (3-18-22)()

j. Applications that are incomplete, not in the proper form, not containing the required signature(s), or not accompanied by filing fees and costs of publication ~~when required, shall~~ will not be accepted for filing. The ~~dDepartment~~ dDepartment ~~shall~~ will send the applicant a written notice of incompleteness with a listing of the application's deficiencies. The applicant will be given thirty (30) days from receipt of the notice of incompleteness to resubmit the required information. The deadline may be extended with written consent of the ~~dDepartment~~ dDepartment. If the given deadline is not met, the ~~dDepartment~~ dDepartment will notify the applicant that the application has been denied due to lack of sufficient information. The applicant may reapply at a later date, but will be required to pay another filing fee and publication fee, if applicable. (3-18-22)()

021. -- 024. (RESERVED)

025. PROCESSING OF APPLICATIONS FOR SINGLE-FAMILY AND TWO-FAMILY NAVIGATIONAL ENCROACHMENTS ~~WITHIN LINE OF NAVIGABILITY~~.

01. Single-Family and Two-Family Navigational Encroachments. Applications for single-family and two-family navigational encroachments not extending beyond the line of navigability will be processed with a minimum of procedural requirements and ~~shall~~ will not be denied except in the most unusual of circumstances. ~~No newspaper publication, formal appearance by the applicant, or hearing is contemplated.~~ (3-18-22)()

02. Notification of Adjacent Littoral Owners. The ~~dDepartment~~ dDepartment will provide a copy of the application to the littoral owners ~~immediately~~ adjacent to the applicant's property. If the applicant owns one (1) or more adjacent lots, the ~~dDepartment~~ dDepartment ~~shall~~ will notify the owner of the next adjacent lot. If the proposed encroachment may infringe upon the littoral rights of an adjacent owner, the ~~dDepartment~~ dDepartment will provide notice of the application by certified mail, return receipt requested; otherwise, the notice will be sent by regular mail. Notification will be mailed to the adjacent littoral owners' usual place of address, which, if not known, will be the address shown on the records of the county treasurer or assessor. The applicant may submit the adjacent littoral owners' signatures, consenting to the proposed encroachment, in lieu of the ~~dDepartment~~ dDepartment's notification. (3-18-22)()

03. Written Objections. (3-18-22)

a. If an adjacent littoral owner files written objections to the application with the ~~dDepartment~~ dDepartment within ten (10) days from the date of service or receipt of notice of ~~the completed~~ application, the ~~dDepartment~~ dDepartment ~~shall fix a time and a place for~~ will schedule a hearing. In computing the time to object, the day of service or receipt of notice of the application ~~shall~~ will not be counted. Objections must be received by the Department within the ten (10) day period ~~by mail or hand delivery in the local department office or the director's office in Boise~~. If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object ~~shall~~ will run until the end of the first business day thereafter. (3-18-22)()

b. The applicant and any objectors may agree to changes in the ~~permit proposed encroachment~~ that result in the objections being withdrawn. Department employees may facilitate ~~any such this~~ agreement. Participation by ~~dDepartment~~ dDepartment personnel in this informal mediation ~~shall~~ will not constitute a conflict of interest for participation in the hearing process. A withdrawal of objections must be in writing, completed prior to a scheduled hearing, and contain: (3-18-22)()

i. Signatures of the applicant and the objecting party; (3-18-22)

ii. A description of the changes or clarifications to the permit that are acceptable to the applicant, the

objecting party, and the dDepartment. (3-18-22)()

04. Unusual Circumstances. Even though no objection is filed by an adjacent littoral owner to a noncommercial navigational encroachment, ~~if the dDirector deems it advisable~~ may require a hearing because of the existence of unusual circumstances, ~~he may require a hearing.~~ (3-18-22)()

05. Hearings. Hearings ~~fixed set~~ by the dDirector following an objection ~~pursuant to Subsection 025.03 or the Director's own determination pursuant to Subsection 025.04 shall be fixed as to time and place, but no later than sixty (60) days from date of acceptance for filing of the application~~ will be held within sixty (60) days from the date the application is accepted. At the hearing, the Department the applicant and any adjacent ~~riparian littoral~~ owner filing timely objections may appear personally or through an authorized representative and present evidence. ~~The department may also appear and present evidence at the hearing. In such hearings the~~ The Director will designate a hearing coordinator shall officer who will act as a fact finder and not a party. ~~The Director, at his discretion, will designate a Department representative to sit as the hearing coordinator.~~ Provided, however, that the parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order, or other informal means. (3-18-22)()

06. Decision Following a Hearing. The dDirector ~~shall will~~, within forty-five (45) days after close of the hearing provided for in Subsections 025.03 or 025.04 render a final decision ~~and give notice thereof to the parties appearing before him either personally or by certified or registered mail. The final decision shall be in writing.~~ (3-18-22)()

07. Disposition Without Hearing. If a hearing is not held under Subsection 025.03 or Subsection 025.04, then the dDepartment ~~shall will~~ act upon a complete application ~~filed under Subsection 025.04~~ as expeditiously as possible but no later than sixty (60) days from acceptance of the application. Failure to act within this sixty (60) day timeframe ~~shall will~~ constitute approval of the application. Applications determined to be incomplete under Subsection 020.07 are not subject to the sixty (60) day timeframe until the information requested by the dDepartment and required by the rules has been submitted. (3-18-22)()

08. Judicial Review. Any applicant aggrieved by the Director's final ~~decision order~~, or an aggrieved party appearing at a hearing, ~~shall may~~ have a right to have the proceedings and final ~~decision order~~ reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final ~~decision order~~. An ~~adjacent littoral owner shall~~ objector will be required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars (\$500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the dDirector. The applicant need post no bond with the court to prosecute an appeal. (3-18-22)()

026. -- 029. (RESERVED)

030. PROCESSING OF APPLICATIONS FOR ALL OTHER TYPES OF ENCROACHMENTS.

01. Nonnavigational, Community, and Commercial Navigational Encroachments. Within ten (10) days of receiving a complete application for a nonnavigational encroachment, a community dock, a commercial navigational encroachment, or a navigational encroachment extending beyond the line of navigability, the Department will ~~cause to be published~~ a notice of application once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the encroachment is proposed. If, however, the Director orders a public hearing on the application within the time for publication of the above notice, the Department will dispense with publication of the notice of the application and proceed instead to publish a notice of the public hearing as provided in Subsection 030.05. Applications for installation of buried or submerged water ~~intake~~ lines and utility lines are exempt from the newspaper publication process. (3-18-22)()

02. Encroachments Not in Aid of Navigation. Encroachments not in aid of navigation ~~in navigable lakes~~ will normally not be approved by the Department ~~and will be considered only except~~ in cases involving major environmental, economic, or social benefits ~~to the general public that exceed the detrimental effects of the proposed encroachment to public trust values and adjacent real property, if any.~~ Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less

impact on public trust values.

(3-18-22)()

03. Notifications. ~~Upon request or when the Department deems it appropriate, the~~ The Department may ~~furnish~~ **provide** copies of the application and plans to federal, state and local agencies and to adjacent littoral owners, requesting comment on the likely effect of the proposed encroachment upon adjacent littoral property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc.

(3-18-22)()

04. Written Comments or Objections. Within thirty (30) days of the first date of publication, an agency, adjacent littoral owner ~~or lessee~~, or any resident of the state of Idaho may do one (1) of the following:

(3-18-22)()

a. Notify the Department of their opinions and recommendation, if any, for alternate plans they believe will be economically feasible and will accomplish the purpose of the proposed encroachment without unreasonably adversely affecting adjacent littoral property or public trust values; or

(3-18-22)

b. File with the Department written objections to the proposed encroachment and request a public hearing on the application. ~~The hearing must be specifically requested in writing.~~ Any person or agency requesting a **public** hearing on the application must deposit and pay to the Department an amount sufficient to cover the cost of publishing notice of hearing provided in Subsection 030.05.

(3-18-22)()

05. Public Hearing. ~~The Department will publish~~ Notice of the time and place of public hearing on the application ~~will be published by the Director~~ once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is proposed, ~~which.~~ **The public** hearing will be held within ninety (90) days from the date the application is accepted for filing.

(3-18-22)()

06. Hearing Participants. Any person may appear at the public hearing and present oral testimony. ~~Written comments will also be received by the Department~~ **Persons may also submit written comments to the Department.**

(3-18-22)()

07. Decision After Hearing. The Director will render a final decision **and order** within thirty (30) days after close of the public hearing. A copy of ~~his the~~ final ~~decision order~~ will be mailed to the applicant and to each person or agency appearing at the hearing and giving oral or written testimony ~~in support of or in opposition to the proposed encroachment.~~

(3-18-22)()

08. Decision Where No Hearing.

(3-18-22)

a. ~~In the event~~ If no objection to the proposed encroachment is filed with the Department and no public hearing is requested ~~under Subsection 030.04, or ordered by the Director under Subsection 030.01,~~ the Department **will issue a final decision and order** based upon its investigation and ~~considering~~ **consideration** the economics of the navigational necessity, justification or benefit, public or private, of ~~such the~~ proposed encroachment as well as its detrimental effects, if any, upon adjacent real property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc. ~~will prepare and forward to the applicant its decision.~~

(3-18-22)()

b. The applicant, if dissatisfied with the Director's decision, has twenty (20) days from the date of the Director's decision to request reconsideration thereof. If reconsideration is ~~required~~ **granted**, the Director will set a time and place for a reconsideration hearing, not to exceed thirty (30) days from receipt of the request, at which time and place the applicant may appear in person or through an authorized representative and present briefing and oral argument. Upon conclusion of reconsideration, the Director will, by personal service or by registered or certified mail, notify the applicant of ~~his the~~ final decision.

(3-18-22)()

09. Judicial Review. Any applicant ~~or party~~ aggrieved by the Director's final ~~decision, or an aggrieved party who appeared at a hearing order,~~ has the right to ~~have the proceedings and~~ **judicial review of the final decision of the Director reviewed order** by the district court in the county in which the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final ~~decision order~~. The applicant need post no bond with the court to prosecute an appeal. Any other aggrieved party is required to deposit an appeal bond with the court, in an

amount to be determined by the court but not less than five hundred dollars (\$500), insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the Director. (3-18-22)()

10. Factors in Decision. In recognition of continuing private property ownership of lands lying between the ~~natural or ordinary high water mark~~ **OHW** and the ~~artificial high water mark~~ **AHW**, if present, the Department will consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment not extending below the ~~natural or ordinary high water mark~~ **OHW**. If no objections have been filed to the application and no public hearing has been requested or ordered by the Director, or, if upon reconsideration of a decision disallowing a permit, or following a public hearing, the Department determines that the benefits, whether public or private, to be derived from allowing ~~such the~~ encroachment exceed its detrimental effects, the permit will be granted. (3-18-22)()

031. -- 034. (RESERVED)

035. TEMPORARY PERMITS.

01. Applicability. Temporary permits ~~are used~~ **may be issued** for construction, **demolition**, temporary activities related to permitted encroachments, or other activities approved by the Department. (3-18-22)()

02. Permit Term. ~~These Temporary~~ permits are generally issued for less than one (1) year, but longer terms may be approved by the Department and permits may be extended with Department approval. (3-18-22)()

03. Bonding. The Department may require ~~bonds~~ **bonding** for temporary permits. (3-18-22)()

04. Fee. The ~~b~~**B**Board sets fees for temporary permits, but the fees will not be greater than the amounts listed for the respective permit types in Subsection 020.07. Fee information is available ~~on the Internet~~ at www.idl.idaho.gov. (3-18-22)()

05. Processing. ~~These Temporary~~ permits may be advertised if the Department deems it appropriate, with the applicant paying the advertising fee as per Subsection 020.07. (3-18-22)()

036. --~~049.~~ (RESERVED)

~~050.~~ RECORDATION.

~~Recordation of an issued permit in the records of the county in which an encroachment is located is a condition of issuance of a permit and proof of recordation must be furnished to the Department by the permittee before a permit becomes valid. Such recordation is at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title, or interest on the permittee other than validation of said permit.~~ (3-18-22)

~~051. -- 054.~~ (RESERVED)

055. LEASES AND EASEMENTS.

01. Lease or Easement ~~Required~~. As a condition of the encroachment permit, the Department may require a submerged land lease or easement for use of any part of the state-owned bed of the lake where ~~such lease or easement is~~ required in accordance with ~~"Rules Governing Leases on State-owned Submerged Lands and Formerly Submerged Lands," IDAPA 20.03.17, or "Rules For Easements On State-owned Submerged Lands And Formerly Submerged Lands," IDAPA 20.03.09.~~ **A lease or easement may be required for uses including, but not limited to, commercial uses.** Construction of an encroachment authorized by permit ~~without first~~ **before** obtaining the required lease or easement constitutes a trespass ~~upon state-owned public trust lands~~. This rule is intended to grant the state recompense for the use of the state-owned bed of a navigable lake where reasonable and it is not intended that the Department withhold or refuse to grant ~~such a~~ lease or easement if in all other respects the proposed encroachment would be permitted. (3-18-22)()

02. Seawalls, Breakwaters, ~~Quays~~ Fill. Seawalls, breakwaters, and ~~quays fill~~ on or over state-owned beds, designed primarily to create additional land surface, will only be authorized, ~~if at all~~, by an encroachment permit and submerged land lease or easement, upon determination approval by the Department ~~to be an appropriate use of submerged lands.~~ (3-18-22)()

056. -- 059. (RESERVED)

060. INSTALLATION.

01. Installation Only After Permit Issued. Installation or ~~on-site~~ construction of an encroachment may commence only when the permit is issued ~~or~~, when the dDepartment notifies the applicant in writing that installation may ~~be~~ commenced, d, or when the dDepartment has failed to act in accordance with Subsection 025.07. (3-18-22)()

02. Removal of Construction Waste. (3-18-22)

a. Pilings, anchors, old docks, and other structures or waste at the site of the installation or reinstallation and not used as a part of the encroachment ~~shall~~ must be removed from the water and lakebed at the time of the installation or reinstallation to a point above ~~normal flood water levels; provided, however, that this shall not be construed to prevent the use of trash booms for the temporary control of floatable piling ends and other floatable materials in a securely maintained trash boom, but approval for a trash boom shall be required as part of a permit the O/AHWM.~~ (3-18-22)()

b. Demolition of encroachments ~~shall~~ will be done in a manner that does not unnecessarily damage the lakebed or shoreline. Demolition work must comply with water quality standards administered by the Department of Environmental Quality. (3-18-22)()

03. Compliance with Permit. All work ~~shall~~ must be done in accordance with these rules, and the application submitted, and is subject to any condition specified in the permit. (3-18-22)()

04. Sunset Clause. All activities authorized within the scope of the encroachment permit must be completed within three (3) years of issuance date. If the activities are not completed within three (3) years, the permit ~~shall~~ will automatically expire unless it was previously revoked or extended by the dDepartment. The dDepartment may issue a permit with an initial sunset clause that exceeds three (3) years; if the need is demonstrated by the applicant. (3-18-22)()

061. -- 064. (RESERVED)

065. ASSIGNMENTS.

01. ~~Assignment of Encroachment Permit~~ Assignment. Encroachment permits may be assigned ~~upon approval of the department provided that only if the permitted the encroachments conforms with the approved permits. The assignor and assignee must complete a department assignment form and forward it to the appropriate area office~~ An assignment is not valid until it is approved by the Department. (3-18-22)()

02. Assignment Application Fee. The ~~assignment fee is~~ assignor and assignee must complete a Department assignment form and submit along with the three hundred dollars (\$300) ~~and is due at the time the assignment is submitted~~ assignment fee to the dDepartment. (3-18-22)()

03. Approval Required for Assignment. An assignment is not valid until it has been approved by the department. (3-18-22)

043. Assignment With New Permit. Encroachments not in compliance with the approved permit may be assigned only if: (3-18-22)

a. An application for a new permit to correct the noncompliance is submitted at the same time. (3-18-22)

- b. The assignee submits written consent to bring the encroachment ~~permit~~ into compliance. (3-18-22)()

066. -- 069. (RESERVED)

070. MISCELLANEOUS.

01. Water Resources Permit. A permit to alter a navigable stream issued by the Department of Water Resources pursuant to [Title 42, Chapter 38](#), Idaho Code, may, in appropriate circumstances, contain language stating the approval of the Department of Lands to occupy the state-owned bed of the navigable stream. (3-18-22)

02. Dredge and Placer Mining. Department authorization is required for dredge and placer mining in the lands, lakes and rivers within the state, whether or not the state owns the beds, pursuant to [Title 47, Chapter 13](#), Idaho Code. (3-18-22)

03. Mineral Leases. Littoral rights do not include any right to remove bed materials from state-owned lakebeds. Applications to lease minerals, oil, gas and hydrocarbons, and geothermal resources within the state-owned beds of navigable lakes will be processed by the Department pursuant to [Title 47, Chapters 7, 8 and 16](#), Idaho Code, and rules promulgated thereunder. (3-18-22)

04. Other Laws and Rules. The permittee must ~~comply with~~ [follow](#) all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources. (3-18-22)()

071. -- 079. (RESERVED)

080. VIOLATIONS - PENALTIES.

01. Cease and Desist Order. ~~When the Department determines that a violation of these rules is occurring due to the o~~ Ongoing construction of an unauthorized encroachment or an unauthorized modification of a permitted encroachment, ~~it may provide the~~ [is considered a violation of these rules. The Department will serve the](#) landowner, contractor, or permittee ~~with a written cease a cease~~ and desist order that ~~consists of contains~~ a short and plain statement ~~of what the violation is, describing the violation,~~ the pertinent legal authority, and how the violation may be rectified. This order will be served by personal service or certified mail. The cease and desist order ~~is used to will require the permittee to~~ maintain the status quo pending formal proceedings by the Department to rectify the violation. (3-18-22)()

02. Notice of Noncompliance/Proposed Permit Revocation. When the Department determines that these rules have been violated, a cause exists for revocation of a lake encroachment permit, or both of these have occurred, it will provide the permittee or offending person with a notice of noncompliance/proposed permit revocation that consists of a short and plain statement of the violation including any pertinent legal authority. This notice also informs the permittee or offending person of what steps are needed to either bring the encroachment into compliance, if possible, ~~or avoid revocation, or both.~~ (3-18-22)()

03. Noncompliance Resolution. The Department will attempt to resolve all noncompliance issues through conference with the permittee or other involved party. Any period set by the parties for correction of a violation is binding. If the Department is unsuccessful in resolving the violations, then the Department may pursue other remedies under Section 080 of these rules. (3-18-22)

04. Violations. The following acts or omissions subject a person to a civil penalty as allowed by [Title 58, Chapter 13, Section 58-1308](#), Idaho Code: (3-18-22)

a. A violation of ~~the provisions of Title 58, Chapter 13~~, Idaho Code, or of the rules and general orders adopted and applicable to navigable lakes; (3-18-22)()

b. A violation of any special order of the Director applicable to a navigable lake; or (3-18-22)

c. Refusal to cease and desist from any violation ~~in regards to a navigable lake~~ after having received a written cease and desist order from the Department by personal service or certified mail, within the time provided in the notice, or within thirty (30) days of service of ~~such~~ the notice if no time is provided. (3-18-22)()

d. Willfully and knowingly falsifying any records, plans, information, or other data ~~required by these rules provided to the Department.~~ (3-18-22)()

e. Violating the terms of an encroachment permit. (3-18-22)

05. Injunctions, Damages. The Board expressly reserves the right, through the Director, to seek injunctive relief under Title 58, Chapter 13, Section 58-1308, Idaho Code and mitigation of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties provided for in Subsection 080.04 of these rules. (3-18-22)

06. Mitigation, Restoration. The ~~b~~Board expressly reserves the right, through the Director, to require mitigation and restoration of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties and injunctive relief provided for in Subsections 080.04 and 080.05 of these rules. The Department may consult with other ~~state~~ agencies to determine the appropriate type and amount of mitigation and restoration required. (3-18-22)()

07. Revocation of Lake Encroachment Permits. (3-18-22)

a. The Department may institute an administrative action to revoke a lake encroachment permit for violation of the conditions of a permit, or for any other reason authorized by law. ~~All such~~ These proceedings will be conducted as contested case hearings subject to ~~the provisions of Title 67, Chapter 52, Idaho Code, and IDAPA 20.01.01, "Rules of Practice and Procedure before the State Board of Land Commissioners."~~ (3-18-22)()

b. A hearing officer appointed to conduct the revocation hearing prepares recommended findings of fact and conclusions of law and ~~forward~~ sends them to the Director for final adoption or rejection. (3-18-22)()

c. An aggrieved party who appeared and testified at a hearing has the right to have the proceedings and final decision of the Director reviewed by the district court of the county in which the violation or revocation occurred by filing a notice of appeal within twenty-eight (28) days from the date of the final decision. (3-18-22)

081. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.03.08 – EASEMENTS ON STATE-OWNED LANDS
DOCKET NO. 20-0308-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 58-104](#) and [58-105](#), Idaho Code, and [Title 58 Chapter 6](#), 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:

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 August 6, 2025, Idaho Administrative Bulletin, [Vol. 25-8, pages 156-162](#).

The change in the pending rule was to correct an inadvertent deletion of the words “and survey” in section 21.05. Minimum Compensation.

FEE SUMMARY: Pursuant to [Section 67-5224\(2\)\(d\)](#), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: 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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lawson Tate at 208-920-6865.

DATED this 3rd day of October, 2025.

Lawson Tate, Right-of-Way Program Manager
2550 Highway 2 West
Sandpoint, Idaho 83864
Phone: (208) 263-5104
ltate@idl.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 procedures. The action is authorized pursuant to Section(s) 58-104 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 20, 2025.

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 Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2025 and legislative review in 2026 with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

The regulatory burden has been reduced by decreasing both the total word count 14.3% and the number of restrictive words 26.7% in the proposed rule. No changes were made that changed the context of the previous rule.

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 fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 5, 2025 Idaho Administrative Bulletin, [Vol. 25-3, pages 19-21](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lawson Tate at (208) 263-5104 or ltate@idl.idaho.gov.

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 27, 2025.

DATED this 2nd day of July, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 20-0308-2501

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

20.03.08 – EASEMENTS ON STATE-OWNED LANDS

000. LEGAL AUTHORITY.

~~These rules are promulgated pursuant to and are to be construed in a manner consistent with the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Idaho Code Title 58, Chapters 1 and 6, and Article IX, Sections 7 and 8 of the Idaho Constitution.~~ Title 58, Chapter 1, Idaho Code, Title 58, Chapter 3, Idaho Code. (3-18-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ Title. These rules are titled IDAPA 20.03.08, “Easements on State-Owned Lands.” (3-18-22)

~~02. Scope.~~ These rules set forth procedures concerning the issuance of easements on all lands within the jurisdiction of the Idaho State Board of Land Commissioners except for state-owned ~~submerged lands and formerly submerged lands~~ navigable waterways. ~~Further, t~~ These rules do not apply to easements for hydroelectric projects. (3-18-22)()

~~031.~~ Valid Existing Rights. These rules are not to be construed as affecting any valid existing rights. (3-18-22)()

002. ADMINISTRATIVE APPEALS.

An applicant aggrieved by a decision of the Director under these rules may request a hearing before the Board, but must do so within thirty (30) days after receipt ~~of written notice~~ of the Director’s decision. (3-18-22)()

003. -- 009. (RESERVED)

010. DEFINITIONS.

~~01.~~ Assignment. The complete transfer of rights and obligations of an easement in good standing from holder to succeeding right holder (assignor), acknowledged by the Department (servient estate). ()

~~042.~~ Board. The Idaho State Board of Land Commissioners or ~~such representative as may be designated by the Board~~ its designee. (3-18-22)()

~~023.~~ Damage or Impairment of Rights to the Remainder of the Property. The diminution of the market value of the remainder area, in the case of a partial taking. (3-18-22)

~~034.~~ Department. The Idaho Department of Lands. (3-18-22)

~~045.~~ Director. The Director of the Idaho Department of Lands or ~~such representative as may be designated by the Director~~ its designee. (3-18-22)()

~~056.~~ Easement. A non-possessory interest in land for a specific purpose. Such interest may be limited to a specified term. (3-18-22)

~~067.~~ Endowment Lands. ~~Land grants made to the state of Idaho by the Congress of the United States, or real property subsequently acquired through land exchange or purchase, for the sole use and benefit of the public schools and certain other institutions of the state, comprising nine (9) grants altogether~~ Land grants made to the state of Idaho by the Congress of the United States, or real property subsequently acquired through land exchange or purchase, for the sole use and benefit of the public schools and certain other institutions of the state, comprising nine (9) grants altogether. (3-18-22)()

~~08.~~ Grantee. The person or entity receiving the property right or permission. ()

09. **Grantor.** The person or entity transferring, selling, or giving the property right or permission. Herein the Department or Board granting a right-of-way, easement or permit. ()

0710. **Market Value.** The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, ~~for which that~~ the property should bring in a competitive and open market under all conditions requisite to ~~a fair sale an arm's length sale~~, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (3-18-22)()

11. **Right-of-Way.** The area on, below, or above a road, highway, street, waterway, or utility easement over which a legal right of passage exists for the benefit of a specific purpose. Such passage and use rights may be limited as defined and limited to a specified term. ()

0812. **State-Owned Lands.** All lands within the jurisdiction of the Idaho State Board of Land Commissioners except for state-owned ~~submerged lands or formerly submerged lands~~ navigable waterways. (3-18-22)()

0913. **Temporary Permit.** An instrument authorizing a specific use on state land usually issued for five (5) years or less, but that may be issued for up to ~~ten~~ twenty (~~10~~20) years. (3-18-22)()

011. -- 019. (RESERVED)

020. POLICY.

01. **Easements Required.** Easements are required for all rights-of-way of a permanent nature over state-owned land. Easements will not be granted when temporary permits ~~will~~ serve the ~~required~~ intended purpose or when a lease is appropriate. (3-18-22)()

02. **Prior Grants.** The Director will recognize easements on state endowment lands by grant of the federal government, or subsequent landowners, prior to title vesting with the State or by eminent domain. (3-18-22)

03. **Existing Easements.** These rules do not apply to any use, facility or structure described in an existing easement. For amendment of an existing easement, see Section 025. (3-18-22)

04. **Director's Discretion.** The Director may grant ~~an~~ a temporary permit or easement over state-owned land for any legitimate public or private purpose upon payment of appropriate compensation. (3-18-22)()

05. **Reciprocal Easements.** The Director may seek reciprocal easements for access to state-owned lands from applicants for easements over state-owned lands. The value of the easement acquired by the state may be applied towards the cost of the easement acquired from the state. (3-18-22)

06. **Interest Granted.** An easement grants only such interest ~~to the grantee~~ as is specified in the instrument, including the right to use the property for the specified purpose ~~without interference by the grantor~~. The right to use the property for all other purposes ~~not inconsistent with~~ aside from the grantee's limited interest remains with the grantor. (3-18-22)()

07. **Limit of Director's Discretion.** The Director may grant and renew all easements ~~in all cases~~ except when the compensation will exceed ~~twenty-five thousand dollars (\$25,000)~~ the limits as delegated by the Board exclusive of the value of timber and payment for any damage or impairment of rights to the remainder of the property. (3-18-22)()

08. **Width of Easement.** The width of any easement granted may not be less than eight (8) feet. (3-18-22)

09. **Recordation.** The Department will record the easement, or easement release, with the appropriate county recorder's office. (3-18-22)

10. **Term Easement.** The Director may grant an easement ~~that is issued~~ for a specific time period of

ten (10) to fifty-five (55) years.

(3-18-22)()

021. FEES AND COMPENSATION.

01. Application Fee. The application fee for new, renewed, or amended easements is one hundred dollars (\$100) and is collected from all applicants. This application fee is in addition to the easement compensation and appraisal costs, and is non-refundable unless the Director determines that the land applied for is not under the jurisdiction of the Board. (3-18-22)

02. Easement Fee. The compensation for permanent easements over state-owned lands covered by these rules is as follows:

	COMPENSATION
Highways, roads, railroads, reservoirs, trails, canals, ditches, or any other improvements that require long term, exclusive or near exclusive use and occupation of the right of way	Up to 100% of land value plus payment for any damage or impairment of rights to the remainder of the property as determined by the Director and supported by specific data such as an appraisal
Overhead transmission and power lines	Up to 100% of land value depending on the exclusivity of use as determined by the Director and supported by specific data such as an appraisal plus payment for any damage or impairment of rights to the remainder of the property as determined by the Director and supported by data such as an appraisal
Buried installations—cables, pipelines, sewerlines, waterlines	Up to 100% of land value, depending on the exclusivity use as determined by the Director and supported by specific data such as an appraisal plus payment for any damage or impairment of rights to the remainder of the property, as determined by the Director and supported by specific data such as an appraisal

(3-18-22)

03. Appraisal Required. An appraisal of an easement may be required where, in the opinion of the Director, the easement value will exceed the minimum compensation fee of five hundred dollars (\$500). (3-18-22)

01. Easement Fee. The compensation for easements over state-owned lands: Up to one hundred percent (100%) of market value, plus payment for any damage or impairment of rights to the remainder of the property, and proportional payment for any existing improvements within the right-of-way, such as a road, road surfacing, culverts, and bridges, as determined by the Director and supported by specific data such as an appraisal. ()

a. A commensurate portion of the value created by the right of way, as determined by the Director and supported by specific data such as an appraisal. ()

042. Performance of Appraisal. The appraisal of the easement ~~will normally be~~ may be performed by qualified ~~d~~Department staff or as determined by the Director. If so desired by the applicant, and agreed to by the Director, the applicant may provide the appraisal that is acceptable to and meets the specifications set by the Director. (3-18-22)()

053. Appraisal Costs. An Applicant shall bear the costs of an appraisal. Where the appraisal is performed by the dDepartment staff, ~~the appraisal is two hundred fifty dollars (\$250) for a market analysis, five hundred dollars (\$500) for a short form appraisal, and one thousand dollars (\$1,000) for appraisals of easements requiring Board approval. The appraisal cost is in addition to those costs outlined in Subsections 021.01 and 021.02. In no case will,~~ an applicant will not be charged more than one thousand dollars (\$1000) for an appraisal of an easement conducted by departmental staff. (3-18-22)()

064. Term Easements. Compensation for term easements will be established by appraisal or as determined by the Director. (3-18-22)()

075. Minimum Compensation. The minimum compensation for any easement is five hundred dollars (\$500); at the discretion of the Land Board, not including the application fee and appraisal and survey costs. (3-18-22)()

022. -- 024. (RESERVED)

025. EASEMENT AMENDMENT.

Amendment of an existing easement must be processed in the same manner as a new application. Amendment includes change of use, widening the easement area, or changing the location of the easement area. Amendment does not include ordinary maintenance, repair, or replacement of existing structures such as poles, wires, cables, and culverts. (3-18-22)

026. -- 029. (RESERVED)

030. EMERGENCY WORK.

The grantee is authorized to enter upon endowment lands and other state-owned lands managed by the Department for the purpose of to performing emergency repairs on an easement for damage due to vandalism, floods, fire, high winds and other acts of God, provided that the grantee provides written notice to the Director Department within forty-eight (48) hours of the time work commences. Thereupon, t The Director is authorized to assess any damages to the state lands and seek reimbursement. (3-18-22)()

031. -- 034. (RESERVED)

035. COOPERATIVE USE AND RECIPROCAL USE AGREEMENTS.

01. Joint Agreements. The Director may, subject to the approval of the Board, enter into joint ownership and use agreements with persons, entities, other state, federal, or tribal agencies for roads providing access to state endowment lands and other state-owned lands managed by the Department. Such agreements must provide that all landowners share proportionately in the cost of building and maintaining the shared road. The proportionate shares are calculated on timber volume, acreage or other unit of value. (3-18-22)()

02. Reciprocal Use Agreements. The Director may enter into reciprocal use agreements with persons, entities, or other state agencies for existing roads where such agreements will enhance the management of state endowment lands or other state-owned lands managed by the Department. (3-18-22)()

03. Applicability. Where the Director has entered into such agreements mentioned in Subsections 035.01 and 035.02 above, Sections 021, 040, and 046 do not apply. (3-18-22)

036. -- 039. (RESERVED)

040. ASSIGNMENTS.

01. FeeForm. Easements issued by the Director or by the Board are assignable provided that the assignor and assignee complete the Department's standard assignment form and forward it and the non-refundable assignment fee of fifty dollars (\$50) to any department office. (3-18-22)()

02. Prior Written Consent. An assignment is not valid without the prior written consent of the Director. Such consent will not be unreasonably withheld. (3-18-22)

03. Multiple Assignments. If a All state easements held by a grantee are may be assigned at one time; only one (1) assignment fee is required. (3-18-22)()

041. ABANDONMENT, RELINQUISHMENT, AND TERMINATION.

01. Section 58-603, Idaho Code. The provisions of Idaho Code Section 58-603 apply to all easements over state-owned lands. (3-18-22)

02. Non-Use. An easement not used for the purpose for which it was granted, for five (5) consecutive years, is presumed abandoned and automatically terminates. The Director will notify the grantee in writing of the termination. The grantee has thirty (30) days from the date of notification to reply in writing to the Director to show cause why the easement should be reinstated. Within sixty (60) days of receipt of the statement to show cause, the Director will notify the grantee in writing as to the Director's decision concerning reinstatement. The grantee has thirty (30) days of receipt of the Director's decision to appeal an adverse decision to the Board. (3-18-22)

03. Removal of Improvements. Upon termination, the grantee has twelve (12) months from the date of final notice to remove any facilities and improvements. (3-18-22)

04. Voluntary Relinquishment. The grantee may voluntarily relinquish the easement at any time by completing an easement relinquishment form provided by the Department. ~~The Department will pay the grantee one dollar (\$1) for the relinquishment.~~ (3-18-22)()

042. -- 045. (RESERVED)

046. PROCEDURE.

01. Contents of Application. ~~An easement~~ A right-of-way application contains: (3-18-22)()

a. ~~A letter of request~~ narrative description stating necessity and the purpose of the ~~easement~~ right-of-way; (3-18-22)()

b. A map of the requested right-of-way ~~in triplicate~~; and (3-18-22)()

c. ~~One (1) copy of an acceptable~~ An accurate written legal description based on a centerline survey or a metes and bounds survey of the perimeter of the easement tract. The applicant may also describe the area occupied by existing uses, facilities or structures by platting the state-owned land affected by and occupied by the proposed use and showing surveyed or scaled ties (to a legal corner) at the points where the use enters, occupies and leaves the parcel. (3-18-22)()

02. Engineer Certification. ~~As required in Section 58-601, Idaho Code, for a~~ Any application for a ditch, canal or reservoir, the plats and field notes must be certified by the engineer under whose direction such surveys or plans were made and four (4) copies filed with the Department and one (1) copy with the Director, Department of Water Resources as required in Section 58-601, Idaho Code. (3-18-22)()

03. Where to Submit Application. An ~~easement~~ application may be submitted to any office of the Department. (3-18-22)()

04. Notification of Approval. If approved, the applicant will be notified of the amount due to the Department. (3-18-22)

05. Notification of Denial. If the application is denied, the applicant will be notified in writing of such decision. (3-18-22)

~~047. EASEMENTS ON STATE LAND UNDER LAND SALE CONTRACT.~~

~~01. Approval of Contract Purchaser.~~ ~~The Director will not approve an easement on lands under contract of sale (land sale certificate) without the approval of the contract sale purchaser or without reviewing the consideration received to insure that the state's interests are protected.~~ (3-18-22)

~~02. Compensation.~~ ~~The compensation for easements on lands under land sale contract will be as set out in Section 021 except that "land value" may be the sale value. These moneys will be applied to the principal balance on the land sale contract. Additionally, the Department will collect the one hundred dollar (\$100) application~~

fee. (3-18-22)

~~03. Co-Signature of Contract Purchaser.~~ The contract sale purchaser must co-sign the easement to validate the document. (3-18-22)

~~0487.~~ -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 24-3501-2501

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 36-2107, 36-2109\(a\), and 36-2110\(c\)](#), 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:

Two technical corrections have been made to the rule's text, to: (1) update designated tag rounding methodology and (2) update two river section descriptions.

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 October 1, 2025 Idaho Administrative Bulletin, [Vol. 25-10, pages 339-357](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of 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:

No fiscal impact on the state general fund will occur as a result of these changes.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Kolby Reddish, Chief Legal Counsel, at (208) 817-6126.

DATED this 30th day of October, 2025.

Kolby K. Reddish
Chief Legal Counsel
PO Box 83720
Boise, ID 83720-0063
Phone: (208) 817-6126
Email: kolby.reddish@dopl.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 procedures. The action is authorized pursuant to [Sections 36-2107, 36-2109\(a\)](#), and [36-2110\(c\)](#), 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 15, 2025.

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:

Removes definitions that are duplicative of statute, making requested changes to tag calculations, and proposes changes to the operating boundaries in three river sections.

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 Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

No fiscal impact on the state General Fund will occur as a result of these changes.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 6, 2025 Idaho Administrative Bulletin, [Vol. 25-8, Pages 171-172](#).

INCORPORATION BY REFERENCE: Pursuant to [Section 67-5229\(2\)\(a\)](#), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kolby Reddish, Chief Legal Counsel, at (208) 577-2519.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October, 22, 2025.

DATED this 13th day of August, 2025.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-3501-2501

Italicized red text that is *double underscored* indicates amendments to the proposed text as adopted in the pending rule.

24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

000. LEGAL AUTHORITY.

~~These rules have been promulgated pursuant to authority granted in the Outfitters and Guides Act~~ **Title 39, Chapter 21, Idaho Code.** ~~(4-6-23)()~~

(BREAK IN CONTINUITY OF SECTIONS)

002. DEFINITIONS.

The definitions set forth in Section **36-2102**, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: (4-6-23)

01. Act. **Title 36, Chapter 21**, Idaho Code, commonly known as the Outfitters and Guides Act, as amended. (4-6-23)

02. Authorized Person. An investigator or inspector in the employ of the Board, a conservation officer of the IFGC, or any local, state, or federal law enforcement officer. (4-6-23)

03. Classified River. For the purpose of these rules, specific sections of some whitewater river or streams which are considered more hazardous than others have been designated “classified.” Classified rivers are denoted by an asterisk (*) in the list of rivers contained in Subsection 259.01. (4-6-23)

04. Compensation. The receipt, exchange or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party is not deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-6-23)

05. Facilities and Services. The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section **36-2102(b)**, Idaho Code. (4-6-23)

06. Fishing. Fishing activities on those waters and for those species described in the rules of the IFGC, IDAPA **13.01.11**, ~~“Rules Governing Fish,”~~ general fishing seasons and any anadromous fishing rules and as authorized in the Outfitter’s Operating Plan. ~~(4-6-23)()~~

07. Float Boats. Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-6-23)

08. Hazards. Potential dangers to the health, safety, or welfare of the outfitted public which are known risks inherent to an outfitted or guided activity. (7-1-25)

09. Hunting. The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. (4-6-23)

10. IFGC. The Idaho Department of Fish and Game or the Idaho Fish and Game Commission. (4-6-23)

11. Major Activity. A licensed activity, the nature of which requires a significant commitment of time

and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-6-23)

12. Major Amendment. All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-6-23)

13. Minor Amendment. All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (4-6-23)

14. Operating Area. The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-6-23)

15. Operating Plan. A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (4-6-23)

16. Out-of-Pocket Expenses. The direct expenses attributable to a recreational activity. Such direct expenses do not include: (4-6-23)

a. Compensation for either sponsors or participants; (4-6-23)

b. Amortization or depreciation of debt or equipment; or (4-6-23)

c. Costs of non-expendable supplies. (4-6-23)

17. Power Boats. All motorized watercraft used on Idaho waters open to commercial outfitting activities. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. (4-6-23)

18. Watercraft. A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (4-6-23)

003. – 099. (RESERVED)

100. OUTFITTER OR DESIGNATED AGENT LICENSE OR AMENDMENT APPLICATION.

A complete application for a new outfitter or designated agent license, outfitter license major amendment, or new landowner statement in existing areas must, in addition to all other requirements, include: (4-6-23)

01. Name. The name(s) registered with the Idaho Secretary of State as an assumed business name, the name of the business entity, or both. (4-6-23)

02. Other Signatures. Signed landowner or land manager statement from: (4-6-23)

a. The affected state and federal land managers in all areas where an outfitter plans to utilize lands administered by the state or federal government (this may involve memorandum of understanding procedures as applicable to proposed operation on national forest or public domain lands); and (4-6-23)

b. Private land owners, or their agents, where an outfitter applicant proposes to use such private lands in his operation. (4-6-23)

03. Operating Plan. An operating plan required by the germane land management agency or on a Board approved form. (4-6-23)

04. Insurance. Current certificate or proof of insurance covering licensed activities. (4-6-23)

~~05. Designated Agent.~~ When the applicant is a corporation, firm, partnership, or other organization or combination thereof, the designation at least one (1) designated agent who is a qualified outfitter, covered by the outfitter's bond, and who will be responsible for the outfitting business. The designated agent must apply for and be granted a license. (4-6-23)

~~065. Hearing.~~ If more than one (1) applicant submits a complete application with landowner statement(s), the Board has the discretion to decide the successful applicant. (4-6-23)

~~076. Existing Operating Area.~~ A licensed outfitter may be given priority for any opportunities within the outfitter's existing operating area boundaries. (4-6-23)

~~087. Operating Area Limitations.~~ To safeguard the health, safety, and welfare of the public and for the conservation of wildlife and fish resources, the Board may place a limit on the number of outfitter licenses issued within an operating area. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

203. OPERATING AREA.

An outfitter's operating area may be adjusted for reasons of wildlife and fish conservation, where territorial conflict exists, or for the safety of persons utilizing the services of outfitters. Special circumstances may also warrant short term modification of an outfitters operating area. (4-6-23)

01. Environmental Considerations. Any changes in wildlife population health, environmental conditions and/or new government regulation may result in the adjustment of an outfitter's operating area. (4-6-23)

02. Conflict Considerations. An incident(s) of territorial conflict, particularly one that leads to public safety concerns, may result in the adjustment of an outfitter's operating area. (4-6-23)

03. Safety Considerations. Any change(s) in the environmental condition(s), in the manner or amount of public use of the operating area and/or in a licensee's manner of operation within the operating area, that pose a threat to the health and safety of persons using the operating area may result in a change in the outfitters operating area. (4-6-23)

~~04. Hot Pursuit.~~ The Board may approve a minor amendment of an outfitters license to allow an outfitter licensed for bear and cougar hunting to enter into an adjacent area with a client for hot pursuit of bear and cougar hunting when hunting with hounds, provided that the pursuit starts inside the outfitter's licensed area. (4-6-23)

~~054. Controlled Hunts Outside Operating Area.~~ The Board may authorize an outfitter who is licensed for hunting moose, bighorn sheep, or mountain goat to conduct a one-time hunt outside of the outfitter's licensed area when the outfitter submits a request on a Board-approved form. (4-6-23)

a. For changes of operation under Subsections 04 and 05 of this Rule, written permission from all outfitters licensed for the species in the hunt area being requested and all applicable landowners or land managers will be provided to the Board. (4-6-23)

b. For changes under Subsection 04 and 05 of this Rule, under special circumstances the Board may waive the requirement of approval from the overlapping outfitter(s). (4-6-23)

c. For changes under Subsection 05 of this Rule, no compensation is permitted between outfitters participating in the conduct of a controlled hunt in another outfitter's area, unless the outfitter supplies a service for that compensation. (4-6-23)

~~065. Overlap Predator Areas.~~ The Board may authorize outfitters to enter into a standing agreement with each other and the appropriate land manager(s) allowing the outfitters to hunt wolf, mountain lion, or black bear

or to trap across multiple operating areas.

(4-6-23)()

(BREAK IN CONTINUITY OF SECTIONS)

205. AVAILABILITY OF OUTFITTING OPPORTUNITIES.

Except as provided in other sections of this chapter, when a new opportunity or existing opportunity which had previously been licensed to another outfitter becomes available, the Board may use a competitive application process through a waiting list, public notice, or both to select a qualified applicant. A competitive application process may be coordinated with another governmental agency that has management or permitting authority over the opportunity.

(4-6-23)

01. Waiting List. The waiting list will be maintained for each individual river, lake and reservoir outlined in Section 259 and for each specific IFGC unit listed in IDAPA 13.01.08, ~~“Rules Governing Taking of Big Game Animals.”~~

(4-6-23)()

02. Placement on Waiting List. A written request, in a form specified by the Board, must be submitted to be placed on the waiting list, and a name on the waiting list will be maintained for a period of five (5) years or until December 31 of the fifth year that the name is placed on the list, whichever comes first.

(4-6-23)

03. Notification. When public notice is used when an opening occurs, a public announcement will be made via the Board’s website and may be made in conjunction with notice by another governmental agency. Persons on the waiting list will be notified of the available opportunity in any competitive application process.

(4-6-23)

04. Application Period and Consideration. Anyone wishing to apply for the opportunity must submit a complete application or amendment, by the date specified in the notice. The Board will consider the qualifications of all applicants and in its discretion select the best qualified applicant.

(7-1-25)

(BREAK IN CONTINUITY OF SECTIONS)

257. DESIGNATION OF ALLOCATED DEER AND ELK TAGS.

For the purposes of this section, an outfitting operation is an outfitter licensee whose licensed activities include hunting for the species in the area of the allocated tag being designated. When IFGC allocates tags, the allocated tags will be designated pursuant to Section 36-2120, Idaho Code, and this rule. The designation applies for the next season unless IFGC adjusts the number of allocated tags for the hunt.

(4-6-23)

01. Notification. All notices, orders, or other documents may be made to the email address on file with the Board.

(4-6-23)

02. Outfitted Hunter Tag Use History. Each outfitter’s hunter tag use history will be determined from the use recorded by IFGC pursuant to Section 36-408(4), Idaho Code, and as may be adjusted as a result of a tag transfer or hardship request that is approved by the Board.

(4-6-23)

a. Transfers. An outfitting operation is credited for use of an allocated tag that it transfers to another outfitting operation for use that year in the same hunt. The receiving outfitting operation is not credited for using the transferred tag.

(4-6-23)

b. Surrenders. An outfitting operation may surrender a designated allocated tag(s) to the undesignated tag pool for use by any outfitting operation in the same hunt. The surrendering outfitting operation is not credited for use of the surrendered tag unless it later uses the tag from the pool.

(4-6-23)

03. New Hunt Allocated Tag Designation. When the IFGC allocates tags for a newly capped, limited, or controlled hunt, the allocated tags will be designated proportionately as follows:

(4-6-23)()

a. Divide each outfitting operation's base allocation by the total of all base allocations in the hunt, resulting in a percentage of total use. Truncate the decimal at the hundredths place. (4-6-23)

b. Multiply the percentage of total use from Subsection 257.03.a. of these rules by the total number of allocated tags for the hunt, which determines the number of allocated tags designated to the outfitting operation. (4-6-23)

04. Use of Previously Designated Allocated Tags. For established capped, limited, or controlled hunts, allocated tags will first be designated to each outfitting operation in an amount equal to the outfitting operation's use of the allocated tags previously designated to it for the same hunt. (4-6-23)()

a. In a capped or limited hunt, the use of previously designated allocated tags is the average use of allocated tags in the preceding two (2) years; in the event that IFGC adjusts the number of allocated tags in a hunt where there is only one (1) year of allocation, the Board will not average the use. (4-6-23)()

b. In a controlled hunt, the use of previously designated allocated tags is the highest year of use of allocated tags in the preceding two (2) years. (4-6-23)

c. In any hunt where the average use of the last two years' results in a number ending in point five (.5) and the resulting designation is rounded down, apply the following: ()

i. If there are sufficient remaining or additional tags in the hunt to round up every outfitter designation that has been rounded down in Subsection 257.04.a. or b. above, then designate one (1) additional tag to those outfitters designations. If there are not sufficient tags available, then proceed to Subsection 257.05 below. ()

05. Remaining or Additional Allocated Tags. Allocated tags not designated above will be designated proportionately as follows: (4-6-23)

a. Subtract each outfitting operation's use of previously designated allocated tags from Subsection 257.04 from its base allocation number to determine the number of non-allocated tags it used for a capped or limited hunt or the matching hunt with non-allocated tags for a controlled hunt, when necessary to determine non-allocated tag use; then (4-6-23)()

b. Divide the result by the total number of non-allocated tags used by all outfitting operations, resulting in a percentage of the total non-allocated tags used by outfitting operations in that hunt. Truncate the decimal at the hundredths place; and finally (4-6-23)

c. Multiply the percentage of total use from Subsection 257.05.b. by the number of allocated tags yet to be designated, which determines the number of allocated tags designated to the outfitting operation. (4-6-23)

06. Rounding. If allocated tag designation results in a partial tag, the calculation will be rounded up when a decimal equals or exceeds six tenths (0.6) and rounded down when a decimal is less than six tenths (0.6). When calculating after a reduction of allocated tags pursuant to Section 36-2120(4), Idaho Code, the calculation will be rounded up when a decimal equals or exceeds five tenths (0.5) and rounded down when a decimal is less than five tenths (0.5). (4-6-23)

07. Tie-breaker. If, after applying Subsections 257.03 through 06, there is a surplus or deficit of allocated tags to be designated, the unrounded proportion from Subsection 257.05, with as many decimal places as necessary, will be used, and then as follows: (4-6-23)

a. After a reduction in allocated tags, surplus tags will first be designated in amounts to restore outfitter operations to the number of tags that would have otherwise been designated pursuant to Subsection 257.04 or as close thereto as practicable. (4-6-23)

b. If a surplus, the outfitting operation whose unrounded proportion is the greatest will be designated one (1) tag, and if there are additional surplus tags, the outfitter with the next greatest unrounded proportion will be

designated one (1) allocated tag, and repeated in descending unrounded proportions until all surplus tags are designated. In the event there is more than one outfitting operation with the same unrounded proportion and there are insufficient undesignated tags to designate to each outfitter, the undesignated tag will be designated based on a random drawing between those outfitting operations. (4-6-23)

c. A deficit will be resolved from the outfitting operation whose unrounded proportion is closest to six tenths (0.6), and then next closest to six tenths (0.6) when there is a deficit of more than one (1) allocated tag. If there is more than one (1) outfitting operation with the same unrounded proportion, a random drawing will be held between those outfitters. (4-6-23)

08. Stipulation by Outfitters. Outfitting operations in a hunt may submit to the Board a written stipulation determining the number of allocated tags designated to each outfitting operation in that hunt. The stipulation must be signed by all eligible outfitting operations for the hunt; however, under special circumstances, the Board may waive the requirement of approval from all other outfitting operations. If the Board approves the stipulation, the stipulation will be effective until the next designation of allocated tags for the hunt. On or before November 1 preceding the hunt, any outfitting operation may petition the Board to vacate the stipulation for good cause that would make it unconscionable or unjust to enforce the stipulation. If the Board vacates the stipulation, the allocated tags in that hunt will be designated pursuant to Section 36-2120, Idaho Code, and this rule. (4-6-23)

09. Undesignated Tag Pool. Any designated allocated tags that are surrendered or have not been utilized by an outfitting operation on or before July 16 or the next business day for a capped or limited hunt, or on or before September 10 or the next business day for a controlled hunt, will be available in an undesignated pool for any outfitting operation, as follows: (4-6-23)()

a. Beginning April 10 preceding the hunt, an outfitting operation may submit a request for an allocated tag from the pool. The request must be on a Board-approved form. (4-6-23)

b. Beginning April 20 preceding the hunt, or next business day thereafter, until July 16, allocated tags will be designated from the pool on a first-come, first-served basis to an outfitting operation without any designated allocated tags or which has utilized all of its designated allocated tags, with a maximum of two (2) tags per operation per round until all tags are designated. (7-1-25)

c. No tags designated from the pool will be considered for historical use calculations until all tag transfers are recorded and all hardship requests have been resolved. (7-1-24)

d. After July 16, tags will be designated on a first-come, first-served basis. Any remaining tags will be distributed among all requesting operations with a maximum of two (2) tags per operation per round until all requested tags have been allocated. (7-1-25)

10. Objection to Calculation. If an outfitting operation believes the calculation is incorrect, it may object by filing a petition with the Board within fourteen (14) days from the date the notification was sent and in accordance with the Idaho Administrative Procedures Act. The petition will include any supporting information or documentation. (4-6-23)

a. All outfitting operations in the hunt in question will be notified of the petition. (4-6-23)

b. The outfitting operation bears the burden of establishing that the calculation was incorrect. (4-6-23)

11. Hardship Request. An outfitting operation may submit a written hardship request to maintain all or a portion of previous outfitted hunter tag use history when the outfitting operation shows good cause that its use of allocated designated tags was impacted by circumstances beyond the outfitting operation's control. The request must be submitted on or before a deadline set by the Board. The outfitting operation must provide information or documentation as requested by the Board to substantiate the request. (4-6-23)

12. Change in Operating Area or Owner of Business. When an outfitting operation is sold or when an operating area is adjusted through a sale and designated allocated tags are associated with the affected operating area, the associated designated allocated tags and tag use history will transfer to the new owner. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

259. RIVER, LAKE, AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.

For the express purpose of safeguarding the health, safety and welfare of the public, for the conservation of wildlife and range resources, and to enable the outfitted and non-outfitted public to enjoy the recreational value of Idaho's rivers, streams, lakes, reservoirs and other natural resources, the Board has discretion to limit the number of outfitters licensed on waters that lie totally or partially within the State of Idaho. Pursuant to Section 36-2107(e), Idaho Code, the Board may cooperate with federal and state government to evaluate relevant factors in decisions related to setting outfitter licensure limits on navigable waterways. The following rivers and streams or sections that lie totally or partially within the state of Idaho are open to commercial boating operations by outfitters and guides. (4-6-23)

01. Licensable Waters – River Sections (BL1) Blackfoot River through (PR1) Priest River – Table:

River/Section	Maximum No. Power	Maximum No. Float
(BL1) Blackfoot River - Blackfoot Reservoir/Government Dam to Trail Creek Bridge. For each license/permit issued, no more than two (2) boats per section/per day may be used by any outfitter at any one time in each of the following river sections: a) Blackfoot Reservoir/Government Dam to Sage Hen Flats/Cutthroat Campground b) Sage Hen Flats/Cutthroat Campground to Morgan Bridge c) Morgan Bridge to Trail Creek Bridge No outfitter may have more than six (6) boats on the BL1 in any one (1) day. OGLB licenses are for the entire BL1 segment; a section of BL1 cannot be separated from BL1 for the purposes of selling a portion of an outfitter's business.	none	2
(BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman. No overnight camping or walk-and-wade fishing allowed.	none	2
(BO1A) Boise River - Eckert Road Bridge to Main Street Bridge.	none	
(BO1B) Boise River - Main Street Bridge to West side of Garden City limits.	none	
(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. A maximum of two (2) outfitters may be licensed for fishing in addition to float boating. Each outfitter may use at any time a maximum of four (4) boats for boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	4
(CF1) Clark Fork River - Entire river upstream of a straight line extending north of county boat dock (near mouth of Johnson Creek) to Bear Paw Point (southwest tip of Denton Slough). Each outfitter may use at any one time a maximum of two (2) boats prior to the Friday preceding Memorial Day of each year, there is no limit thereafter.	2 outfitters for either power or float or combination thereof	

River/Section	Maximum No. Power	Maximum No. Float
(CF2) Clark Fork River - Entire river upstream of a straight line extending north of county boat dock (near mouth of Johnson Creek) to Bear Paw Point (southwest tip of Denton Slough) (boating limited to the Friday preceding Memorial Day through November 30)	2 outfitters for either power or float or combination thereof	
(CL1) Clearwater River - Lowell to the Lower Bridge at Kooskia. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. Fishing may not be conducted downstream from the Upper Bridge at Kooskia by CL1 outfitters. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5
(CL2) Clearwater River - The Upper Bridge at Kooskia to the Orofino Bridge. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	6	10
(CL3) Clearwater River - The Orofino Bridge to the mouth of the Clearwater River with the Snake River at Lewiston. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	10	10
* (NFCL) North Fork Clearwater River - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4
(CDNF) Headwaters of North Fork Coeur d'Alene - Including tributaries (Independence and Tee Pee Creeks) upstream from Devils Elbow Campground. Three (3) walk and wade only licenses. Up to four (4) clients on the river at one time per license.	none	none
(CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence. Fishing limit is two (2) float boats per license with a maximum of two (2) clients at a time per boat. Two (2) additional walk and wade licenses can be issued. Walk and wade limited to a maximum of two (2) clients at a time per license.	none	1
(CD2) Coeur d'Alene River - South Fork confluence downstream to Cataldo Mission Boat Ramp. Fishing limit is one (1) float boat per license with a maximum of two (2) clients or two walk and wade clients per license at a time. Walk and wade activities do not have to be initiated from a float boat.	none	1
(CD3) Lateral (Coeur d'Alene chain) Lakes - Connected by the Coeur d'Alene River. Cataldo Mission Boat Ramp to Highway 97 Bridge. A limit of one (1) power boat per license with a maximum of two (2) clients at a time or a limit of one (1) guide per license and two (2) float tubes at a time or two (2) clients walking and wading. The walk and wade activities must be associated with the power boating.	3	none
* (JB1) Jarbidge/Bruneau Rivers	none	4
(KO1) Kootenai River - Montana state line to Canada boundary	5	5

River/Section	Maximum No. Power	Maximum No. Float
(LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.	none	2
* (LO1) Lochsa River	none	5
(MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
* (OW1) Owyhee River - Nevada state line to Oregon state line or South Fork to confluence with Owyhee River and continuing on to a take-out point.	none	6
(PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN1A) Payette River, North Fork - Cascade City Park, ¼ mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from ¼ mile above to ¼ mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge	none	5
(PS1) Payette River, South Fork - Grandjean to Deadwood River	none	5
* (PS2) Payette River, South Fork - Deadwood River to Banks	none	5
(PA1) Payette River - Banks to Black Canyon Dam	none	5
(PO1) Pend Oreille River	5	5
(PR1) Priest River - Dickensheet Campground to Priest River City	none	2

(7-1-25)

02. Licensable Waters – River Sections (MF1) Middle Fork Salmon River through (SE2) Selway River – Table:

River/Section	Maximum No. Power	Maximum No. Float
(LS1) Little Salmon River – From Highway 95 bridge at Hazard Creek to confluence of the Main Salmon River. Annually, prior to May 15, portage of the amphitheater rapid on river right is required when anglers are present in the hole below the rapid. Closed for operating below mouth of the Rapid River in May through July. No fishing.	none	2
*##(MF1) Salmon River, Middle Fork - Boundary Creek to Cache Bar on the Salmon River	none	27
(SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6

River/Section	Maximum No. Power	Maximum No. Float
(SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	5
(SA3) Salmon River - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	6
(SA4A) Salmon River - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	5	11
(SA4B) Salmon River - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.	2	8
(SA5) Salmon River - North Fork to Corn Creek	3	9
*##(SA6) Salmon River - Corn Creek to Spring Bar Boat Ramp with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer.	14	31
* (SA7A) Salmon River - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./ Mountain Time daily between the Riggins City Boat Dock and Lucile.	10	26
* (SA7B) Salmon River - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp, open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer; and each power boat outfitter may use at any one time a maximum of two (2) boats for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Officer.	6	12
* (SA7C) Salmon River - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
*##(SA8) Salmon River - Hammer Creek to Heller Bar or the Idaho/Washington State line near Lewiston on the Snake River	15	35

River/Section	Maximum No. Power	Maximum No. Float
* (SE1) Selway River - Paradise Campground to Selway Falls	none	4
(SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5

(7-1-25)()

03. Licensable Waters – River Sections (SH1) Henry's Fork Snake River through (TE3) Teton River – Table:

River/Section	Maximum No. Power	Maximum No. Float
(SH1) Snake River, Henry's Fork - Henry's Lake Outlet to Hatchery Ford. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	7
(SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony. Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing, no more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Stone Bridge, Stone Bridge to Ashton Dam, and Ashton Dam to Chester Dam, and Chester Dam to St. Anthony, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	8

River/Section	Maximum No. Power	Maximum No. Float
<p>(SH3) Snake River, Henry's Fork - No more than three (3) boats for fishing may be used by an outfitter at any one (1) time in each of the following river sections:</p> <p>a) St. Anthony to Red Road Bridge Boat Access (i.e., Parker/Salem or Fort Henry) b) Red Road Bridge Boat Access to Warm Slough Boat Access c) Warm Slough Boat Access to Menan Boat Access</p> <p>No outfitter may have more than six (6) boats on the SH3 in any one (1) day.</p> <p>When permitted by the BLM and with the notification to and concurrence of the Board Executive Officer, each outfitter may be allowed adjustments to the maximum boat limits in order to accommodate non-fishing boating activities (e.g., canoeing, paddle boards, and kayaks) and hazardous excursions that are part of an outfitter's operating plan. These adjustments must be reviewed and approved annually.</p> <p>OGLB licenses are for the entire SH3 segment; a section of SH3 cannot be separated from SH3 for the purposes of selling a portion of an outfitter's business.</p>	none	4

River/Section	Maximum No. Power	Maximum No. Float
<p>(SS1) Snake River - South Fork - No more than four (4) boats per section/per day may be used by an outfitter at any one (1) time in each of the following river sections:</p> <p>a) Palisades Dam Boat Access to the Spring Creek Boat Access (Swan Valley Bridge) or Conant Boat Access. Exception: Not more than eight boats would be permitted between Spring Creek Boat Access and Conant Boat Access to allow for the flexibility to launch/ take-out boats.</p> <p>b) Spring Creek or Conant Boat Access to Fullmer Boat Access. Exception: Not more than eight (8) boats would be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m. due to overnight use at designated outfitter camps.</p> <p>c) Fullmer Boat Access to Byington Boat Access.</p> <p>d) Byington Boat Access to Lorenzo Boat Access.</p> <p>e) Lorenzo Boat Access to Menan Boat Access.</p> <p>Additionally, no outfitter may have more than twelve (12) boats on the SS1 in any one day.</p> <p>A one-time per year exception after July 15 may be granted from Conant Boat Access to Byington Boat Access that would allow two (2) additional boats per section to accommodate large client groups. During this one-time exception, if the two (2) additional boats do not accommodate the large client group, additional boats must come from slots allocated to other outfitters. The maximum daily boat limit for SS1 may not be exceeded. This would require written concurrence from the BLM/USFS and the Board Executive Officer.</p> <p>Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor.</p> <p>OGLB licenses are for the entire SS1 segment; a section of SS1 cannot be separated from SS1 for the purposes of selling a portion of an outfitter's business.</p>	None*	8**
<p>* Each licensed float boat outfitter may use one (1) supply boat (float or power) that does not carry clients. During periods of preparing overnight camps (i.e., setting up tents and portable toilet facilities, boating in grills and other cooking supplies) for the season, usually May or June of each year; and removing the same items listed above from overnight camps at the end of the season, usually October or November; multiple supply boats may be used.</p> <p>** One (1) license additional for waterfowl hunting covering both BLM and USFS managed lands and waters for the South Fork (Palisades Dam to Wolf Flats Boat Access may be issued. This license opportunity is in addition to the eight (8) float licenses and is limited to providing waterfowl hunting during waterfowl hunting season as defined by Idaho Fish and Game Rules and where no more than two (2) float or power boat boats per day per section a and b only can be used by the outfitter at any one time for that purpose. Fishing may not be provided or conducted unless the outfitter is also licensed and permitted as one (1) of the eight (8) outfitters addressed in this rule who may not provide hunting activities. This business opportunity may be sold separately.</p>		

River/Section	Maximum No. Power	Maximum No. Float
<p>(SN1) Snake River - For each license/permit issued, no more than four (4) boats per section/per day may be used by an outfitter at any one time in each of the following river sections:</p> <p>a) Menan Boat Access to Mike Walker Boat Access (includes Federally managed lands). b) Mike Walker Boat Access to Gem State Power Plant (includes non-Federal lands).</p> <p>Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor.</p> <p>OGLB licenses are for the entire SN1 segment; a section of SN1 cannot be separated from SN1 for the purposes of selling a portion of an outfitter's business.</p>	<p>3 outfitters either float or power or combination thereof</p>	
<p>(SN2) Snake River - Gem State Power Plant. Idaho Falls, downstream to headwaters of American Falls Reservoir. For each license/permit issued, no more than four (4) boats per section/per day may be used by any outfitter at any one time in each of the following river sections:</p> <p>a) Gem State Power Plant to Shelley/Firth b) Shelley/Firth to Porterville c) Porterville to Blackfoot (Boating limited, walk-wade if there is access) d) Blackfoot to Tilden Bridge e) Tilden Bridge to the headwaters of American Falls Reservoir</p> <p>No outfitter may have more than twelve (12) boats on the SN2 in any one day.</p> <p>OGLB licenses are for the entire SN2 segment; a section of SN2 cannot be separated from SN2 for the purposes of selling a portion of an outfitter's business.</p>	<p>3 outfitters either float or power or combination thereof</p>	

River/Section	Maximum No. Power	Maximum No. Float
<p>(SN3) Snake River - American Falls Dam to Massacre Rocks State Park. For each license/permit issued, no more than five (5) boats per section/per day may be used by any outfitter at any one time in each of the following river sections:</p> <p>a) American Falls Dam to Pipeline (includes federally and non- federally managed lands) b) Pipeline to Vista (includes federally and non- federally managed lands) c) Vista to Eagle Rock (includes non-federally managed lands) d) Eagle Rock to Massacre Rocks (includes non-federally managed lands)</p> <p>No outfitter may have more than ten (10) boats on the SN3 in any one day.</p> <p>Float boats may use motors (5HP or less) for downstream steerage only. Downstream steerage does not include holding or upstream travel of watercraft with a motor.</p> <p>Sturgeon Fishing: Pipeline to Massacre Rocks, no more than five (5) boats per section/per day may be used by any outfitter at any one time in each of the river sections between Pipeline to Massacre Rocks.</p> <p>American Falls Dam to Pipeline, one (1) boat within this section/two (2) weekdays per week/two (2) weekend days per month. Idaho Department of Fish and Game, Southeast Region (Pocatello) needs to be notified prior to Sturgeon Fishing.</p> <p>OGLB licenses are for the entire SN3 segment; a section of SN3 cannot be separated from SN3 for the purposes of selling a portion of an outfitter's business.</p>	3 outfitters either float or power or combination thereof	
(SN4) Snake River - Massacre Rocks State Park to Milner Dam	3	3
* (SN5) Snake River - Milner Dam to Star Falls	none	3
* (SN6) Snake River - Star Falls to Twin Falls	none	5
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir	5	none
* (SN12) Snake River - Hells Canyon Dam to Pittsburg Landing	18	15
* (SN13) Snake River - Hells Canyon Dam to Pittsburg Landing, two (2) one-day float trips only	none	2
(SN14) Snake River - Pittsburg Landing to <u>Heller Bar or the Idaho/Washington State Line near Lewiston. <i>Excludes the mouth of the Salmon River defined as a straight line perpendicular to flow from the most downstream point of land where the Salmon and Snake rivers merge.</i></u>	19	15

River/Section	Maximum No. Power	Maximum No. Float
(SN15) Snake River - Washington/Oregon state line to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters.)	
(SJ1) St. Joe River - St. Joe River Headwaters to Red Ives. No outfitted boating. One (1) walk and wade only fishing outfitter.	none 2	none
(SJ2) St. Joe River - Red Ives to Avery. In addition to one (1) float boat license, three (3) walk and wade only outfitters. No fishing from float boats, boat clients may fish via walk and wade.	none	1
(SJ3) St. Joe River - Avery to St. Joe City Bridge	none	2
(SJ4) St. Joe River - St. Joe City Bridge to Lake Coeur d'Alene	2	none
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge, motors not to exceed 10 hp	5 outfitters for either power or float or combination thereof	
(TE2) Teton River - Cache Bridge to Harrop Bridge, motors not to exceed 10 hp	6 outfitters for either power or float or combination thereof	

River/Section	Maximum No. Power	Maximum No. Float
<p>(TE3) Teton River - No more than two (2) boats per section/per day may be used by an outfitter at any one time in each of the following river sections: a), b), d), e) and f). No more than four (4) boats per section/per day may be used by an outfitter at any one time on river section c) and where two (2) boats from same outfitter must be spaced at three-hour (3) intervals:</p> <p>a) Harrop Bridge Boat Access to Felt Dam Boat Access. b) Felt Dam Boat Access to Spring Hollow Boat Access. c) Spring Hollow Boat Access to Teton Dam Site Boat Access. d) Teton Dam Site Boat Access to Hog Hollow Bridge Boat Access. e) Hog Hollow Bridge Boat Access to Teton Highway. f) Teton Highway to confluence with the Henry's Fork of the Snake River. Note: No boat access exists at the confluence with the Henry's Fork of the Snake River. Outfitters would utilize Hibbard Bridge or Warm Slough Access on SH3. No fishing on SH3.</p> <p>No outfitter may have more than eight (8) boats on the TE3 in any one day.</p> <p>Float boats may use motors not to exceed 10 hp in section a) (Harrop Bridge to Felt Dam Access) only. Float boats may use motors (5HP or less) for downstream steerage only in sections d), e) and f). Motors are not allowed in other sections. Downstream steerage does not include holding or upstream travel of watercraft with a motor.</p> <p>OGLB licenses are for the entire TE3 segment; a section of TE3 cannot be separated from TE3 for the purposes of selling a portion of an outfitter's business.</p>	none	5

* Classified rivers

Floatboat and powerboat outfitters on these sections are considered within their area of operations when hiking from the river or fishing in tributaries away from the river but does not include overnight activities. Conflicts with land-based outfitters will be handled on a case-by-case basis. (4-6-23)()

04. Other -- Table. The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho are open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	2
Dworshak Reservoir	7	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2
Lake Pend Oreille	11	2

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Priest Lake	5	2
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

(7-1-25)

05. Other Lakes and Reservoirs. All other Idaho lakes and reservoirs are limited to two (2) fishing outfitters with a maximum of two (2) boats (float or power) per outfitter. (7-1-25)

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 – RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-2501 (FEE RULE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Cost/Benefit Analysis \(CBA\)](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 67-4223 and 67-4249 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:

The Department adopted changes that remove outdated references, clarify unclear language, update fees to align with economic climate. The Department added language to clarify authority for enforcing board policy.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 3, 2025, Idaho Administrative Bulletin, Vol. 25-9, pages 57-63.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

All fees listed below are maximum fees. The board has the authority to set actual fees under Idaho Code 67-4223. Proposed fees maximums are being recommended to address rising service, maintenance, electricity, and water costs. All fees, except for campsite fees, have been charged at the maximum rate for many years and do not keep up with the rising costs to provide services.

FEE SCHEDULE: FEE COLLECTION SURCHARGE.

Category	Fee
Fee Collection Surcharge	\$ 35 /day

FEE SCHEDULE: ENTRANCE.

Category	Fee
Daily MVEF	\$ 10 /day/vehicle
Annual MVEF	\$ 100 /year/vehicle
Annual MVEF Replacement	\$5/vehicle
Commercial Motor Vehicle Entrance	\$ 100 /day/vehicle
Admission	\$20/person

FEE SCHEDULE: INDIVIDUAL CAMPSITE OR FACILITY.

Category	Fee
Basic Campsite: site may have water	\$ 42 /day
Electric Campsite: site has electricity and may have water	\$ 56 /day
Full Hook-up Campsite: site has electricity, water, and sewer	\$ 60 /day
Companion Campsite: site has electricity and may have water	\$ 112 /day
Hike-in/Bike-in Campsite	\$12/person/day
Extra Vehicle	\$8/day
Overnight Use of Parking Areas	\$20/night/vehicle, trailer, or vehicle with attached trailer
Use of Campground Showers by Non-campers	\$ 5 /person/day
Camping Cabins and Yurts	\$500/night
Each additional person above the base occupancy of camping cabin or yurt	\$12/person/night
Pets	\$15/pet/night
Cleaning	\$50

FEE SCHEDULE: GROUP CAMPSITE OR FACILITY.

Category	Fee
Reservation Service Charge (non-transferable, non-refundable)	\$ 50
Group use of day use facility, overnight facility, or group camp (set by park or program manager)	Varies
Each additional person above the base occupancy of the overnight facility	\$12/person/night

FEE SCHEDULE: BOATING FACILITIES.

Category	Fee
Vessel Launching	MVEF or \$ 10 /day/vessel
Overnight moorage at dock or buoy, person staying at campsite or facility and not staying on the vessel	\$ 10 /night
Overnight moorage at dock, person staying on vessel	\$10/night
Overnight moorage at buoy, person staying on vessel	\$ 10 /night

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 impact to the general fund.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Seth Hobbs, (208) 514-2427, seth.hobbs@idpr.idaho.gov.

DATED this 18th day of November, 2025.

Seth Hobbs
Idaho Department of Parks and Recreation
5657 Warm Springs Ave.
Boise, ID 83716
Phone: (208) 514-2427

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. This action is authorized pursuant to Sections 67-4223 and 67-4249 Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

<p>Thursday, September 04, 2025 2:00 p.m. (MT)</p>
<p>Meeting held via Microsoft Teams:</p> <p>Join the meeting now Meeting ID: 274 142 798 698 2 Passcode: Fa69cJ6W</p> <p>Dial in by phone +1 208-985-2810,,201008657# United States, Boise Phone conference ID: 201 008 657#</p> <p>Join on a video conferencing device Tenant key: idahogov@m.webex.com Video ID: 119 579 022 0</p>

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 Department is considering changes that remove outdated references, clarify unclear language, update fees to align with economic climate. The Department is adding language to clarify authority for enforcing board policy. It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated

rulemaking process. The Department intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority.

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

- All fees listed below are maximum fees. The board has the authority to set actual fees under Idaho Code 67-4223.
- Proposed fees maximums are being recommended to address rising service, maintenance, electricity, and water costs.
- All fees, except for campsite fees, have been charged at the maximum rate for many years and do not keep up with the rising costs to provide services.

FEE SCHEDULE: FEE COLLECTION SURCHARGE.

Category	Fee
Fee Collection Surcharge	\$25 35/day

FEE SCHEDULE: ENTRANCE.

Category	Fee
Daily MVEF	\$7 10/day/vehicle
Annual MVEF	\$80 100/year/vehicle
Annual MVEF Replacement	\$5/vehicle
Commercial Motor Vehicle Entrance	\$50 100/day/vehicle
Admission	\$20/person

FEE SCHEDULE: INDIVIDUAL CAMPSITE OR FACILITY.

Category	Fee
Basic Campsite: site may have water	\$34 42/day
Electric Campsite: site has electricity and may have water	\$42 56/day
Full Hook-up Campsite: site has electricity, water, and sewer	\$46 60/day
Companion Campsite: site has electricity and may have water	\$84 112/day
Hike-in/Bike-in Campsite	\$12/person/day
Extra Vehicle	\$8/day
Overnight Use of Parking Areas	\$20/night/vehicle, trailer, or vehicle with attached trailer
Use of Campground Showers by Non-campers	\$3 5/person/day
Camping Cabins and Yurts	\$500/night
Each additional person above the base occupancy of camping cabin or yurt	\$12/person/night
Pets	\$15/pet/night
Cleaning	\$50

FEE SCHEDULE: GROUP CAMPSITE OR FACILITY.

Category	Fee
Reservation Service Charge (non-transferable, non-refundable)	\$ 25 50
Group use of day use facility, overnight facility, or group camp (set by park or program manager)	Varies
Each additional person above the base occupancy of the overnight facility	\$12/person/night

FEE SCHEDULE: BOATING FACILITIES.

Category	Fee
Vessel Launching	MVEF or \$ 7 10/ day/vessel
Overnight moorage at dock or buoy, person staying at campsite or facility and not staying on the vessel	\$ 9 10/night
Overnight moorage at dock, person staying on vessel	\$10/night
Overnight moorage at buoy, person staying on vessel	\$ 9 10/night

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 as a result of this rulemaking:

There is no impact to the General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 07, 2025, Idaho Administrative Bulletin, Vol. 25-05, page 66. This chapter was erroneously labeled as a ZBR chapter in Idaho Administrative Bulletin, Vol. 25-05. This chapter is NOT a ZBR chapter.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text, contact Seth Hobbs, (208) 514-2427, seth.hobbs@idpr.idaho.gov. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the department's website at the following web address: <https://parksandrecreation.idaho.gov/>.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2025.

DATED this 2nd day of July, 2025.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 26-0120-2501

**26.01.20 – RULES GOVERNING THE ADMINISTRATION OF PARK
AND RECREATION AREAS AND FACILITIES**

075. AUTHORITY CONFERRABLE ON EMPLOYEES - ENFORCEMENT.

01. Park or Program Manager Authority. A park or program manager may enforce all rules, deny entry to, or reservation of, any department day use area, campsite, or facility, to any individual or group whose prior documented behavior has violated department rules, whose activities are incompatible with operations, or whose activities will violate department rules. A park or program manager may enforce board policies and establish interim directives which apply to the public safety, use, and enjoyment or protection of natural, cultural, or other resources within lands administered by the department. (7-1-24)(____)

(BREAK IN CONTINUITY OF SECTIONS)

204. WINTER RECREATION PROGRAMS.

The department manages two winter recreation programs: the winter access program which provides for recreation within state parks and the winter recreational parking pass program which provides for recreation outside of state parks. (3-18-22)

01. Winter Access Program. The purpose of the winter access program is to fund state park services such as maintaining parking areas, providing warming facilities and winter-accessible restroom facilities, regularly grooming trails, signing ski routes, and having ski patrol services available. Any person using winter access program facilities must purchase and properly display a daily or season pass. Winter access program areas are designated by board policy. (3-18-22)

02. Winter Recreational Parking Permits. The purpose of the winter recreational parking permit program, known as “Park N Ski”, is to designate winter recreational parking locations and use the funds from permit sales to maintain the designated parking areas. Winter recreational parking areas are designated by board policy. (3-18-22)

~~a. Permit. Any person parking a vehicle in a designated winter recreation parking location must purchase and properly display a winter recreation parking permit, except, snowmobilers may park their transportation vehicles in a designated parking area without displaying a parking permit when a current snowmobile validation sticker is affixed to the snowmobile.~~ (3-18-22)

~~b.a.~~ **a.** Designation of Primary Use Area. The purchaser of a permit will be allowed to designate on the appropriate form, a primary winter recreational parking use area. The full portion of fees not allocated to the vendor or the department will be apportioned to the designated use area. Should a purchaser fail to designate a primary use area, those fees will be apportioned to a use area determined by the department. (3-18-22)

~~b.b.~~ **b.** Parking Restrictions. No person may park a vehicle in a designated winter recreational parking location in such a manner as to deprive other users of reasonable access to all or part of the remainder of that parking area. (3-18-22)

~~c.~~ **c.** Permit Location. An annual winter recreational parking permit must be permanently affixed on the front window of the vehicle nearest the driver’s seat. A temporary three-day permit must be displayed on the

~~vehicle's dashboard with the dated side displayed to the front of the vehicle in such a manner that it is completely visible and kept in legible condition.~~ (3-18-22)

~~ec.~~ Replacement Permits. No person may file or attempt to file for a duplicate annual winter recreational parking permit unless the original permit was stolen or destroyed. A temporary three (3) day winter recreational parking permit which is lost, stolen, or destroyed will not be reissued. (3-18-22)

~~fd.~~ Transfer. No person may transfer or attempt to transfer an annual winter recreational parking permit decal or a temporary three-day permit from the vehicle upon which it was legally permitted and placed. (3-18-22)

~~g.~~ Permit Expiration. The annual winter recreational parking permit is valid until the expiration date printed on the decal. The temporary winter recreational parking permit is valid for only the three (3) consecutive days written on the permit. (3-18-22)

(BREAK IN CONTINUITY OF SECTIONS)

245. FEE SCHEDULE: FEE COLLECTION SURCHARGE.

Category	Fee
Fee Collection Surcharge	\$25 35/day

(3-18-22)()

246. (RESERVED)

247. FEE SCHEDULE: ENTRANCE.

Category	Fee
Daily MVEF	\$7 10/day/vehicle
Annual MVEF	\$80 100/year/vehicle
Annual MVEF Replacement	\$5/vehicle
Commercial Motor Vehicle Entrance	\$60 100/day/vehicle
Admission	\$20/person

(3-18-22)()

248. -- 249. (RESERVED)

250. FEE SCHEDULE: INDIVIDUAL CAMPSITE OR FACILITY.

Category	Fee
Basic Campsite: site may have water	\$34 42/day
Electric Campsite: site has electricity and may have water	\$42 56/day
Full Hook-up Campsite: site has electricity, water, and sewer	\$46 60/day
Companion Campsite: site has electricity and may have water	\$84 112/day
Hike-in/Bike-in Campsite	\$12/person/day

Category	Fee
Extra Vehicle	\$8/day
Overnight Use of Parking Areas	\$20/night/vehicle, trailer, or vehicle with attached trailer
Use of Campground Showers by Non-campers	\$3 5/person/day
Camping Cabins and Yurts	\$500/night
Each additional person above the base occupancy of camping cabin or yurt	\$12/person/night
Pets	\$15/pet/night
Cleaning	\$50

(3-18-22)()

251. -- 253. (RESERVED)

254. FEE SCHEDULE: GROUP CAMPSITE OR FACILITY.

Group Facility Fees. Reservation service fee, designated group campground or facility.

Category	Fee
Reservation Service Charge (non-transferable, non-refundable)	\$25 50
Group use of day use facility, overnight facility, or group camp (set by park or program manager)	Varies
Each additional person above the base occupancy of the overnight facility	\$12/person/night

(3-18-22)()

255. (RESERVED)

256. FEE SCHEDULE: BOATING FACILITIES.

Boating Facilities:

Category	Fee
Vessel Launching	MVEF or \$7 10/day/vessel
Overnight moorage at dock or buoy, person staying at campsite or facility and not staying on the vessel	\$9 10/night
Overnight moorage at dock, person staying on vessel	\$10/night
Overnight moorage at buoy, person staying on vessel	\$9 10/night

(3-18-22)()

(BREAK IN CONTINUITY OF SECTIONS)

276. FEE SCHEDULE: RESERVATIONS.

Category	Fee
Reservation Service Charge, individual campsite or facility	Current RV sticker or \$10/campsite or facility
Reservation Service Charge, group reservation for campsite or facility	\$25
Modification	\$10/campsite or facility
Cancellation, individual campsite or facility, prior to check-in time	\$10/campsite or facility
Cancellation, individual campsite or facility, after check-in time	First night's fee
Cancellation, special use campsite or facility, more than 21 days in advance	\$50/facility
Cancellation, <u>special use campsite</u> , individual campsite or facility, 21 days or less in advance	First night's or daily usage fee

(3-18-22)()

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES
37.02.04 – SHOSHONE BANNOCK TRIBAL WATER SUPPLY BANK RULES
DOCKET NO. 37-0204-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 42-1762](#), Idaho Code, and [Article 7.3](#) of the 1990 Fort Hall Indian Water Rights Agreement.

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:

Adoption of the pending rule is necessary for a more concise rule of the operation of the Shoshone-Bannock Water Bank without redundant or duplicative language. The pending rule is consistent with the language, spirit, and intent of the 1990 Fort Hall Indian Water Rights Agreement, including incorporating by reference relevant definitions and the entirety of Article 7.3 covering the creation and operation of the Shoshone-Bannock Water Bank.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, pages 384–389](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: 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.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Erik Boe at Erik.Boe@idwr.idaho.gov, (208) 287-4800.

DATED this 7th day of November, 2025.

Erik Boe, Resource Protection Bureau Chief, Rules Review Officer
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720-0098
Phone: (208) 287-4800

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 42-1762](#), Idaho Code, and Article 7.3 of the 1990 Fort Hall Indian Water Rights Agreement. This action is consistent with [Executive Order 2020-01: Zero-based Regulation](#), which directs agencies to review all administrative rules over the five-year period of 2021-2025 (completing review no later than Idaho Legislature sine die 2026).

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 15, 2025.

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 Idaho Department of Water Resources (IDWR) initiated this rulemaking in compliance with Executive Order No. 2020-01, Zero-Based Regulation (ZBR) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/rulemaking_templates/ZBR%20Rule%20Review%205%20Year%20Schedule.pdf. This rule chapter was scheduled for review in 2025.

With this Notice, IDWR proposes a rewritten chapter of Shoshone Bannock Tribal Water Supply Bank rules. The rewritten chapter is approximately 43% shorter than the existing Shoshone Bannock Tribal Water Supply Bank rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule are largely a result of a more comprehensive incorporation by reference to the 1990 Fort Hall Agreement which resulted in a reduction in word count from the definitions and general provisions in the rule already stated in the agreement. The changes also include shortening the title and subsequent reference to the Shoshone Bannock Water Bank to mirror the term used in the agreement.

The development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2025-2026/tribal-WSB-rules/>. On the same website, IDWR also developed and published rulemaking support documents, which provide IDWR's recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

After consideration of public comments received in response to this Proposed Rule, IDWR will present the final rule text to the Idaho Legislature in the early spring of 2026.

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 Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2nd, 2025 Idaho Administrative Bulletin, [Volume 25-4, page 41](#).

INCORPORATION BY REFERENCE: Pursuant to [Section 67-5229\(2\)\(a\)](#), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Specific articles, including some definitions, of the [1990 Fort Hall Agreement](#) were incorporated by reference into this rule. Incorporation by reference is necessary to enhance the rule based on the terms of agreement and articles within the 1990 Fort Hall Agreement which provide authority and structure for the Shoshone Bannock Tribes to operate a water bank and rental pool, including the adoption of rules for the operation of their water bank, for rentals of their contracted storage water outside the boundaries of the Reservation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Erik Boe at Erik.Boe@idwr.idaho.gov, (208) 287-4800.

Anyone may submit written comments regarding this proposed rulemaking by mail to the address below or by email sent to rulesinfo@idwr.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 29th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 37-0204-2501

37.02.04 – SHOSHONE-BANNOCK-TRIBAL WATER-SUPPLY BANK RULES

000. LEGAL AUTHORITY ~~(RULE 0)~~.

~~These rules have been adopted pursuant to Sections 42-1761 to 42-1765, Idaho Code, Idaho Water Resources Board Water Supply Bank Rule 40 and Article 18.1.3 of “The 1990 Fort Hall Indian Water Rights Agreement” (Agreement) to assure orderly operation of the Shoshone-Bannock Tribal Water Supply Bank (as defined in Subsection 010.01).~~
(3-31-22)()

001. TITLE AND SCOPE ~~(RULE 1)~~.

01. Purpose. ~~The purpose of establishing this Shoshone-Bannock Water Supply Bank is to allow for rental for any beneficial use all or any part of the water accruing to the federal contract storage rights in the American Falls Reservoir and the Palisades Reservoir as described in Article 7.3.1 of the Agreement not used on Indian lands or otherwise required to fulfill the exchange established by Article 8 of the Michaud Contract.~~ These rules set the procedures for the Shoshone-Bannock Water Bank to provide for rental of tribal stored water outside the reservation pursuant to Sections 42-1761 through 42-1766, Idaho Code, and operated consistent with IDAPA 37.02.03.040, and Article 7.3 of the Agreement.
(3-31-22)()

02. Intent. ~~These rules are not intended to prohibit the Tribes from renting the storage contract water from Palisades and American Fall Reservoirs for any beneficial use within the exterior boundaries of the Reservation.~~
(3-31-22)

03. Agreement. ~~The Idaho Water Resources Board or its successors, pursuant to Section 7.3.6 of the Agreement, agrees not to take any action that will interfere with the nature, scope, spirit and purposes of the Shoshone-Bannock Water Supply Bank.~~
(3-31-22)

002. INCORPORATION BY REFERENCE.

This chapter incorporates by reference Articles 4.1, 4.8, 4.19, 4.22, 4.23, 4.37, 4.38, 4.43, 4.44, 4.47, 4.49, 4.55, 4.58, 7.3, and 18.1 of “The 1990 Fort Hall Indian Water Rights Agreement” (<https://idwr.idaho.gov/wp-content/uploads/sites/2/adjudication/1990-Fort-Hall-Indian-Water-Rights-Agreement.pdf>). ()

0023. -- 009. (RESERVED)

010. DEFINITIONS ~~(RULE 10)~~.

In addition to the definitions set forth below, the definitions in “The 1990 Fort Hall Indian Water Rights Agreement” the Agreement are incorporated to the extent they are applicable. (3-31-22)()

01. Acre Foot. The amount of water necessary to cover one (1) acre of land to a depth of one (1) foot and is equivalent to forty-three thousand five hundred sixty (43,560) cubic feet or three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons of water. (3-31-22)

021. Agreement. “The 1990 Fort Hall Indian Water Rights Agreement” as ratified by the Shoshone-Bannock Tribes in June, 1991, and as approved by the United States in Public Law 101-602, 104 Stat. 3061 on November 16, 1990, and by the state of Idaho in 1991 Idaho Session Laws Chapter 228 at 547. (3-31-22)

03. Annual. ~~The period starting on the day following the first Monday in March of each year and ending on the first Monday of March of the succeeding year.~~ (3-31-22)

04. Bank. ~~The “Shoshone-Bannock Tribal Water Supply Bank.”~~ (3-31-22)

05. Beneficial Use. ~~Any use of water for DCMI, irrigation, hydropower generation, recreation, stock watering, fish propagation and instream flow uses as well as any other uses that provide a benefit to the user of the water.~~ (3-31-22)

06. Bureau. ~~The United States Department of Interior Bureau of Reclamation.~~ (3-31-22)

072. Chairperson. The person selected by the Tribal Rental Pool Committee to be the head of the Committee. (3-31-22)

083. Committee. The Tribal Rental Pool Committee. (3-31-22)

094. Council. The Fort Hall Business Council. (3-31-22)

10. IDWR. ~~The Idaho Department of Water Resources an executive agency of the state of Idaho created by Section 42-1701, Idaho Code, or any successor agency.~~ (3-31-22)

11. IWRB. ~~The Idaho Water Resource Board an agency constituted in accordance with Idaho Const. art. XV, Section 7, or any successor agency.~~ (3-31-22)

12. Rent. ~~A temporary legal conveyance by the Tribes of the right to use storage water pursuant to Section 42-1761, Idaho Code, for a fixed period of time during which ownership of the federal contract storage right is retained for the benefit of the Tribes.~~ (3-31-22)

1305. Rental Pool. The Tribal stored water assigned to and rented from the Bank. (3-31-22)()

1406. Renter. The person or entity renting water from the rRental pPool. (3-31-22)()

15. Reservation. ~~The Fort Hall Indian Reservation.~~ (3-31-22)

16. Reservation Watermaster. ~~The Tribal Water Engineer or any successor designated by the Tribes to administer the Tribal water rights under the Tribal Water Code.~~ (3-31-22)

17. Snake River Watermaster. ~~The watermaster of Water District 01 or any successor.~~ (3-31-22)

~~1807.~~ **Tribal Stored Water.** The storage water accruing to the federal contract storage space identified in Article 7.3.1 of the Agreement. (3-31-22)

~~19.~~ **~~Tribal Water Engineer.~~** The Tribal officer or any successor designated to administer the Tribal Water Code. (3-31-22)

~~20.~~ **~~Tribes.~~** The Shoshone-Bannock Tribes. (3-31-22)

011. -- 024. (RESERVED)

025. **GENERAL (RULE 25).**

~~01.~~ **~~Priority of Use.~~** Before stored water is assigned to the rental pool, Tribal stored water shall be maintained and made available for Tribal uses as determined by the Council and to meet the commitment of the Tribes under Article 8 of the Michaud Contract. The water is to be rented for beneficial use and may be rented outside the Reservation subject to the provisions of Rule 45 of these Water Supply Bank Rules. (3-31-22)

~~02.~~ **~~Bank Operation.~~** The operation of the Bank shall be consistent with the Agreement. The Bank shall be for the exclusive purpose of rental of Tribal stored water. (3-31-22)

~~03.~~ **~~Authority of Bank.~~** The Shoshone-Bannock Water Supply Bank is created pursuant to the provisions of the following Sections 42-1761, 42-1762, 42-1763, 42-1764, and 42-1765, Idaho Code. (3-31-22)

~~04.~~ **~~Incorporation of Articles.~~** These rules incorporate by reference the provisions set forth in Article 7.3.5, 7.3.10 and 7.3.11 of the Agreement. (3-31-22)

~~051.~~ **~~Consistency.~~** The operation of the Bank ~~shall~~ will be consistent with provisions of the Tribes' spaceholder contracts with the United States. (3-31-22)()

~~062.~~ **~~Storage Water.~~** Tribal stored water rented from the Rental pPool ~~shall~~ will be deemed storage water of the renter during the term of the approved rental. (3-31-22)()

~~073.~~ **~~Evaporation Losses.~~** Evaporation losses associated with any Tribal stored water assigned to the Bank ~~shall~~ Rental Pool will be charged to storage space from which the water is released. (3-31-22)()

026. -- 029. (RESERVED)

030. **MANAGEMENT (RULE 30).**

~~01.~~ **~~Bank Operation.~~** The Bank ~~shall~~ will be operated by the ~~Tribal Rental Pool~~ Committee in conformity with these rules and the Agreement. (3-31-22)()

~~02.~~ **~~Committee Composition.~~** The Tribal Rental Pool Committee shall be composed of the following members: the Bureau Snake River Area Manager, the Snake River Watermaster, the Tribal Reservation Watermaster and three (3) individuals designated by the Council. The composition of this Committee shall only be changed as provided in the Agreement. (3-31-22)

~~032.~~ **~~Chairperson Selection.~~** The Committee ~~shall~~ will select its own Chairperson from the Committee as determined by a majority vote of the Committee. Each term of the Chairperson of the Committee ~~shall~~ will not exceed four (4) years; however, nothing precludes the same person from being re-elected as Chairperson by the members for more than one (1) term. (3-31-22)()

~~043.~~ **~~Committee Responsibilities.~~** The ~~Tribal Rental Pool~~ Committee shall have the following responsibilities: (3-31-22)()

a. The Committee ~~shall~~ will ensure that the Bank is operated in compliance with these rules and the Agreement and ~~shall~~ will establish such other policies for the operation of the Bank as are consistent with these rules

and the Agreement. (3-31-22)()

b. The Committee ~~shall~~ will advise the ~~Fort Hall Business~~ Council on water banking activities upon request. (3-31-22)()

~~054.~~ **Chairperson Duties.** The Chairperson ~~shall~~ will be responsible for such duties as are delegated by the Committee. (3-31-22)()

031. -- 034. (RESERVED)

035. ASSIGNMENTS OF TRIBAL STORED WATER TO THE ~~BANK (RULE 35)~~ RENTAL POOL.

01. Assignments of Stored Water. Whenever Tribal stored water is made available for rental, it will be deemed that it is the intention of the Tribes to assign sufficient space to yield the amount of water designated. Assignments of Tribal stored water to the ~~Bank Rental Pool~~ should identify the reservoir from which the assignment is being made. ~~If no reservoir is identified, the Tribal stored water shall be deemed to come first from the Palisades Reservoir and secondly from American Falls Reservoir to the Committee.~~ (3-31-22)()

~~**02. Assignment Forms.** Assignments of Tribal stored water to the Bank shall be in writing on forms provided by the Committee and shall bear the date received by the Chairperson. Copies of all assignments shall be provided to all the Committee members and a copy shall be provided to the Council.~~ (3-31-22)

~~**03. Term of Assignment.** Assignments of Tribal stored water may be made for any period of time.~~ (3-31-22)

~~**042. Control of Assigned Water.** All Tribal stored water assigned to the ~~Bank Rental Pool~~ by the Council ~~shall~~ will be under the control of the Committee for the duration of the term of the assignment to be rented in accordance with these rules and the terms of the assignment.~~ (3-31-22)()

~~**05. Space Assignment.** Whenever Tribal stored water is made available for rental, it shall be deemed that it is the intention of the Tribes to assign sufficient space to yield the amount of water designated.~~ (3-31-22)

~~**063. Return of Unrented Water.** Any Tribal stored water assigned to the ~~Bank~~ Rental Pool that is not rented ~~shall~~ will be returned to the credit of the Tribes.~~ (3-31-22)()

036. -- 039. (RESERVED)

040. RENTAL OF WATER FROM THE RENTAL POOL ~~(RULE 40)~~.

~~**01. Rental Priorities.** Tribal stored water assigned to the Bank shall be made available for rental in accordance with the priorities established by the Committee, provided that the Fort Hall Indian Irrigation Project water users shall have a right of first refusal to rent any tribal stored water assigned to the rental pool. Notice shall to the Fort Hall Indian Irrigation Project of Tribal stored water assigned to the Rental Pool available for rental will be given in accordance with procedures established by agreement of the Tribes and the Fort Hall Indian Irrigation Project water users.~~ (3-31-22)()

~~**02. Rental Application.** A request to rent water ~~shall~~ will be in writing on a form provided by the Committee, or as a drafted rental agreement provided by the Reservation Watermaster. A copy of the request ~~shall~~ will be provided to each member of the Committee for consideration of approval and forwarded to the Council.~~ (3-31-22)()

~~**03. Content of Approval Rental Agreements.** All approved rental agreements ~~shall~~ will contain the following information:~~ (3-31-22)()

a. Name and address of the renter, (3-31-22)

b. Amount of tribal stored water obligated, (3-31-22)

- c. The beneficial use, (3-31-22)
- d. The rental price, (3-31-22)
- e. The legal description of the point of diversion and place of use will be identified by the end of the accounting year for water district 01, (3-31-22)(____)
- f. The duration of the approval rental agreement, (3-31-22)(____)
- g. The understanding of responsibilities and exposures if reservoir space does not fill at some time during the term of the approved rental agreement. (3-31-22)(____)
- h. The understanding that transportation losses occurring between the reservoir and the place of use shall will be deducted from water delivered under the approved rental agreement. (3-31-22)(____)

041. -- ~~044.~~ (RESERVED)

~~045. GEOGRAPHIC SCOPE OF RENTING (RULE 45).~~

~~01. Palisades Storage.~~ Tribal stored water from the Palisades Reservoir may be rented for use within the Snake River Basin above Milner Dam. (3-31-22)

~~02. American Falls Storage.~~ Tribal stored water from the American Falls Reservoir may be rented for use within the Snake River Basin within the state of Idaho. (3-31-22)

~~046.~~ 049. (RESERVED)

050. RENTAL PAYMENTS ~~(RULE 50).~~

01. Rental Price. The price for rental Tribal stored water from the bank shall will be set by the Council. (3-31-22)(____)

02. Management of Rental Income. Rental payments shall will be made directly to the Council. The Council shall will be responsible for the management of the rental income. ~~The Council shall give written notice to the Committee that payment was properly received and that water may be released under the rental agreement.~~ If payments are made over time, and payment is not received by the Council, the Council shall will promptly notify the Committee to hold back ~~on the~~ release of the water until payment is properly received. (3-31-22)(____)

051. -- 054. (RESERVED)

055. TERM OF RENTALS ~~(RULE 55).~~

~~The Committee may rent tribal stored water for a period of up to five (5) years.~~ Any request to rent water below Milner Dam for a period in excess of five (5) years shall will be subject to negotiations between the Tribes and the IWRB Idaho Water Resource Board consistent with IDAPA 37.02.03.040.01.g. (3-31-22)(____)

056. -- 059. (RESERVED)

060. LIABILITY ~~(RULE 60).~~

Nothing in these rules shall will be construed as modifying or altering any provisions of the Agreement, including but not limited to Article 7.3.12. (3-31-22)(____)

061. -- 999. (RESERVED)

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES

37.03.07 – STREAM CHANNEL ALTERATION RULES

DOCKET NO. 37-0307-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 42-1805\(8\)](#), 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:

Adoption of the pending rule removes unnecessary language, removes outdated minimum standards, and adds current industry standards so that permitting can be expedited under minimum standards.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, pages 390–421](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

As authorized in [Section 42-221\(M\)](#), Idaho Code, the fee(s) in this rulemaking consist of a twenty-dollar (\$20.00) fee for each stream channel alteration permit.

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 WITH TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Erik Boe at Erik.Boe@idwr.idaho.gov, (208) 287-4800.

DATED this 7th day of November, 2025.

Erik Boe, Resource Protection Bureau Chief, Rules Review Officer
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720-0098
Phone: (208) 287-4800

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 42-1805\(8\)](#), 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 15, 2025.

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 Idaho Department of Water Resources (IDWR) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/rulemaking_templates/ZBR%20Rule%20Review%205%20Year%20Schedule.pdf. This rule chapter was scheduled for review in 2025.

With this Notice, IDWR proposes a rewritten chapter of stream channel alteration rules. The rewritten chapter is approximately 24% shorter than the existing stream channel alteration rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule come through a combination of (a) removal of obsolete (such as outdated and rarely utilized Minimum Standards), (b) removal of unnecessary provisions (such as rules duplicative with statutes), and (c) modifications to existing rules regulating improving its effectiveness (such as rules updates to Definitions and Minimum Standards).

The development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2025-2026/stream-channel-rules/>. On the same website, IDWR also developed and published rulemaking support documents, which provide IDWR's recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

After consideration of public comments received in response to this Proposed Rule, IDWR will present the final rule text to the Idaho Legislature in the early spring of 2026.

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

Stream Channel Alteration permit fees are nominal (\$20 per permit application), and are established by statute, Idaho Code § [42-221\(M\)\(3\)](#). Rule modifications will not include new fees or changes to fees set by statute.

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: N/A.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2, 2025 Idaho Administrative Bulletin, [Vol. 25-4, page 43](#).

INCORPORATION BY REFERENCE: Pursuant to [Section 67-5229\(2\)\(a\)](#), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Erik Boe at Erik.Boe@idwr.idaho.gov, (208) 287-4800.

Anyone may submit written comments regarding this proposed rulemaking by mail to the address below or by email sent to rulesinfo@idwr.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 29th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 37-0307-2501

37.03.07 – STREAM CHANNEL ALTERATION RULES

000. LEGAL AUTHORITY ~~(RULE 0)~~.

~~The purpose of these rules and minimum standards is to specify procedures for processing and considering applications for stream channel alterations under the provisions of Title 42, Chapter 38~~ Section 42-3803, Idaho Code. (3-18-22)()

001. ~~TITLE AND SCOPE (RULE 1)~~.

~~01. Title.~~ These rules are titled IDAPA 37.03.07, “Stream Channel Alteration Rules.” (3-18-22)

~~02. Scope.~~ The minimum standards are This chapter is intended to enable the Director to expedite the processing, in a short period of time, those of applications which are of a common type and which do not propose alterations which will be a hazard to the stream channel and its environment. ~~It is intended that these rules and minimum standards be administered in a reasonable manner, giving due consideration, to all factors affecting the stream and adjacent property.~~ (3-18-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS ~~(RULE 10)~~.

01. Alteration. To obstruct, diminish, destroy, alter, modify, relocate or change the natural existing shape of the channel or to change the direction of flow of water of any stream channel within or below the mean high water mark. It includes removal of material from the stream channel and emplacement of material or structures in or across the stream channel where the material or structure has the potential to affect flow in the channel as determined by the Director. (3-18-22)

02. Applicant. Any individual, partnership, company, corporation, municipality, county, state or federal agency, their agent, or other entity proposing to alter a stream channel or actually engaged in constructing a channel alteration, whether authorized or not. (3-18-22)

03. Base Flood Elevation. ~~The Base Flood (BF) is referred to as the one hundred (100) year flood and is a measure of flood magnitude based on probability. The BF has a one percent chance of occurring or being exceeded in any given year, with the Base Flood Elevation (BFE) being the level of flooding reached during the BF or the one hundred (100) year flood event.~~ The elevation of the surface water resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year. (3-18-22)()

- ~~04. Board.~~ The Idaho Water Resource Board. (3-18-22)
- ~~04. Bridge.~~ Any structure with a hydraulic opening width of ten (10) feet or greater measured normal to the channel. ()
- ~~05. Continuously Flowing Water.~~ A sufficient flow of water annually that could provide for migration and movement of fish, and excludes those reaches of streams which, in their natural state, normally go dry at the location of the proposed alteration fish habitat. IDWR/Idaho Department of Water Resources (Department) will assume, subject to information to the contrary, that the USGS quadrangle maps accurately depict whether a stream reach is continuously flowing, at the location of the proposed alteration. Such exclusion does not apply to minor flood This definition includes high flow channels that are a part of a stream which is continuously flowing in the reach where the alteration is located may be dry at the location of the alteration but flow annually. Also, such exclusion does not This definition also apply ies to streams which may be dry as a result of upstream diversion or storage of water. (3-18-22)()
- ~~06. Department.~~ The Idaho Department of Water Resources. (3-18-22)
- ~~07. Drop Structures, Sills and Barbs.~~ Physical obstructions placed within a stream channel for the purpose of stabilizing the channel by decreasing stream gradient and velocity and by dissipating stream energy. (3-18-22)
- ~~08. Director.~~ The Director of the Idaho Department of Water Resources. (3-18-22)
- ~~06. Culvert.~~ Any structure with a hydraulic opening width less than ten (10) feet measured normal to the channel. ()
- ~~07. Debris.~~ Any pieces of foreign material or dislodged plant material that affect flow in the channel. ()
- ~~08. Fish Habitat.~~ Any aquatic environment where fish live, feed, reproduce, and grow, including areas where fish spawn, rear, and migrate. ()
- ~~09. Human Life Support System.~~ Any artificial or natural system that provides all or some of the items (such as oxygen, food, water, control of temperature, or disposition of carbon dioxide) necessary for maintaining human life or health. (3-18-22)
- ~~10. Mean High Water Mark.~~ As defined in Idaho Code, § 42-3802(h), the mean high water mark is water level corresponding to the “natural or ordinary high water mark” and is the line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its terrestrial vegetation and destroy its value for commonly accepted agricultural purposes. (3-18-22)
- ~~140. Non-Powered Equipment.~~ Equipment which is powered only by human strength. (3-18-22)
- ~~12. Plans.~~ Maps, sketches, engineering drawings, photos, work descriptions and specifications sufficient to describe the extent, nature, and location of the proposed stream channel alteration and the proposed method of accomplishing the alteration. (3-18-22)
- ~~11. Permanent Structures.~~ Any alteration that is intended to be long lasting or cannot easily be removed or washed away (for example: placed rock riprap, bioengineering, drop structures, culverts, and bridges). ()
- ~~132. Powered Equipment.~~ Equipment which is powered by means other than human strength such as a gasoline engine or electric motor. (3-18-22)
- ~~14. Repair.~~ Any work needed or accomplished, to protect, maintain, or restore any water diversion structure and the associated stream channel upstream and downstream as necessary for the efficient operation of the water diversion structure. (3-18-22)

153. Stream Channel. A natural water course of perceptible extent with definite beds and banks which confines and conducts continuously flowing water. The channel referred to is that which exists at the present time, regardless of where the channel may have been located at any time in the past. ~~For the purposes of these rules only, the beds of lakes and reservoir pool areas are not considered to be stream channels.~~ (3-18-22)()

011. -- 024. (RESERVED)

025. EXEMPTIONS ~~(RULE 25).~~

01. Work on Existing or Proposed Reservoir Projects. Permits are not required under the provisions of Title 42, Chapter 38 for construction work on any existing or proposed reservoir project, including the dam, and such areas downstream as the Director may determine is reasonably necessary for construction and maintenance of the dam. (3-18-22)

02. Snake and Clearwater Rivers. Permits are not required for work within that portion of the Snake and Clearwater rivers from the state boundary upstream to the upper boundary of the Port of Lewiston Port District as it now exists or may exist in the future. (3-18-22)

031. Cleaning, Maintenance, Construction, or Repair Work. No permit is required of a water user or ~~his~~ their agent to clean, maintain, construct, or repair any diversion structure, canal, ditch, or lateral or to remove any obstruction from a stream channel which is interfering with the delivery of any water under a valid existing water right or water right permit. (3-18-22)()

042. Removal of Debris. No permit is required for removal of debris from a stream channel provided that no equipment will be working in the channel below the mean high water mark and all material removed will be disposed of ~~at some point~~ outside the channel where it cannot again reenter the channel. (3-18-22)()

053. Mining Operations Using Non-Powered Equipment. No permit is required for mining activities using non-powered equipment to move one-quarter (1/4) cubic yard per hour or less below the mean high water mark, except as otherwise described in Rule Subsection 0613.05. (3-18-22)()

026. -- 029. (RESERVED)

030. APPLICATIONS ~~(RULE 30).~~

01. Alteration of Stream Channels Permit Required. No person shall engage in any activity which will alter a stream channel without first applying for a permit as provided by § 42-3803, Idaho Code. (3-18-22)

021. Joint Application Permit Form. The Department ~~of Water Resources, Idaho~~ Department of Lands (IDL), and the U.S. Army Corps of Engineers have developed a joint application for permits form which will suffice for the required permit application under the Stream Protection Act (SPA). ~~An application should be filed at least sixty (60) days before the applicant proposes to start the construction and shall be upon the joint application form furnished by the Department. The application shall be accompanied by plans which clearly describe the nature and purpose of the proposed work.~~ (3-18-22)()

032. Applicant Following Minimum Standards. In those cases where the applicant intends to follow the minimum standards ~~(Rule 055)~~, detailed plans may be eliminated by referring to the specific minimum standard; however, drawings necessary to adequately define the extent, purpose, and location of the work may be required. Plans ~~shall~~ should include some reference to water surface elevations and stream boundaries to facilitate review. The application should show the mean high water mark on the plans; however, any water surface or water line reference available will be helpful as long as this reference is described. (Examples: present water surface, low water, high water.) (3-18-22)()

04. Submission of Copies. ~~The applicant shall submit one (1) copy of all necessary plans along with the application form. When drawings submitted are larger than eight and one half by eleven (8 1/2 x 11), the applicant shall provide the number of copies specified by the department.~~ (3-18-22)

031. -- 034. (RESERVED)

035. APPLICATION REVIEW ~~(RULE 35).~~

01. Prior to Issuance of Permit. The following items shall be among those considered by the Director prior to issuing a permit: (3-18-22)

- a. What is the purpose of doing the work? (3-18-22)
- b. What is the necessity and justification for the proposed alteration? (3-18-22)
- c. Is the proposal a reasonable means of accomplishing the purpose? (3-18-22)
- d. Will the alteration be a permanent solution? (3-18-22)
- e. Will the alteration pass anticipated water flows without creating harmful flooding or erosion problems upstream or downstream? (3-18-22)
- f. What effect will the alteration have on fish habitat? (3-18-22)
- g. Will the materials used or the removal of ground cover create turbidity or other water quality problems? (3-18-22)
- h. Will the alteration interfere with recreational use of the stream? (3-18-22)
- i. Will the alteration detract from the aesthetic beauty of the area? (3-18-22)
- j. What modification or alternative solutions are reasonably possible which would reduce the disturbance to the stream channel and its environment and/or better accomplish the desired goal of the proposed alteration? (3-18-22)
- k. Is the alteration to be accomplished in accordance with the adopted minimum standards? (3-18-22)
- l. Are there public safety factors to consider? (3-18-22)

~~**02. Proposed Alteration Which Does Not Follow Minimum Standards.** In those cases where a proposed alteration does not follow the minimum standards, a copy of the application will be sent for review to those state agencies requesting notification. The Director shall provide for review by the Department of Lands, copies of applications on navigable rivers. The Director will provide a copy of any other application requested by the Department of Lands and may request review by other state agencies regardless of whether or not the proposed alteration will comply with the minimum standards. (3-18-22)~~

036. -- 039. (RESERVED)

040. APPROVAL ~~(RULE 40).~~

~~**01. Conformance to Application.** All work shall be done in accordance with the approved application, subject to any conditions specified by the department. (3-18-22)~~

~~**021. Permits Allowed Without Review.** A permit may be approved by the Director of the Department of Water Resources without review by other agencies in situations where the work is of a nature not uncommon to the particular area and where it is clear that the work will not seriously degrade the stream values except on navigable rivers which require review by the Department of Lands IDL. All work approved in this manner shall should be accomplished in accordance with the minimum standards. (3-18-22)()~~

~~**032. Reinstatement of Expired Permit.** A permit which has expired may be reinstated by the Director~~

after review by other agencies as determined by the Director.

(3-18-22)

041. -- 044. (RESERVED)

045. ENFORCEMENT OF ACT ~~(RULE 45).~~

~~01. Written Orders Issued by Designated Employees of Department.~~ Employees of the Department designated by the Director may issue written orders directing an applicant to cease and desist, to ensure proper notice to applicants who are found to be altering a stream without a permit or not in compliance with the conditions of a permit. Such orders shall be in effect immediately upon issuance and will continue in force until a permit is issued or until the order is rescinded by the Director. (3-18-22)

~~02. Failure to Comply with Stream Protection Act.~~ Failure to comply with any of the provisions of the Stream Protection Act (Chapter 38, Title 42, Idaho Code), may result in issuance of an Idaho uniform citation and/or the cancellation of any permit by the Director without further notice and the pursuit in a court of competent jurisdiction, such civil or criminal remedies as may be appropriate and provided by law. The Director may issue written orders pursuant to Section 42-3809, Idaho Code, and the Director may allow reasonable time for an applicant to complete stabilization and restoration work. (3-18-22)()

046. -- 049. (RESERVED)

050. EMERGENCY WAIVER ~~(RULE 50).~~

~~01. Waiver of Provisions of Stream Protection Act.~~ Pursuant to Section 42-3808, Idaho Code, provides for waiver of the the Director may waive provisions of ~~the Stream Protection Act that Section in certain~~ emergency situations where immediate action must be taken to protect life or property including growing crops. The Director will not consider failure to submit an; however, emergency situations do not include an applicant's failure to submit an application for a stream channel alteration far enough ahead of the desired starting time of the construction work as an emergency situation. (3-18-22)()

~~02. Verbal Waivers.~~ A The Director may initially grant a verbal waiver ~~may be granted initially;~~ however, all verbal requests for waivers shall be followed up by the applicant must follow up in writing within fifteen (15) days of any initial authorization to do work. If the applicant is unable to contact the Director to obtain an emergency waiver, they may proceed with emergency work; however, they must contact the Director as soon as possible thereafter. Proving that and prove a bonafide emergency did actually exist ~~will be the responsibility of the applicant.~~ (3-18-22)()

03. Emergency Waiver. Work authorized by an emergency waiver shall be limited to only that which is necessary to safeguard life or property, including growing crops, during the period of emergency. (3-18-22)

04. Conformance to Conditions of Waiver. The applicant shall adhere to all conditions set by the Director as part of a waiver. (3-18-22)

05. Waivers Granted by Designated Employees. The Director may delegate the authority to grant waivers to designated employees of the Department. ~~Names and telephone numbers of such employees will be made available to any interested applicant upon request.~~ (3-18-22)()

051. -- 054. (RESERVED)

055. MINIMUM STANDARDS ~~(RULE 55).~~

These standards are intended to cover the ordinary type of stream channel alteration and to prescribe minimum conditions for approval of such construction. Unless otherwise provided in a permit, these standards shall govern all stream channel alterations in this state. An applicant should not assume that because an application utilizes methods set forth in these standards it will automatically be approved. These minimum standards include the following items provided in Sections 056 through 063.: (3-18-22)()

~~01. Construction Procedures.~~ (3-18-22)

- 02. ~~Dumped Rock Riprap.~~ (3-18-22)
- 03. ~~Drop Structures, Sills and Barbs.~~ (3-18-22)
- 04. ~~Culverts and Bridges.~~ (3-18-22)
- 05. ~~Removal of Sand and Gravel Deposits.~~ (3-18-22)
- 06. ~~Small Scale Mining with Suction Dredges, Powered Sluices, or Non-Powered Equipment.~~ (3-18-22)
- 07. ~~Piling.~~ (3-18-22)
- 08. ~~Pipe Crossings.~~ (3-18-22)
- 09. ~~Concrete Plank Boat Launch Ramps.~~ (3-18-22)

056. CONSTRUCTION PROCEDURES ~~(RULE 56)~~.

01. **Conformance to Procedures.** Construction shall ~~be done~~ occur in accordance with the following procedures unless ~~specific approval of the Director approves~~ other procedures ~~has been given by the Director~~. When an applicant desires to proceed in a manner different from the following, such procedures should be described on the application. (3-18-22)()

02. **Operation of Construction Equipment.** No construction equipment shall be operated below the ~~existing mean high water surface mark~~ without specific approval from the Director ~~except as follows: Forging the stream at one (1) location only will be permitted unless otherwise specified; however, vehicles and equipment will not be permitted to push or pull material along the streambed below the existing water level. Work below the water which is essential for preparation of culvert bedding or approved footing installations shall be permitted to the extent that it does not create unnecessary turbidity or stream channel disturbance. Frequent fording will not be permitted in areas where extensive turbidity will be created.~~ (3-18-22)()

03. **Temporary Structures.** Any temporary crossings, bridge supports, cofferdams, or other structures that will be needed during the period of construction shall be designed to handle high flows that could be anticipated during the construction period. All temporary structures shall be completely removed from the stream channel at the conclusion of construction and the area ~~shall be~~ restored to a natural appearance its original general configuration including revegetation. (3-18-22)()

04. **Minimizing Disturbance of Area.** Care shall be taken to cause only the minimum necessary disturbance to the ~~natural appearance of the~~ area. Streambank vegetation shall be protected except where its removal is absolutely necessary for completion of the work adjacent to the stream channel. When the removal of vegetation is absolutely necessary, the site shall be reseeded and replanted with native vegetation. (3-18-22)()

05. **Construction Methods.** Construction shall occur using methods that eliminate or minimize discharge of turbidity, sediment, organic matter, or toxic chemicals. A settling basin or cofferdam may be required for this purpose. ()

~~056.~~ **Disposal of Removed Materials.** Any vegetation, debris, or other material removed during construction shall be disposed of at some location out of the stream channel where it cannot reenter the channel during high stream flows. (3-18-22)

~~067.~~ **New Cut ~~of or~~ Fill Slopes.** All new cut or fill slopes ~~that will not be protected with some form of riprap~~ shall be ~~seeded with grass and~~ planted with native vegetation to prevent erosion. (3-18-22)()

~~07.~~ **Fill Material.** All fill material shall be placed and compacted in horizontal lifts. Areas to be filled shall be cleared of all vegetation, debris and other materials that would be objectionable in the fill. (3-18-22)

08. **Limitations on Construction Period.** The Director may limit the period of construction as needed to minimize conflicts with fish ~~migration and spawning~~ habitat, recreation use, and other uses. (3-18-22)()

057. PERMANENT STRUCTURES.

01. **Accommodations and Prohibited Barriers.** All permanent structures shall be constructed to accommodate fish passage, considering water depth, water velocity, and not be a physical or velocity barrier. ()

02. **Vertical Drops Requirements.** All permanent structures with vertical drops shall be constructed with heights which are passable by all species and age classes known to be present in the waterbody and shall not exceed one (1) foot. ()

03. **Year-Round Water Depth Requirements.** Areas where water is present year-round, minimum water depth shall be approximately eight (8) inches for salmon and steelhead and at least three (3) inches in all other cases. ()

0578. DUMPED PLACED ROCK RIPRAP (RULE 57).

01. **Placement of Riprap.** Riprap shall be placed on a granular bedding material or a compact and ~~stable~~ non-erodible embankment. (3-18-22)()

02. **Sideslopes of Riprap.** Sideslopes of riprap shall not be steeper than 2:1 (2' horizontal to 1' vertical) except at ends of culverts and at bridge approaches where a 1 1/2:1 sideslope is standard. (3-18-22)

03. **Minimum Thickness of Riprap.** The minimum thickness of the riprap layer ~~shall~~ should equal the dimension of the largest size riprap rock used or be eighteen (18) inches, whichever is greater. When riprap will be placed below the mean high water ~~level~~ mark, the thickness of the layer ~~shall~~ should be fifty percent (50%) greater than specified below. (3-18-22)()

04. **Riprap Protection.** ~~Riprap protection must extend at least one (1) foot above the anticipated high water surface elevation in the stream.~~ (3-18-22)

054. **Rock Used for Riprap.** Rock for riprap shall consist of sound, dense, durable, and angular rock fragments, resistant to weathering and free ~~from large quantities of~~ concrete, soil, shale, and organic matter. The length of a rock ~~shall~~ should not be more than three (3) times its width or thickness. Rounded cobbles, boulders, and streambed gravels are not acceptable as ~~dumped~~ riprap. (3-18-22)()

065. **Size and Gradation of Riprap.** Riprap size and gradation are commonly determined in terms of the weight of riprap rock. The average size of riprap rock shall be at least as large as the maximum size rock that the stream is capable of moving. The maximum size of riprap rock used shall be two (2) to five (5) times larger than the average size. (3-18-22)

076. **Methods Used for Determining Gradation of Riprap.** There are many methods used for determining the gradation of riprap rock. ~~One of these many~~ Two (2) acceptable methods ~~is~~ are shown in ~~Table 1 below. Another acceptable method is the Far West States (FWS) method shown in APPENDIX A—Table 1A.~~

Table 1—GRADATION OF RIPRAP IN POUNDS		
Max. Weight of Stone required (lbs)	Min. and Max. Range in weight of Stones (lbs)	Weight Range 75 percent of Stones (lbs)
150	25—150	50—150
200	25—200	50—200
250	25—250	50—250

Table 1—GRADATION OF RIPRAP IN POUNDS		
Max. Weight of Stone required (lbs)	Min. and Max. Range in weight of Stones (lbs)	Weight Range 75 percent of Stones (lbs)
400	25—400	100—400
600	25—600	150—600
800	25—800	200—800
1000	50—1000	250—1000
1300	50—1300	325—1300
1600	50—1600	400—1600
2000	75—2000	600—2000
2700	100—2700	800—2700

(3-18-22)()

087. Use of Filter Material. A blanket of granular filter material or filter fabric shall be placed between the riprap layer and the bank in all cases where the bank is composed of erodible material that may be washed out from between the riprap rock. Filter material ~~shall~~ should consist of a layer of well-graded gravel and coarse sand at least six (6) inches thick. Filter fabric used for construction shall be non-woven natural fiber of jute, coir, sisal, or a similar product. The apparent opening length shall be adequate to allow vegetation to penetrate the fabric and spread laterally.

(3-18-22)()

08. Native Vegetation Planting. Dormant willow cuttings, willow bundles, willow clumps, or other native woody vegetation shall be planted within riprap and placed down to permanent soil moisture, similar to as depicted in APPENDIX B. Single cuttings shall be spaced no greater than at 2-foot intervals, and bundles or clumps shall be spaced no greater than at 5-foot intervals.

()

09. Toe Protection. Some suitable form of toe protection shall be provided for riprap located on erodible streambed material.

(3-18-22)

a. Various acceptable methods of providing toe protection are shown in APPENDIX BC, Figure 2 at the end of this chapter.

(3-18-22)()

b. In addition to the approved methods of providing toe protection as shown in APPENDIX BC, any other reasonable method will be considered by the Director during review of a proposed project.

(3-18-22)()

10. Extension of Riprap Area. Riprap ~~shall~~ should extend far enough upstream and downstream to reach stable areas, unless the riprap is protected against undermining at its ends by the method shown in APPENDIX CD, Figure 3 ~~at the end of this chapter~~. On extremely long riprap sections, it is recommended that similar cutoff sections be used at several intermediate points to reduce the hazard that would be created if failure of the riprap occurred at any one (1) location.

(3-18-22)()

~~**11. Finished Surface.** Placement shall result in a smooth, even finished surface. Compaction is not necessary.~~

(3-18-22)

121. Placement of Riprap. ~~The full course thickness of the riprap shall be placed in one (1) operation. Dumping riprap long distances down the bank or pushing it over the top of the bank with a dozer shall be avoided if possible. Material ~~should~~ shall be placed with an excavator with a thumb, backhoe, loader, or dragline similar equipment. Dumping material near its final position on the slope or dumping rock at the toe and bulldozing it up the slope is a very satisfactory method of placement, if approval is obtained for the use of equipment in the channel.~~

(3-18-22)()

132. Design Procedure. Design procedure using the Far West States (FWS) method. (3-18-22)

a. The FWS method uses a single equation to deal with variables for riprap. (3-18-22)

$D75 = 3.5/CK$ WDS for Channel Banks

where: $D75$ = Size of the rock at seventy five percent (75%) is finer in gradation, in inches.

W	=	Specific weight of water, usually 62.4 lbs./cu.ft.
D	=	Depth of flow in stream, in feet in flood stage
S	=	Channel slope or gradient, in ft/ft.
C	=	A coefficient relating to curvature in the stream
K	=	A coefficient relating to steepness of bank slopes

(3-18-22)

b. The coefficient, C, is based on the ratio of the radius of curvature of the stream, (CR), to the water surface width, (WSW), so it is necessary for the user to make a field determination of these values. The coefficient varies from zero point six (0.6) for a curve ratio of four (4) to six (6), up to one point zero (1.0) for a straight channel. If the computed ratio for a particular project is less than four (4), the designer should consider some modification less than four (4).

CR/WSW	C
4 - 6	0.60
6 - 9	0.75
9 - 12	0.90
Straight Channel	1.00

(3-18-22)()

c. The coefficient, K, ranges from zero point five (0.5) for a one point five to one (1.5:1) sideslope to zero point eighty-seven (0.87) for a three to one (3:1) sideslope. No values are given for steeper or flatter slopes. Slopes steeper than one point five to one (1.5:1) are not recommended. If slopes flatter than three to one (3:1) are desired, it would be conservative to use the K-value for three to one (3:1) slopes.

Bankslope	K
1.5:1	0.50
1.75:1	0.63
2.0:1	0.72
2.5:1	0.80
3.0:1	0.87

(3-18-22)()

059. BIOENGINEERING.

01. Construction Materials. Materials used in bioengineering shall be natural and vegetation used shall be native and locally sourced. Materials should include, but not be limited to, earth, vegetation, rock, and wood.

similar to as depicted in APPENDIX E. Exceptions for manufactured products include fiberschines, fiber logs, soil lifts, biodegradable erosion control fabrics, and geotextiles. ()

02. Vegetation. Vegetation used in bioengineering may include native grasses, forbs, shrubs, and woody plants. ()

03. Toe Protection. Some suitable form of toe protection shall be provided for projects located on erodible streambed material. ()

04. Endpoint Protection. Finished projects shall include endpoint protection on the upstream and downstream sides of the project. Endpoint protection shall be robust enough to prevent streamflow from scouring and flowing behind the structure. ()

05860. DROP STRUCTURES, SILLS, AND BARBS (RULE 58).

01. Drop Structures. A drop structure shall be constructed of rocks, boulders, and/or logs placed within a stream channel to act as a low level dam. Placement of a drop structure perpendicular to stream flow will decrease the stream gradient, dissipate stream energy, and decrease stream velocity through an increase in water surface elevation immediately above the structure. Drop structures shall comply with the following criteria:(3-18-22)

a. Maximum water surface differential across (upstream water surface elevation minus downstream water surface elevation) a drop structure ~~shall will~~ not exceed two (2) feet. ~~The department shall approve the final elevation of any structure.~~ (3-18-22)()

b. ~~Large wood and/ or R~~rock drop structures ~~shall will~~ be constructed of ~~large, woody material and/or~~ clean, sound, dense, durable, angular rock fragments, and/or boulders of size and gradation, such that the stream is incapable of moving the material during peak flows. ~~Reeks shall~~ Materials used for construction will be keyed into the stream banks to minimize the likelihood of bank erosion; (Ssee APPENDIX ~~DF~~ located at the end of this chapter). (3-18-22)()

~~c.~~ Log drop structures are acceptable in four (4) designs including the single log dam, the stacked log dam, the three (3) log dam, and the pyramid log dam. Log ends shall be keyed into both banks at least one-third (1/3) of the channel width or a distance sufficient to prevent end erosion. To prevent undercutting, the bottom log shall be embedded in the stream bed or hardware cloth, cobbles or boulders shall be placed along the upper edge. Minimum log size for a single log structure shall be determined by on-site conditions and shall be placed to maintain flow over the entire log to prevent decay. Each log drop structure must be accompanied by downstream scour protection, such as a rock apron (See APPENDIX E located at the end of this chapter). (3-18-22)

~~d.~~ All drop structures shall be constructed to facilitate fish passage and centralized scour pool development. (3-18-22)

~~c.~~ Design slopes for drop structures will not exceed more than four percent (4%) of the average slope of the project stream reach. Average slope will be observed over a minimum length upstream and downstream of the project reach, which is equal to the project reach length. ()

02. Sills. A sill shall be constructed of the same material and in the same manner as a drop structure. The top of the sill may not exceed the elevation of the bottom of the channel. ~~The purpose of a sill is to halt the upstream movement of a headcut, thus precluding the widening or deepening of the existing channel.~~ (Ssee APPENDIX ~~FG~~ located at the end of this chapter). (3-18-22)()

03. Barb or Partial Drop Structure. A barb or partial drop structure shall be constructed in the same manner and of the same material as a drop structure and placed into the stream channel to act as a low level dam and grade control structure. The barb will decrease stream gradient, dissipate stream energy, and redirect stream flow. Barb or partial drop structures shall comply with the following criteria: (3-18-22)()

a. Barbs ~~shall will~~ be constructed of ~~large, woody material and/or~~ clean, sound, dense, angular rock fragments, of size and gradation such that the stream is incapable of moving the material during peak flows.

(3-18-22)()

~~b.~~ Barbs shall be constructed with a downstream angle of no less than one hundred (100) degrees and no greater than one hundred thirty-five (135) degrees unless otherwise specified. (3-18-22)

~~eb.~~ Barbs shall will “extend” into the channel a distance of not more than twenty percent (20%) of the width of the channel unless otherwise specified by the Director. (3-18-22)()

~~dc.~~ Barbs shall will be keyed into the bank a distance equal to or greater than the width of the structure and down to bed level. Whenever moisture is encountered in the construction of the keyways, willow cuttings or clumps shall will be placed before and during rock placement in such a manner that the base of the cutting is in permanent moisture and the top extends a minimum of six (6) inches above grade (see APPENDIX GH located at the end of this chapter). (3-18-22)()

05961. CULVERTS AND BRIDGES (RULE 59).

01. Culverts and Bridges. Culverts and bridges shall be capable of carrying streamflows and shall not significantly alter conditions upstream or downstream by causing flooding, turbidity, or other problems. The appearance of such installations shall not detract from the natural surroundings of the area. (3-18-22)()

02. Location of Culverts and Bridges. Culverts and bridges should be located so that a direct line of approach exists at both the entrance and exit. Abrupt bends at the entrance or exit shall not exist unless suitable erosion protection is provided. (3-18-22)

03. Ideal Gradient. The ideal gradient (bottom slope) is one which is steep enough to prevent silting but flat enough to prevent scouring due to high velocity flows. It is often advisable to make the gradient of a culvert or stream channel under a bridge coincide with the average streambed gradient. (3-18-22)()

a. Where a culvert is installed on a slope steeper than twenty percent (20%), provisions to anchor the culvert in position will be required. Such provisions shall be included in the application and may involve the use of collars, headwall structures, etc. Smooth concrete pipe having no protruding bell joints or other irregularities shall have such anchoring provisions if the gradient exceeds ten percent (10%). (3-18-22)

b. Culverts and bridges shall be designed to pass the stream’s natural sediment and debris load through the structure and shall be protected from scour at the entrance and exit. ()

04. Size of Culvert or Bridge Opening. The size of the culvert or bridge opening shall be such that it is capable of passing design flows without overtopping the structure or streambank or and causing flooding or other damage. (3-18-22)()

~~a.~~ Design flows shall be based upon the following minimum criteria:

Drainage Area	Design Flow Frequency
Less than 50 sq. mi.	25 Years
Over 50 sq. mi. or more	50 years or greatest flow of record, whichever is more

(3-18-22)

~~b.~~ For culverts and bridges located on U.S. Forest Service or other federal lands, the sizing should comply with the Forest Practices Act as adopted by the federal agencies or the Department of Lands. (3-18-22)

~~c.~~ For culverts or bridges located in a community qualifying for the national flood insurance program, the minimum size culvert shall accommodate the one hundred (100) year design flow frequency. (3-18-22)

a. For all bridges with less than a 20-foot opening, one (1) foot of freeboard shall be provided for the

50-year flow, and the 100-year flow shall not contact the bridge's low chord. For all bridges with an opening 20-feet or greater, two (2) feet of freeboard shall be provided for the 50-year flow, and the 100-year flow shall not contact the bridge's low chord. The requirement that the 100-year flow shall not contact the bridge's low chord may need to be increased in areas where ice passage or design may be a problem. ()

b. All culverts must be designed such that the 100-year flow can be passed without overtopping the culvert. Alternatively, pressure flow on the culvert is allowed provided engineering is submitted for the culvert design including details on fill material, compaction methods, embankment protection, and inlet/outlet protection. In this case, the following criteria must be met: ()

i. Pressure flow culverts shall be designed so that the ratio of the headwater (HW) to diameter (D) during the 25-year flow is less than or equal to one point twenty-five 1.25 ($HW/D \leq 1.25$) and; ()

ii. The 100-year flow can be passed through the culvert without overtopping the roadway. ()

dc. If the culvert or bridge design is impractical for the site, the crossing may be designed with additional flow capacity outside the actual crossing structure, provided there is no increase in the Base Flood Elevation.

(NOTE: When flow data on a particular stream is unavailable, it is almost always safe to maintain the existing gradient and cross-section area present in the existing stream channel. Comparing the proposed crossing size with others upstream or downstream is also a valuable means of obtaining information regarding the size needed for a proposed crossing.) (3-18-22)

ed. ~~Minimum clearance shall be at least one (1) foot at all bridges. This may need to be increased substantially in the areas where ice passage or debris may be a problem.~~ Minimum culvert sizes required for stream crossings: (3-18-22)()

i. Eighteen (18) inch diameter for culverts up to seventy (70) feet long; (3-18-22)

ii. Twenty-four (24) inch diameter for all culverts over seventy (70) feet long. (3-18-22)

iii. For culverts and bridges located on federal or state lands, or private lands regulated under the Forest Protection Act (FPA), the sizing and other requirements should comply with the FPA as adopted by the federal agencies or IDL. ()

f05. Fish Passage. In streams where fish passage is of concern as determined by the ~~d~~Director, an applicant shall comply with the following provisions and/or other approved criteria to ensure that passage will not be prevented by a proposed crossing. (3-18-22)()

ga. Minimum water depth shall be approximately eight (8) inches for salmon and steelhead and at least three (3) inches in all other cases. Water depth from a representative upstream riffle may be used in cases where the previous depth requirements cannot be met due to lack of sufficient water. (3-18-22)()

hb. Maximum flow velocities for streams shall not exceed those shown in Figure 17 in APPENDIX ~~HI~~, located at the end of this chapter, for more than a forty-eight (48) hour period. The curve used will depend on the type of fish to be passed. (3-18-22)()

ic. Where it is not feasible to adjust the size or slope to obtain permissible velocities, the following precautions may be utilized to achieve the desired situation: (3-18-22)()

ji. Baffles downstream or inside the culvert may be utilized to increase depth and reduce velocity. Design criteria may be obtained from the Idaho ~~Department of~~ Fish and Game ~~Department~~. (3-18-22)()

kii. Where multiple openings for flow are provided, baffles or other measures used in one (1) opening only shall be adequate provided that the opening is designed to carry the main flow during low-flow periods. (3-18-22)

d. Where fish passage must be provided, upstream drops at the entrance to a culvert will not be permitted and a maximum drop of one (1) foot will be permitted at the downstream end if an adequate jumping pool is maintained below the drop. ()

e. Downstream control structures such as are shown in Figure 18 in APPENDIX J can be used to reduce downstream erosion and improve fish passage. ()

056. **Construction of Crossings.** When crossings are constructed in erodible material, upstream and downstream ends shall be protected from erosive damage through the use of such methods as ~~dumped~~ rock riprap, headwall structures, etc., and such protection shall extend below the erodible streambed and into the banks at least two (2) feet unless some other provisions are made to prevent undermining. (3-18-22)()

a. ~~Where fish passage must be provided, upstream drops at the entrance to a culvert will not be permitted and a maximum drop of one (1) foot will be permitted at the downstream end if an adequate jumping pool is maintained below the drop.~~ (3-18-22)

b. ~~Downstream control structures such as are shown in Figure 18 in APPENDIX I, located at the end of this chapter, can be used to reduce downstream erosion and improve fish passage. They may be constructed with gabions, pilings and rock drop structures.~~ (3-18-22)

067. **Multiple Openings.** Where a multiple opening will consist of two (2) or more separate culvert structures, they shall be spaced far enough apart to allow proper compaction of the fill between the individual structures. The minimum spacing in all situations shall be one (1) foot. ~~In areas where fish passage must be provided, only one (1) opening shall be constructed to carry all low flows. Low flow baffles may be required to facilitate fish passage.~~ (3-18-22)()

078. **Areas to be Filled.** All areas to be filled shall be cleared of vegetation, topsoil, and other unsuitable material prior to placing fill. Material cleared from the site shall be removed and disposed of ~~above the high water line of the stream~~ at a location outside the channel where it cannot reenter the channel. Fill material shall be reasonably well-graded and compacted and shall not contain large quantities of silt, sand, organic matter, or debris. In locations where silty or sandy material must be utilized for fill material, it will be necessary to construct impervious sections both upstream and downstream to prevent the erodible sand or silt from being carried away (see Figure 19, APPENDIX ~~JK, located at the end of this chapter~~). Sideslopes for fills shall not exceed one and one half to one (1.5:1). Minimum cover over all culvert pipes and arches shall be one (1) foot. (3-18-22)()

089. **Installation of Pipe and Arch Culvert.** All pipe and arch culverts shall be installed in accordance with manufacturer's recommendations. (3-18-22)

a. The culvert shall be designed so that headwaters will not rise above the top of the culvert entrance unless a ~~headworks~~ headwall is provided. (3-18-22)()

0602. **REMOVAL OF SAND AND GRAVEL DEPOSITS** ~~(RULE 60).~~

01. **Removal of Sand and Gravel.** This work consists of removal of sand and gravel deposits from within a stream channel. The following conditions shall be adhered to unless other methods have been specified in detail on the application and approved by the Director. (3-18-22)

02. **Removal Below Water Surface.** Sand and gravel must not be removed below the water surface existing at the time of the work. ~~Where work involves clearing~~ When introducing flow to a new or restored channel for flow, removal of material below water level will be permitted to allow this flow to occur; however, this must not be done until all other work in the new channel has been completed. (3-18-22)()

03. **Buffer Zone.** A buffer zone of undisturbed streambed material at least five (5) feet in width or as otherwise specified by the Director shall be maintained between the work area and the existing stream. The applicant shall exercise reasonable precautions to ensure that turbidity is kept to a minimum and does not exceed state water quality standards. (3-18-22)

~~04. Movement of Equipment.~~ Equipment may cross the existing stream in one (1) location only, but shall not push or pull material along the streambed while crossing the existing stream. (3-18-22)

~~054.~~ **Disturbing Natural Appearance of Area.** Work must be done in a manner that will least disturb the natural appearance of the area. Sand and gravel shall be removed in a manner that will not leave unsightly pits or other completely unnatural features at the conclusion of the project. (3-18-22)

~~0643.~~ **SMALL SCALE MINING WITH SUCTION DREDGES, POWERED SLUICES, OR NON-POWERED EQUIPMENT (RULE 61).**

01. Small Scale Mining Permit. The Director may issue a permit for the operation of a powered suction dredge or power sluice, or certain qualified non-powered mining activities that follow minimum standards (~~Rule 61~~), within stream channels designated as open by the Department or Board. A powered suction dredge or power sluice shall only be operated in accordance with the conditions of the Small Scale Mining Permit. A power sluice and a high-banker are synonymous for the purposes of these rules. (3-18-22)()

02. Standards for Small Scale Mining Permits. The following standards shall apply only to uses of suction dredges and power sluices below the mean high water mark with nozzle diameters of five (5) inches or less and powered equipment rated at fifteen (15) HP or less, or the use of non-powered sluice equipment moving more than one-quarter (1/4) cubic yard per hour. (3-18-22)

03. Powered Equipment Prohibited Below High Water Mark. There shall be no use of powered equipment below the mean high water mark except for the suction dredge, or power sluice and any human life support system necessary to operate the suction dredge or power sluice. (3-18-22)

04. Protection of Streambanks. The operation of a suction dredge or power sluice, or the use of non-powered equipment shall be carried out in a manner that prevents the undercutting of streambanks. (3-18-22)

05. Permit Required for Certain Non-Powered Operations. A Small Scale Mining Permit is required for non-powered mining activities when those activities include: (1) the use of non-powered equipment by more than five (5) people mining the same area; or (2) the use of non-powered equipment where the disturbed area at the mining location exceeds thirty three (33) percent of the width of the wetted stream channel. (3-18-22)

06. Limitation of Mining Sites. Only one (1) mining site per one hundred (100) linear feet of stream channel shall be worked at one (1) time unless waived by the Director. (3-18-22)

~~062.~~ **PILING (RULE 62).**

~~01. Standards for Pilings.~~ The following standards apply to a piling associated with a boat or swimming dock, a log boom, a breakwater, or bridge construction. (3-18-22)

~~02. Replacement of Pilings.~~ In replacing a piling the old piling shall be completely removed from the channel, secured to the new piling or cut at stream bed level. (3-18-22)

~~03. Condition of Pilings.~~ Chemicals or compounds used for protection of piles and lumber shall be thoroughly dried to prevent bleeding, weeping or dissolution before placing such piles and lumber over, in or near water. (3-18-22)

~~04. Prohibited Materials.~~ The application of creosote, arsenicals or phentachlorophenol (Penta) to timber shall not occur in, or over water. (3-18-22)

~~063.~~ **PIPE CROSSINGS (RULE 63).**

~~01. Standards for Pipe Crossings.~~ The following standards apply to pipe crossings to be installed below the bed of a stream or river such as utility crossings of a gas line, sewer line, electrical line, communication line, water line or similar line. (3-18-22)

~~02. **Depth of Line.** The line shall be installed below the streambed to a depth which will prevent erosion and exposure of the line to free flowing water. In areas of high stream velocity where scouring may occur, the pipe shall be encased in concrete or covered with rock riprap to prevent the pipeline from becoming exposed.~~

(3-18-22)

~~03. **Pipe Joints.** The joints shall be welded, glued, cemented or fastened together in a manner to provide a water tight connection.~~

(3-18-22)

~~04. **Construction Methods.** Construction methods shall provide for eliminating or minimizing discharges of turbidity, sediment, organic matter or toxic chemicals. A settling basin or cofferdam may be required for this purpose.~~

(3-18-22)

~~05. **Cofferdam.** If a cofferdam is used, it shall be completely removed from the stream channel upon completion of the project.~~

(3-18-22)

~~06. **Revegetation of Disturbed Areas.** Areas disturbed as a result of the alteration shall be revegetated with plants and grasses native to these areas.~~

(3-18-22)

064. CONCRETE PLANK BOAT LAUNCH RAMPS (RULE 64):

~~01. **Construction of Concrete Plank Boat Launch Ramps.** Concrete plank boat launch ramps, shall be constructed with individual sections of precast, reinforced concrete planks linked together to provide a stable non-erosive water access (see Figure 20, APPENDIX K, located at the end of this chapter).~~

(3-18-22)

~~02. **Construction of Concrete Planks.** Typical concrete plank size is twelve feet by fourteen inches by four inches (12' x 14" x 4"). All planks shall be constructed with Type II low alkali cement. All planks shall have a broom form finish, free of rock pockets and loose materials. Figures 21 and 22 shows a typical launch plank detail. (See APPENDIXES L and M).~~

(3-18-22)

~~03. **Assembly of Planks.** The planks shall be assembled out of the water and slid into place on a constructed launch ramp where water velocities do not exceed two (2) feet per second. In waters exceeding (2) feet per second the ramp sections shall be linked together and fastened to pre-positioned stringers anchored into the launch ramp. (See Figure 23, APPENDIX N, located at the end of this chapter).~~

(3-18-22)

~~04. **Water Depth.** The water depth above the lower end of the ramp section shall not be less than three (3) feet during low level or low flow periods. (See Figure 20, APPENDIX K, located at the end of this chapter).~~

(3-18-22)

~~05. **Construction of Boat Ramp.** The boat launch ramp shall have a base constructed of sound, dense, durable, angular rock resistant to weathering and free from soil, shale and organic materials. Rounded cobbles, boulders and streambed material are not acceptable as base material in areas with stream flow velocities greater than two (2) fps. Base materials shall be covered with a layer of (three-fourths inches (3/4") min.) crushed rock with a minimum depth of two inches (2"). The ramp shall have a minimum and maximum slope of ten percent (10%) and fifteen percent (15%) respectively, and shall be constructed in a manner to avoid long incursions into the stream channel. All ramps and fill material shall be protected with rock riprap in accordance with Rule 057 when stream flow velocities exceed two (2) fps. (See Figure 24, APPENDIX O, located at the end of this chapter).~~

(3-18-22)

065.—069. (REERVED)

070. HEARINGS ON DENIED, LIMITED, OR CONDITIONED PERMIT OR OTHER DECISIONS OF THE DIRECTOR (RULE 70):

Any applicant who is granted a limited or conditioned permit, or who is denied a permit, may seek a hearing on said action of the Director by serving on the Director written notice and request for a hearing before the Board within fifteen (15) days of receipt of the Director's decision. Said hearing will be set, conducted, and notice given as set forth in the Rules promulgated by the Board under the provisions of Title 67, Chapter 52, Idaho Code. (3-18-22)

07164. -- 999. (REERVED)

APPENDIX A

Table 1A

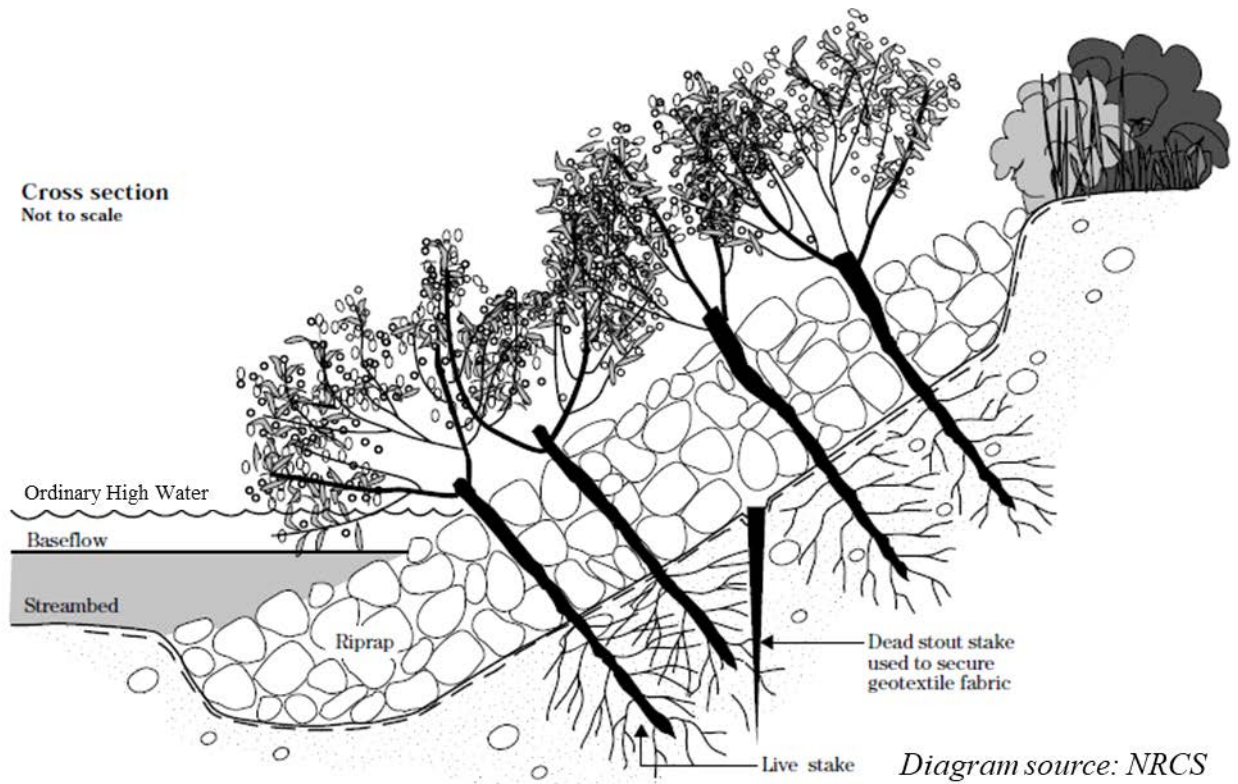
Riprap Gradation Using FWS Method

% Finer by Weight (Lbs.)	Minimum Size (Lbs.)	Maximum Size (Lbs.)
D ₁₀₀	1.33 X D ₇₅	2.0 X D ₇₅
D ₇₅	1.0 X D ₇₅	1.67 X D ₇₅
D ₅₀	0.67 X D ₇₅	1.17 X D ₇₅
D ₂₅	0.33 X D ₇₅	0.77 X D ₇₅
D ₀	None	0.33 X D ₇₅

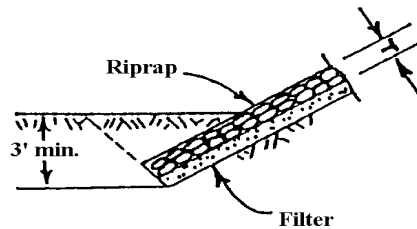
Gradation of Riprap in Pounds

Max. Weight of Stone required (lbs)	Min. and Max. Range in weight of Stones (lbs)	Weight Range 75 percent of Stones (lbs)
150	25 - 150	50 - 150
200	25 - 200	50 - 200
250	25 - 250	50 - 250
400	25 - 400	100 - 400
600	25 - 600	150 - 600
800	25 - 800	200 - 800
1000	50 - 1000	250 - 1000
1300	50 - 1300	325 - 1300
1600	50 - 1600	400 - 1600
2000	75 - 2000	600 - 2000
2700	100 - 2700	800 - 2700

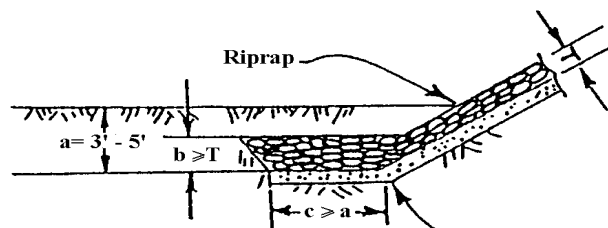
APPENDIX B



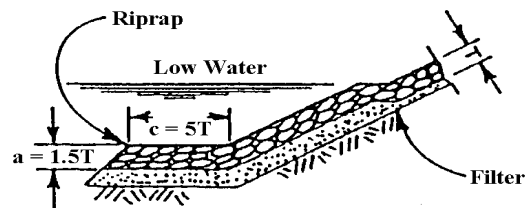
APPENDIX BC



METHOD 1: This is most suited to areas where the toe is dry during construction.



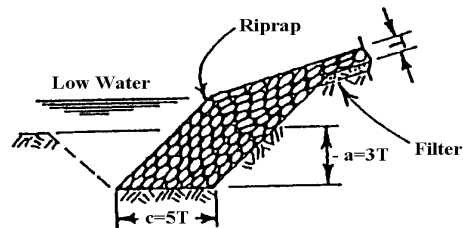
METHOD 2: Used when streambed is very wet or groundwater present makes using Method 1 impractical.



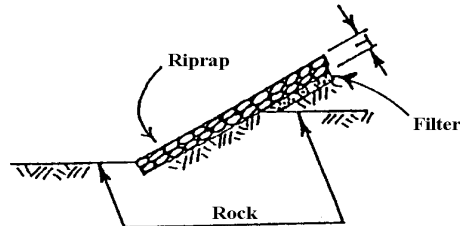
METHOD 3: Often used when toe is underwater during construction. Both Methods 2 and 3 utilize the idea that undermining will cause rock at toe blanket to settle into eroded area providing protection during scouring.

FIGURE 2. Acceptable toe protection

APPENDIX BC (CONTINUED)



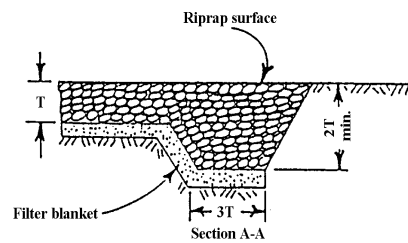
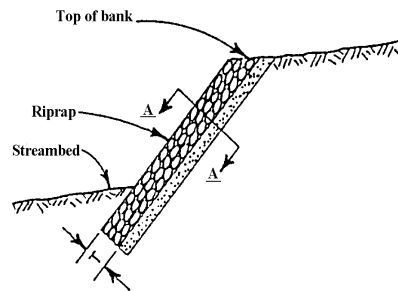
METHOD 4: Used underwater in areas with extremely bad streambed erosion conditions which make Method 3 unfeasible. This method may also be preferred where Method 3 would destroy fish spawning beds.



METHOD 5: When the streambed is non-erodible, no special provisions for toe protection are needed other than insuring that the riprap is well keyed to the rock.

FIGURE 2. Acceptable toe protection *continued*

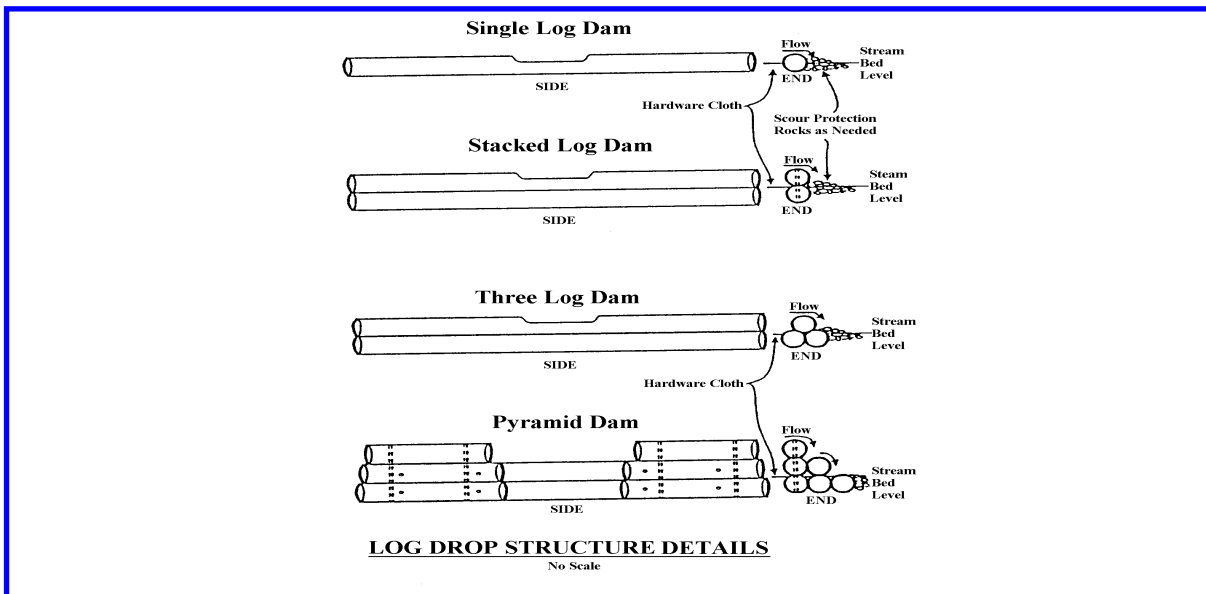
APPENDIX **ED**



View shown above is cross section at end of
riprap looking down along the sideslope toward
streambed.

FIGURE 3. Protection against undermining

APPENDIX E



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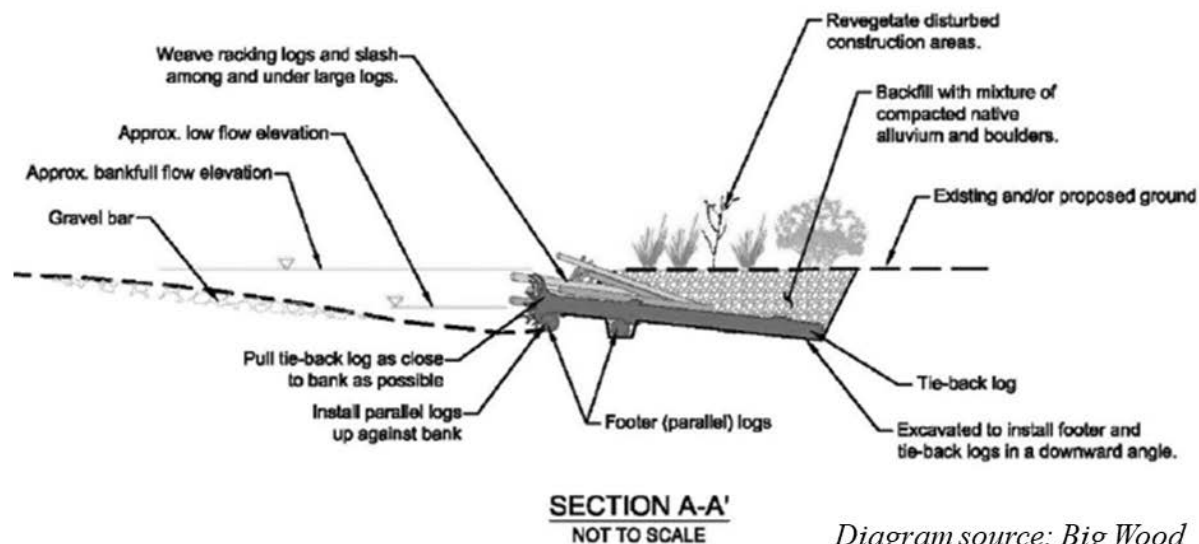


Diagram source: Big Wood River Atlas (2020), Cardno

APPENDIX E (CONTINUED)

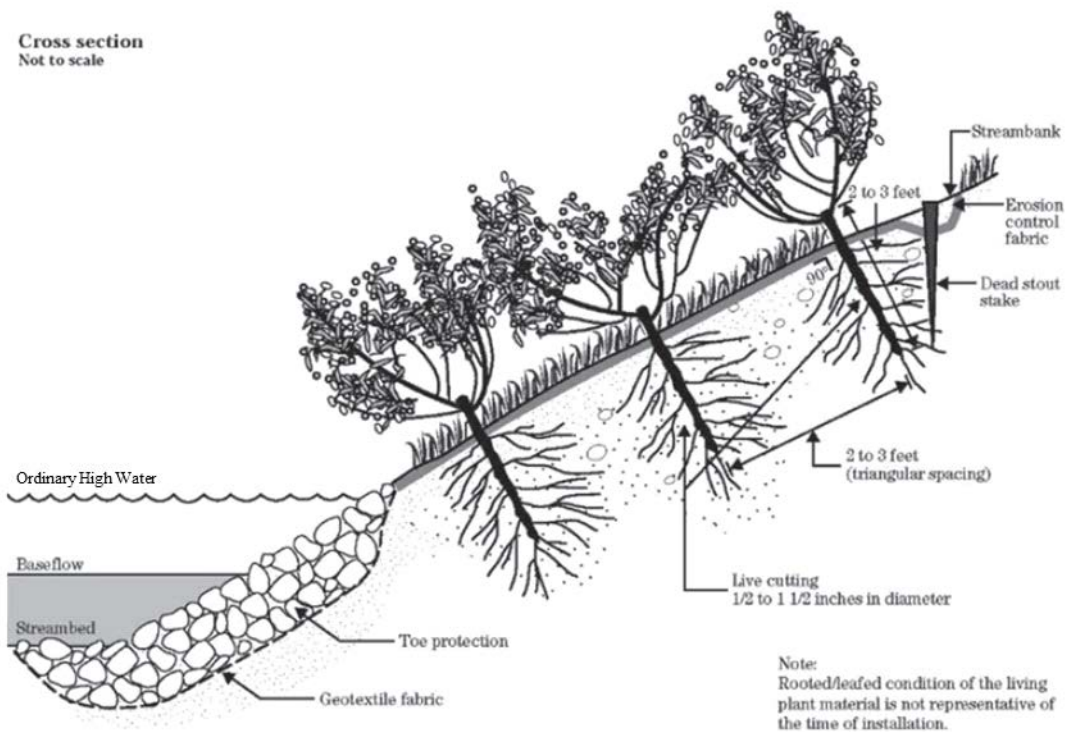


Diagram source: NRCS

APPENDIX E (CONTINUED)

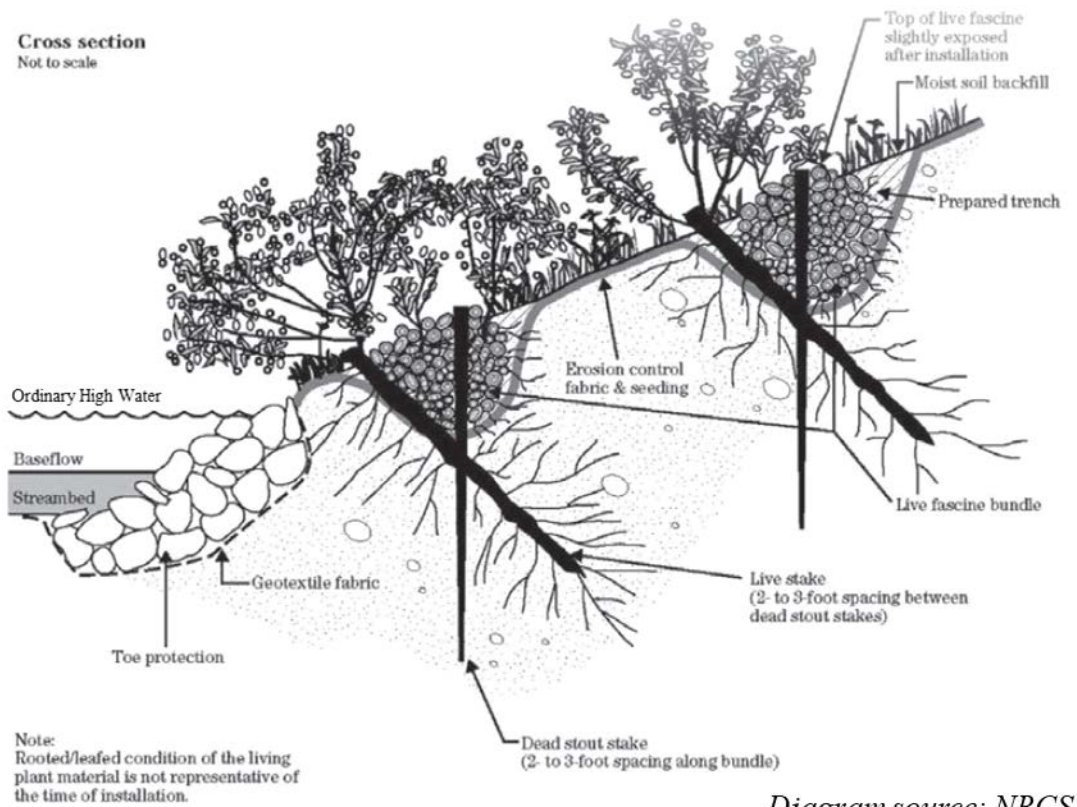
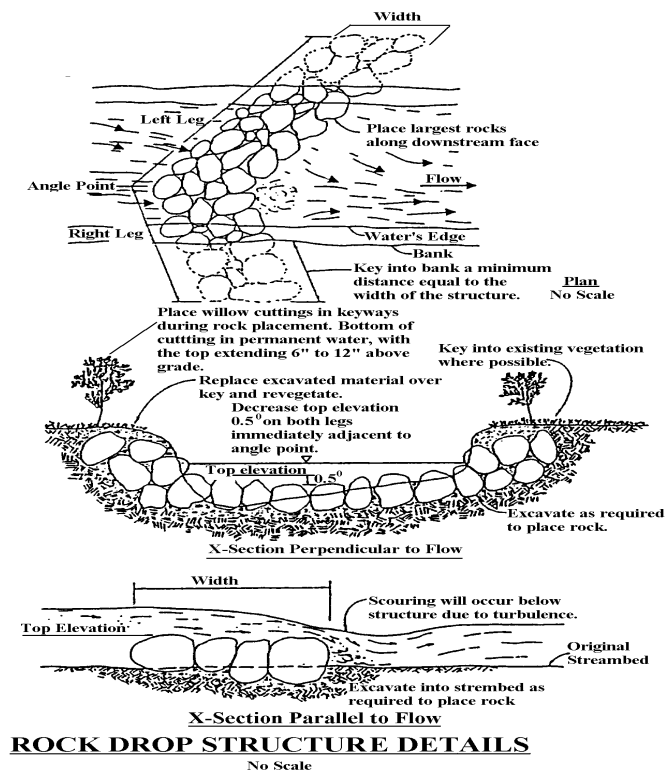
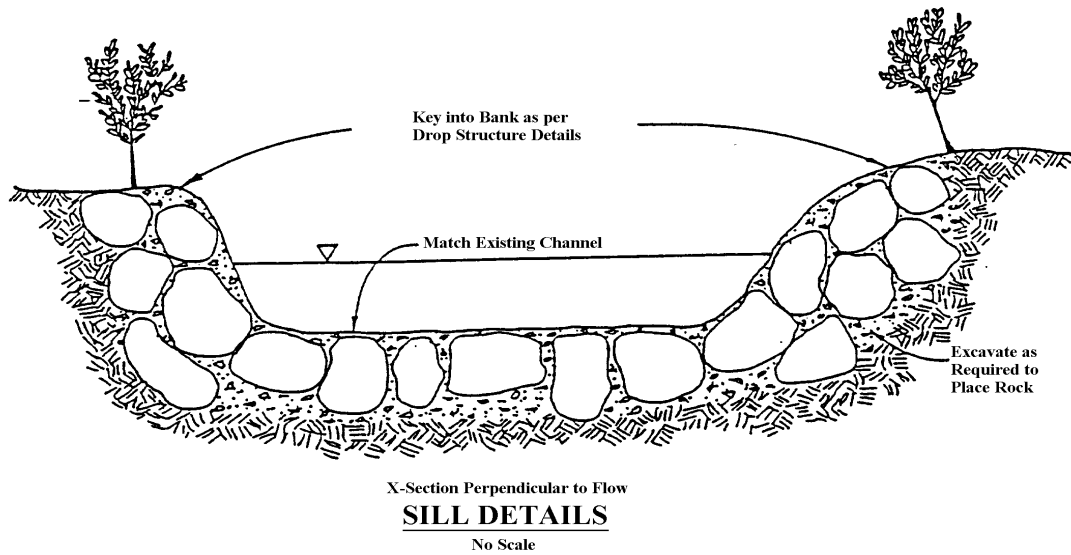


Diagram source: NRCS

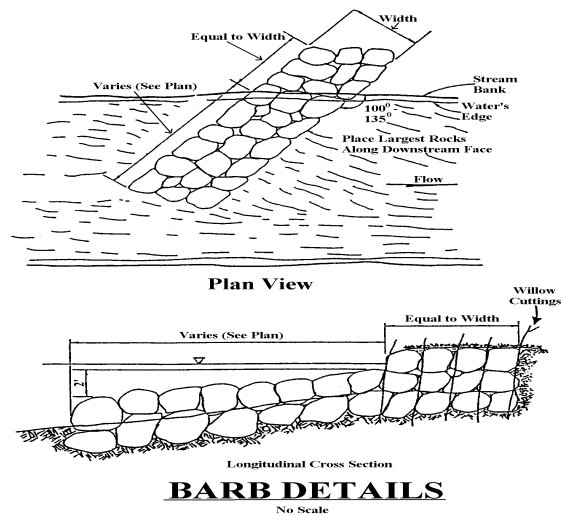
APPENDIX **DE**



APPENDIX **FG**



APPENDIX **GH**



APPENDIX **H**

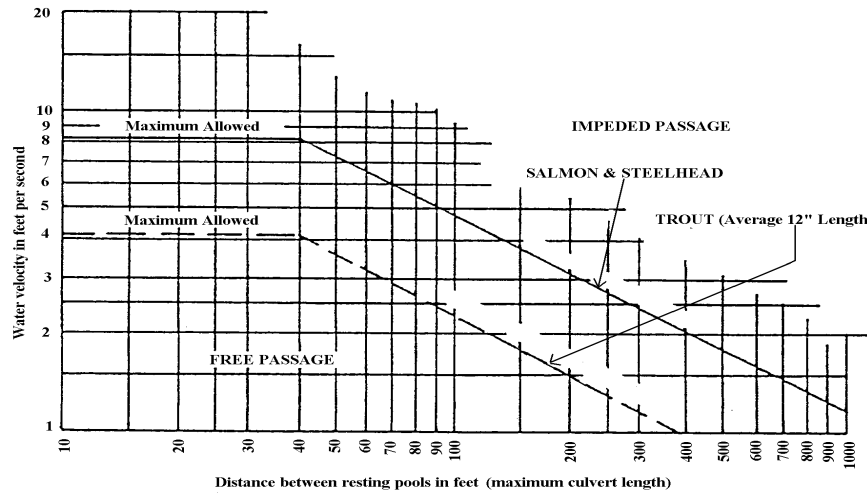
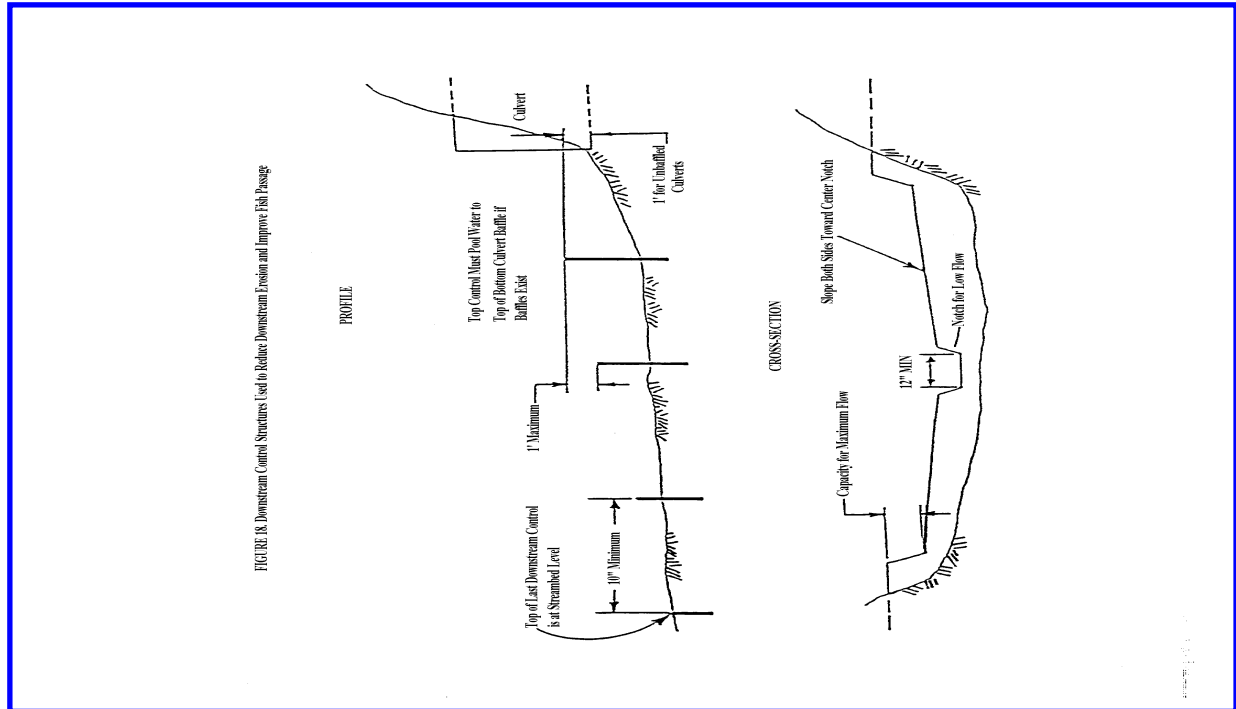


FIGURE 17. Swimming capability of migrating salmon and trout
(Alaskan Curve)

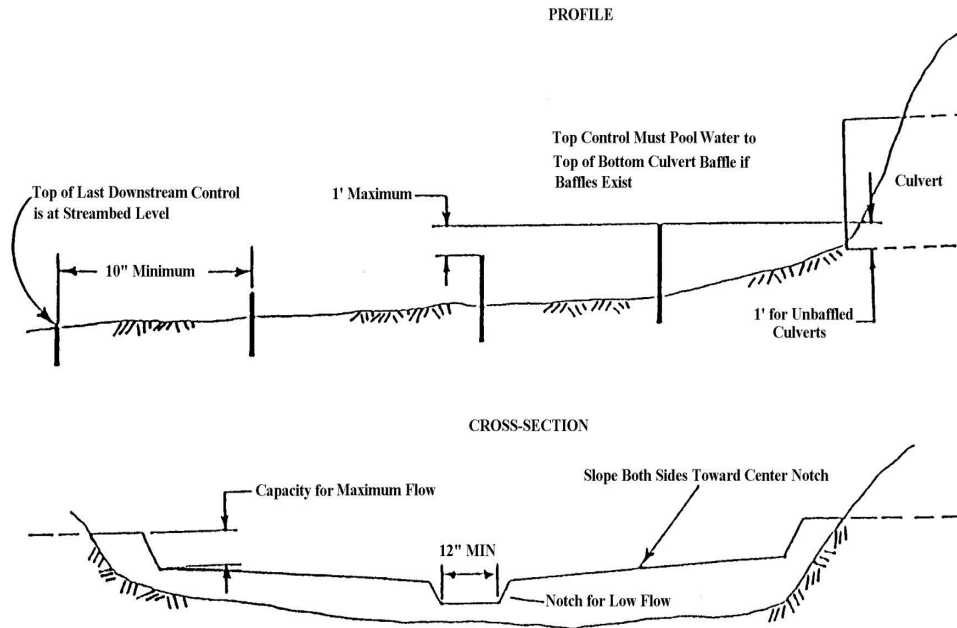
APPENDIX I



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APPENDIX **KJ**

FIGURE 18. Downstream Control Structures Used to Reduce Downstream Erosion and Improve Fish Passage



APPENDIX JK

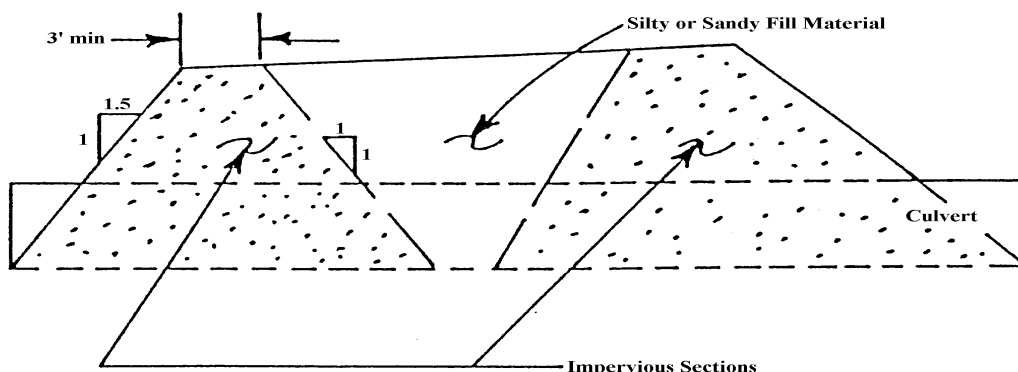
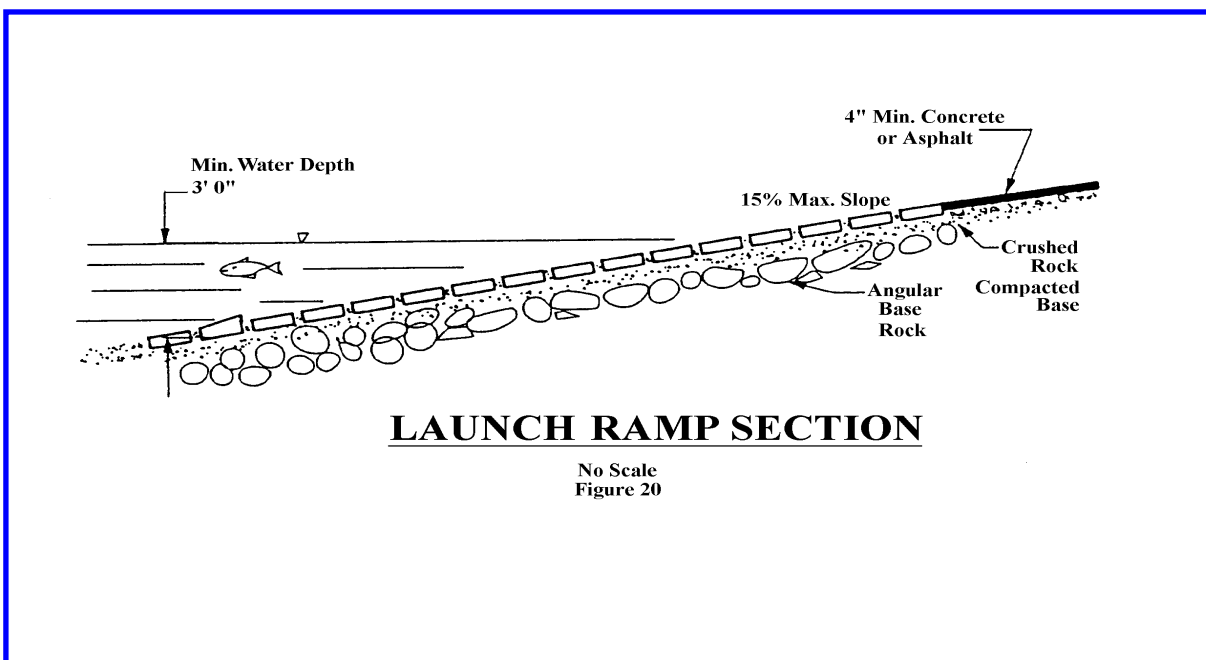


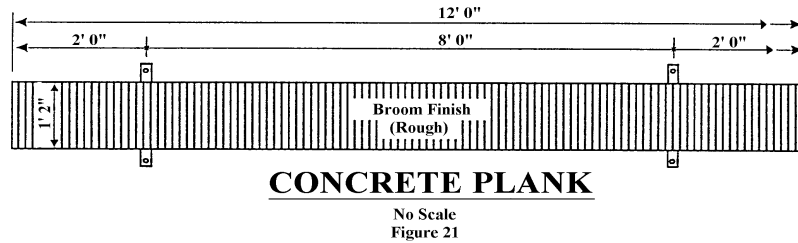
FIGURE 19. Culvert Backfill Using Silty or Sandy Material

APPENDIX K



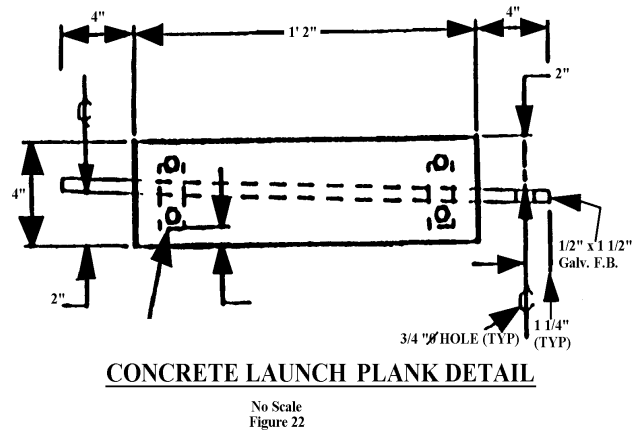
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APPENDIX L



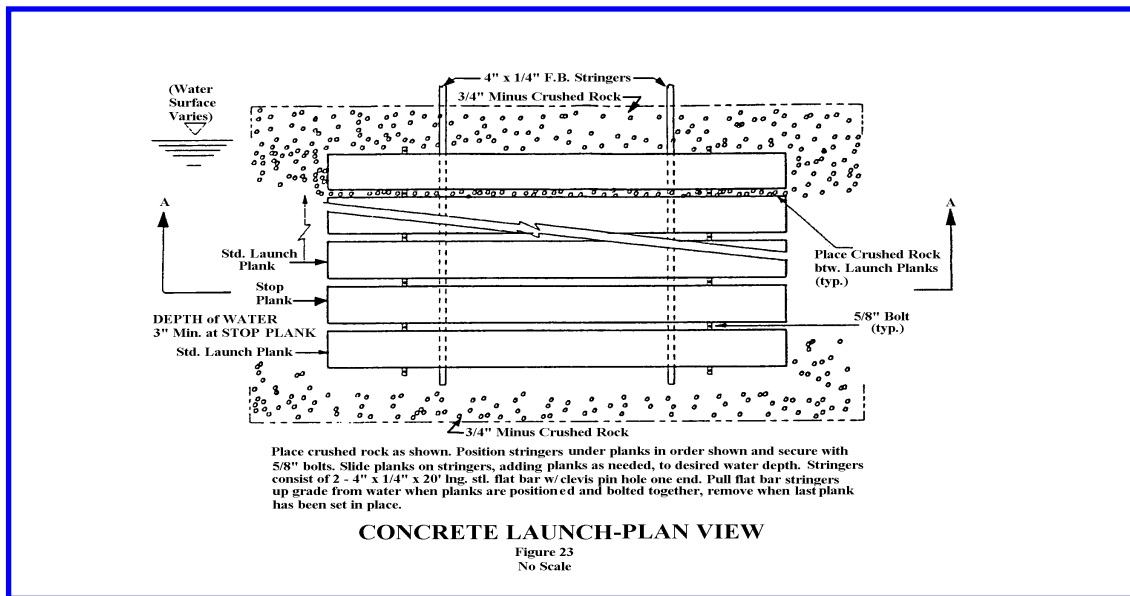
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APPENDIX M



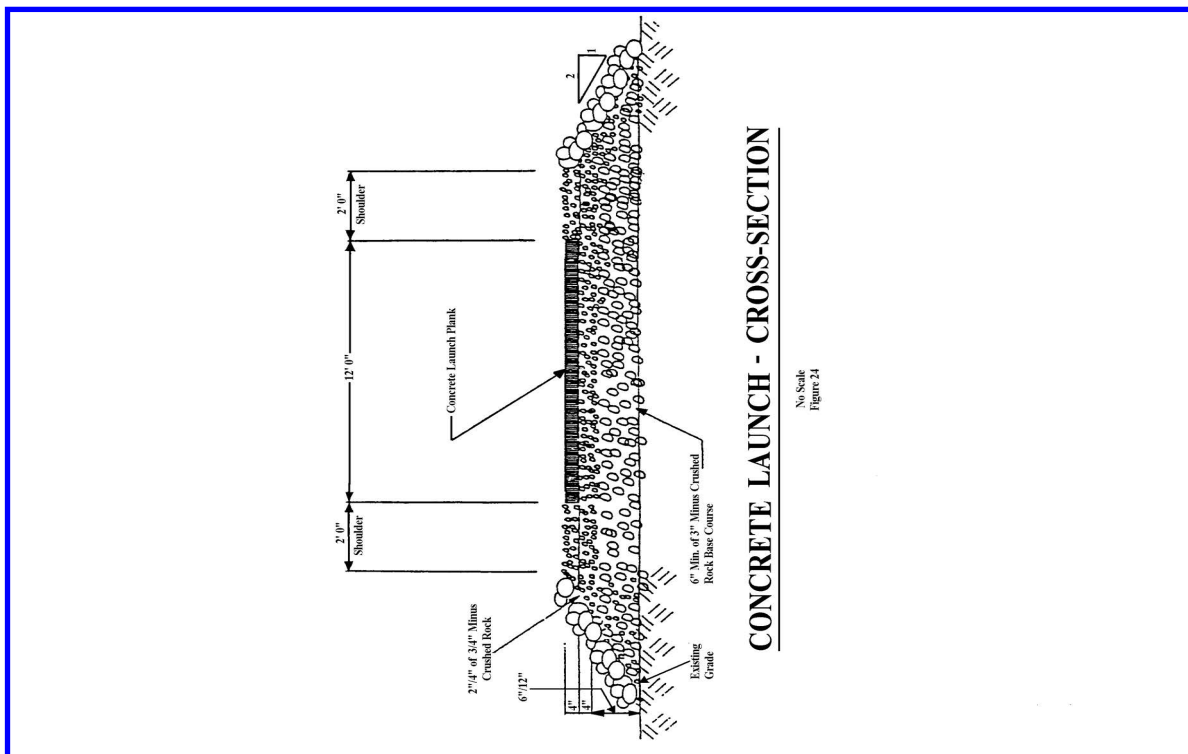
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APPENDIX N



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APPENDIX O



[Above Appendix Proposed to be Deleted]

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES

37.03.12 – IDAHO DEPARTMENT OF WATER RESOURCES WATER DISTRIBUTION RULES – WATER DISTRICT 34

DOCKET NO. 37-0312-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with [Section 67-5224\(2\)\(c\)](#), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 42-1805\(8\)](#), 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:

Adoption of the pending rule removes unnecessary language, revises language for readability, removes unnecessary provisions, and provides consistent and efficient distribution of surface water and groundwater water rights in Water District 34.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 1, 2025, Idaho Administrative Bulletin, [Vol. 25-10, pages 422–430](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: 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.

ASSISTANCE WITH TECHNICAL QUESTIONS: For assistance with technical questions concerning this pending rule, contact Erik Boe at Erik.Boe@idwr.idaho.gov, (208) 287-4800.

DATED this 7th day of November, 2025.

Erik Boe, Resource Protection Bureau Chief, Rules Review Officer
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, ID 83720-0098
Phone: (208)-287-4800

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 42-1805\(8\)](#), 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, no later than October 15, 2025.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no 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 Idaho Department of Water Resources (IDWR) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/rulemaking_templates/ZBR%20Rule%20Review%205%20Year%20Schedule.pdf. This rule chapter was scheduled for review in 2025.

With this Notice, IDWR proposes a rewritten chapter of the Idaho Department of Water Resources Water Distribution Rules – Water District 34. The rewritten chapter is 13% shorter than the existing rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule clarify the procedures for distributing water in Water District 34 in the Big Lost River Basin. IDWR believes the rules provide consistent and efficient distribution of surface water and groundwater to water rights in Water District 34.

The development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2025-2026/water-district-34-rules/>. On the same website, IDWR also developed and published rulemaking support documents, which provide IDWR's recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

After consideration of public comments received in response to this Proposed Rule, IDWR will present the final rule text to the Idaho Legislature in the early spring of 2026.

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 Fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A.

NEGOTIATED RULEMAKING: Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2, 2025, Idaho Administrative Bulletin, [Vol. 25-4, pages 45-46](#).

INCORPORATION BY REFERENCE: Pursuant to [Section 67-5229\(2\)\(a\)](#), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Erik Boe at Erik.Boe@idwr.idaho.gov, (208) 287-4800.

Anyone may submit written comments regarding this proposed rulemaking by mail to the address below or by email to rulesinfo@idwr.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2025.

DATED this 29th day of August, 2025.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 37-0312-2501

37.03.12 – IDAHO DEPARTMENT OF WATER RESOURCES WATER DISTRIBUTION RULES –
WATER DISTRICT 34

000. LEGAL AUTHORITY ~~(RULE 0)~~.

~~The Idaho Department of Water Resources (IDWR) is authorized under Section 42-603, Idaho Code, to adopt rules for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources.~~

~~(3-31-22)()~~

001. SCOPE ~~(RULE 1)~~.

~~This rule governs~~ These rules set procedures for the distribution of surface and ground water within Water District 34, the Big Lost River Basin, ~~by the duly appointed watermaster pursuant to the provisions of Chapter 6, Title 42, Idaho Code, and applicable court decrees. This chapter does not limit the authority of the Director of the Idaho Department of Water Resources in exercising the duties and responsibilities in other provisions of Idaho law.~~

~~(3-31-22)()~~

002. -- 009. (RESERVED)

010. DEFINITIONS ~~(RULE 10)~~.

~~For the purposes of these rules, the following terms will be used as defined below.~~ In addition to the definitions found in Section 42-111 and Section 42-1401A, the following apply:

~~(3-31-22)()~~

01. **2-B Gage.** The U.S. Geological Survey (USGS) gaging station (13127000) located below Mackay Dam in the SW1/4SW1/4NE1/4, Section 18, Township 7 North, Range 24 East, B.M. The official USGS name is the Big Lost River BL Mackay Res nr Mackay ID gage.

~~(3-31-22)()~~

02. **Acre-Foot (AF).** ~~The unit commonly used to measure a~~ A volume of water ~~which is equal to the amount of water sufficient~~ to cover one (1) acre of land one (1) foot deep and is equal to ~~forty-three thousand five hundred sixty (43,560) cubic feet or~~ three hundred twenty-five thousand eight hundred fifty ~~one~~ (325,8510) gallons.

~~(3-31-22)()~~

03. **Acre-Foot Per Year (AFY).** Acre foot per calendar year.

~~(3-31-22)~~

04. **Arco Gage.** The ~~U.S. Geological Survey~~ USGS gaging station (13132500) located near the town of Arco in the SW1/4SE1/4SW1/4, Section 17, Township 3 North, Range 27 East, B.M.

~~(3-31-22)()~~

05. **Cubic Foot Per Second (CFS).** ~~The unit used to express a~~ A rate of flow of ~~water approximately~~ equal to ~~fifty (50) miner's inches or about~~ four hundred forty-eight and eight tenths (448.8) gallons per minute, and also equal to fifty (50) miner's inches.

~~(3-31-22)()~~

06. **Delivery Call.** A request from the ~~holder of a water right~~ water user for administration of water

rights under the prior appropriation doctrine.

(3-31-22)()

~~076.~~ **Director.** The Director of the Idaho Department of Water Resources (IDWR) ~~or the director's duly authorized designee.~~

(3-31-22)()

~~087.~~ **Eastside Canal.** The Eastside Canal diverts from the east side of the Big Lost River in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. and extends southerly to the point it discharges back into the Big Lost River in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M.

(3-31-22)

~~09.~~ **Holder of a Water Right.** The legal owner or user pursuant to lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose.

(3-31-22)

~~108.~~ **Howell Gage.** The ~~U.S. Geological Survey~~ USGS gaging station (131220500) located above Mackay Reservoir in the SE1/4NE1/4NW1/4, Section 30, Township 8 North, Range 21 East, B.M.

(3-31-22)()

~~109.~~ **Rotation Credit.** Water impounded in Mackay Reservoir pursuant to a water right whose source of water is the Big Lost River and which does not include storage as a purpose of use. The impoundment of water as rotation credit is described in Rule Subsection 040.02. For these rules, the term "impounded" refers to rotation credit.

(3-31-22)()

~~12.~~ **Small Domestic and Stock Water Uses.** Water uses meeting the definition of Section 42-111 or Section 42-1401A(12), Idaho Code.

(3-31-22)

~~130.~~ **Storage Water.** Water ~~impounded~~ stored in a storage facility, including Mackay Reservoir, pursuant to a water right which includes storage as a purpose of use. For these rules, the term "stored" refers to water owned by the Big Lost River Irrigation District.

(3-31-22)()

~~141.~~ **Watermaster.** The duly elected and appointed state watermaster of Water District 34 who is authorized to perform duties pursuant to Chapters 6 and 8, Title 42, Idaho Code, ~~and the decree, or order for interim administration, of water rights for Basin 34.~~

(3-31-22)()

~~12.~~ **Water District.** An instrumentality of the state of Idaho created by the Director as provided in Section 42-604, Idaho Code, for the purpose of performing the essential governmental function of distribution of water among appropriators under Idaho law.

()

~~13.~~ **Water User or Holder of a Water Right.** The legal owner or user pursuant to a lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose.

()

011. -- 024. (RESERVED)

025. RIVER REACHES ~~(RULE 25).~~

~~01.~~ **Divisions of the Big Lost River.** For the purposes of quantifying river gains, losses, and calculating and accounting for natural flow, the Big Lost River is divided into the reaches identified below. Reference to a specific river reach will be by the name of the downstream station or terminus point.

(3-31-22)

~~a.~~ Above Howell Gage.

(3-31-22)

~~b.~~ Howell Gage to Chilly Bridge located in the NW1/4NE1/4NW1/4, Section 5, Township 8 North, Range 22 East, B.M.

(3-31-22)

~~c.~~ Chilly Bridge to the 2-B Gage.

(3-31-22)

~~d.~~ 2-B Gage to Leslie Gage located in the NW1/4SW1/4SE1/4, Section 10, Township 6 North, Range 25 East, B.M.

(3-31-22)

~~e. Leslie Gage to Moore diversion located in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. (3-31-22)~~

~~f. Moore diversion to Arco diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. (3-31-22)~~

~~g. Below Arco diversion to the Arco Gage. (3-31-22)~~

~~02. River Reach Computations. For each reach of the river the natural flow will be computed as the natural flow entering the reach plus gains entering the reach minus losses from the reach. The natural flow thus calculated will be allocated as described in Rule 40. (3-31-22)~~

~~031. Gage Station or Other Flow Measuring Facility. A gage station or other flow measuring facility, as approved by the director, is located at the Howell Gage, Chilly Bridge, 2-B Gage, Leslie Gage, Moore diversion, Arco diversion and Arco Gage. The Howell (13120500), 2-B (13127000), Leslie (13130300) and Arco (13132500) gages shall be maintained as part of the USGS Cooperative Program, or equivalent measurement program, and operated continuously. Water District 34 shall continue to contribute to the maintenance and operation of these gage sites in the same proportion as is currently contributed. All other gages shall be operated when water diversions, other than solely storage in Mackay Reservoir, are being made from the river. The cost of installation, operation and maintenance of these other measuring facilities is the responsibility of Water District 34. (3-31-22)()~~

026. -- 029. (RESERVED)

030. NATURAL FLOWS (RULE 30).

Natural flow shall be delivered through the natural river channel to the point of diversion of record, except as provided in these rules. (3-31-22)()

01. Eastside Canal. The watermaster, with the approval of the dDirector and after consultation with the Big Lost River Irrigation District, may elect to deliver the natural flow of the river through the Eastside Canal when the following conditions are met: (3-31-22)()

a. The full flow of the river, including impounded and stored water, to be delivered downstream of the Moore diversion is not greater than the capacity of the Eastside Canal. (3-31-22)()

b. More natural flow water can be delivered to calls for natural flow than could be delivered by using the natural river channel. (3-31-22)

c. No water right is injured. (3-31-22)

d. Measuring devices of a type acceptable to the dDirector are installed and maintained where the flow leaves the river channel and where it returns to the river channel. (3-31-22)()

e. When used for the delivery of natural flow to the Arco diversion, the Eastside Canal is considered to be the river channel for water delivery accounting purposes and the watermaster shall protect the natural flow for delivery to prior water rights. Water rights diverting water from the river channel downstream from the point the Eastside Canal returns to the river channel shall be measured at their point of diversion from the river downstream from the Eastside Canal return. (3-31-22)

f. Conveyance losses in the Eastside Canal, when considered to be the river channel, shall be proportioned between the river flow, the diversions from the Eastside and pumps that inject ground water into the Eastside Canal. The proportioning will be based upon the ratio of total Eastside diversions and injected ground water to the total inflow to the canal. (3-31-22)

02. Alternate Point of Diversion. The watermaster may elect, with the approval of the dDirector, to deliver natural flow water rights to the alternate point of diversion described in Rule Subsection 030.02.a. below when conditions in Rule Subsections 030.02.b. through 030.02.f. below are met: (3-31-22)()

- a. This rule may be used to deliver water rights through the Munsey diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. as an alternate point of diversion for water rights with a recorded point of diversion at the McLaughlin diversion located in the NE1/4NW1/4SE1/4, Section 12, Township 3 North, Range 26 East, B.M. (3-31-22)
- b. The additional delivery losses through the natural channel to the recorded point of diversion for a water right prevents delivery of natural flow to one (1) or more other water rights then calling for water. (3-31-22)
- c. The user receives the same amount of water at the field headgate from the natural flow water right that would be delivered to the field headgate had the natural flow right been delivered at the recorded point of diversion. (3-31-22)
- d. Delivery of the water right at the alternate point of diversion is limited to the period of time the water right could have been delivered to the recorded point of diversion based upon the natural flow available at any time delivery is called for and the loss of the river channel at the time the alternate point of diversion began to be used for the delivery of this water right. (3-31-22)
- e. No water right is injured by the use of the alternate point of diversion. (3-31-22)
- f. The owner of the diversion works at the alternate point of diversion and the ditch(es) used to deliver the water to the field headgate from the alternate point of diversion concurs in the use of those facilities. (3-31-22)

031. -- 034. (RESERVED)

035. MEASURING DEVICES AND CONTROL WORKS ~~(RULE 35).~~

01. Installation and Maintenance of Measuring Devices and Control Works. ~~In addition to measuring devices or control works specifically described in the listing of the water right, each water user, except small domestic and stock water users from ground water, shall, at the water user's expense, install and maintain measuring devices and control works of a type acceptable to the director, at all points of diversion and any other points, as determined necessary by the director for the proper administration of the use of water. The director may prohibit or prevent the diversion of water by a water user who refuses or fails to comply with this rule in accordance with the provisions of Chapter 7, Title 42, Idaho Code.~~ Except for domestic and stock water uses from ground water, each water user will install and maintain suitable measuring devices and controlling works at authorized water right points of diversion in accordance with Chapter 7, Title 42, Idaho Code. These devices will be installed and maintained at the water user's expense to administer water properly. The Director may prohibit the diversion of water by a water user who refuses or fails to comply with this Section in accordance with Chapter 7, Title 42, Idaho Code. (3-31-22)()

02. Access to Diversion Works. Water users shall provide ~~the~~ water district staff continual access to all diversion works, measuring devices and control structures, except ground water diversions for small domestic and stock water uses. (3-31-22)()

03. Diversions Which May Be Exempt. Diversions below the Chilly Bridge and above ~~the~~ Mackay Reservoir that divert water from the Big Lost River, whose place of use is within the flood plain of the Big Lost River as determined by the ~~d~~Director, may be exempt from the requirement for measuring devices and control works with the approval of the ~~d~~Director. Flow rates through exempt diversions will be estimated by the watermaster for accounting purposes by assuming the recorded flow rate of the water right is being diverted. (3-31-22)()

036. -- 039. (RESERVED)

040. ALLOCATION OF NATURAL FLOW ~~(RULE 40).~~

01. Administration of Surface Water Rights. Water not diverted or rotated for credit is available for the next in time water right. Natural flow rights are delivered to the point of diversion with no conveyance loss assessment. A natural flow water right delivered through a lateral or canal of a water conveyance entity shall be

assessed the conveyance loss for the canal through which the water right is delivered. (3-31-22)

a. All water deliveries must be called for by the water user at least forty-eight (48) hours in advance of the actual water delivery. Water which can be delivered by the watermaster in less than forty-eight (48) hours may be used by the water user. (3-31-22)

b. The water user must notify the watermaster of the water user's intent to use water as required by Rule Subsection 040.05. (3-31-22)()

02. Rotation Credit. Water rights that do not include storage as a purpose of use may not be stored. Water rights whose source is Big Lost River, with their point of diversion below the Mackay Dam, and which are appurtenant to lands within Big Lost River Irrigation District (BLRID) may, however, be rotated for credit when such practice improves the efficiency of water use as contemplated by the Big Lost River Irrigation District's plan of operation. Rotation is subject to approval by the Director, the General Provisions for Basin 34, and the following conditions: (3-31-22)()

a. Rotation for credit must be approved by the director as provided by these rules. (3-31-22)

b. Rotation for credit must be pursuant to the Big Lost River Irrigation District's approved plan of operation. (3-31-22)

ca. Any water credited under such a rotation, if not used in the same irrigation season in which it is credited, shall become storage water of the Big Lost River Irrigation District at the end of the irrigation season. (3-31-22)

db. Rotation for credit cannot occur prior to the need for irrigation water on the land, as determined pursuant to these rules, in any year. (3-31-22)

ic. Natural flow must be available at the river headgate point of diversion for the water right requesting rotation credit. (3-31-22)

id. The water user must have operable delivery and use facilities and an actual need for the water on the land in the year rotation is sought. (3-31-22)

ie. If natural flow can not be delivered to a point of diversion at the beginning of the irrigation season and the watermaster determines rotation credit is needed to make possible the delivery of water rights being called for, and there is room in Mackay Reservoir for rotation credit, the watermaster may rotate natural flow rights, which would not otherwise be deliverable to their point of diversion, for credit of up to a combined total of three thousand five hundred (3,500) AF to be released from the reservoir under the control of the watermaster to make natural flow rights deliverable to their point of diversion. The watermaster may use storage water to assist the delivery of natural flow water rights at the beginning of the irrigation season when requested to do so by the storage holder. The watermaster may rotate natural flow rights at the beginning of the irrigation season, which would not otherwise be deliverable to their point of diversion, for credit of up to a combined total of three thousand five hundred (3,500) AF if natural flow cannot be delivered to a point of diversion, the watermaster determines rotation credit is needed to make possible the delivery of water rights, and BLRID determines there is room in Mackay Reservoir for rotation credit. The watermaster may release this impounded water from the reservoir to make natural flow rights deliverable to their point of diversion. (3-31-22)()

ef. Water rotated for credit may only be used on the land to which the water right being rotated is appurtenant. (w)Water rotated for credit may not be marketed) except under the provisions of Section 42-222A, Idaho Code. (3-31-22)()

fg. If the reservoir fills after rotation has begun in any year, (or would have filled except for flood operations) and the natural flow is sufficient to allow diversion of water by 1905 or junior water rights while the reservoir is full, all rotation credits accrued at that time are lost and all water in Mackay Reservoir at that time becomes storage water of the Big Lost River Irrigation District for reallocation. For purposes of this rule Mackay Reservoir will be considered full when the elevation of the water in the reservoir reaches or exceeds a four (4) day

~~average of six thousand sixty-six and twelve one hundredths (6,066.12) feet MSL (spillway crest). Rotation for credit stops at the time Mackay Reservoir fills, and while it remains full, but if the natural flow does not increase sufficiently to allow 1905 or junior water rights to divert after the reservoir fills the rotation credit in the reservoir shall remain the credit of the water user(s) who accrued the rotation credit.~~ A water user will forfeit to BLRID all rotation credits accrued when Mackay Reservoir fills, or would have filled except for flood operations, and the natural flow is sufficient to allow delivery to water rights with a priority date of 1905 or junior. If the natural flow does not allow delivery to water rights with a priority date of 1905 or junior after the reservoir fills, the water user will retain the rotation credit. For this rule, Mackay Reservoir will be considered full when the daily mean elevation of the water in the reservoir reaches or exceeds the spillway crest's mean sea level elevation of 6,066.12 feet.

(3-31-22)(____)

gh. Water rights being rotated must be identified to the watermaster as being rotated into Mackay Reservoir. Water rights identified as such will have the Mackay Reservoir as the temporary point of diversion during the time rotation is occurring. (3-31-22)

hi. The rate of diversion for a water right being rotated for credit combined with other water rights for the same place of use being diverted at the same time cannot exceed the combined diversion limit specified in the listing of water rights. ~~This rule does not limit the rate at which rotation credit, once impounded, can be used.~~

(3-31-22)(____)

03. Assessment of Evaporation and Conveyance Losses to Impounded Water. (3-31-22)

a. Evaporation losses from Mackay Reservoir shall be estimated daily by the watermaster by applying correlated evapotranspiration data and shall be assessed to all impounded water. (3-31-22)

b. Conveyance losses in the natural channel shall be proportioned ~~by the watermaster between natural flow and impounded water. The proportioning shall be done on a river reach basis. Impounded water flowing through a river reach that does not have a conveyance loss will not be assessed a loss for that reach. Impounded water flowing through any river reach that does have a conveyance loss will be assessed the proportionate share of the loss for each losing reach through which the impounded water flows between natural flow, impounded water, and storage water. The watermaster will proportion the natural flow and impounded water conveyance losses on a river reach basis.~~

(3-31-22)(____)

i. An exception is made for impounded water delivered through the Beck and Evan diversion located in the SW1/4SE1/4SW1/4, Section 11, Township 6 North, Range 25 East, B.M. Conveyance loss for this impounded water will be assessed the conveyance loss of the 2-B Gage to Leslie Gage reach, ~~if any, and the additional conveyance loss to the Beck and Evan diversion but not the conveyance loss of the entire Moore reach.~~

(3-31-22)(____)

04. Initiation and Duration of Surface Water Allocation for Irrigation. Any time on or after May 1, ~~an irrigation a~~ water user can make a delivery call on the natural flow if ~~the water user can make be~~ beneficially used ~~of the water~~ for irrigation. If sufficient natural flow exists to deliver the ~~called for~~ water right in a ~~useable~~ usable amount to the water users place of use, the watermaster shall deliver the right. In addition, the ~~d~~Director may allow the diversion of rights or portions of rights for irrigation use from the Big Lost River as early as April 20 and as late as October 31, and from surface water tributaries to the Big Lost River, either before or after the period of use for irrigation described in the water right where:

(3-31-22)(____)

a. The water so diverted is applied to a beneficial use resulting in an immediate benefit to growing plants or is necessary to allow performance of an agricultural practice generally accepted in the community, as determined by the ~~d~~Director. (3-31-22)(____)

b. All surface water rights, regardless of priority, unless subordinated to the water right or class of rights being called ~~for, (now existing or developed subsequent to these rules),~~ existing at the time of diversion that are within their period of use can be satisfied. (3-31-22)(____)

c. The diversion and use of ~~the~~ water does not conflict with the public interest as determined by the ~~d~~Director. (3-31-22)(____)

05. Notice to Initiate Delivery. Water users must initiate delivery of their water right(s) by notifying the watermaster that they are ready to put water to beneficial use. (3-31-22)

06. Diversion of Additional Flows. The ~~d~~Director may allow the diversion of surface water in addition to the quantity of surface water described in a water right for irrigation use to be diverted for irrigation of the described place of use where: (3-31-22)()

a. The waters so diverted are applied to a beneficial use, as determined by the ~~d~~Director. (3-31-22)()

b. All surface water rights, regardless of priority, unless subordinated to the water right or class of water rights being called ~~for, (now existing or developed subsequent to these rules)~~, existing at the time of diversion that are within their period of use can be satisfied. (3-31-22)()

c. The diversion and use of ~~the~~ water does not conflict with the public interest as determined by the ~~d~~Director. (3-31-22)()

d. Additional flows diverted pursuant to Rule 040.06 are natural flows and will not be assessed as impounded ~~or stored~~ water. (3-31-22)()

07. Mackay Dam Minimum By-Pass. Mackay Dam and Reservoir shall be operated to maintain a minimum flow of fifty (50) CFS at the 2-B gage. (3-31-22)

08. Canal or Lateral Delivery. ~~In the event a water user feels inappropriate delivery of natural flow water is occurring on any lateral or canal, the water user can request the watermaster to investigate. In the event the watermaster determines that delivery of natural flow water rights within a lateral or canal is being improperly conducted he shall~~ A water user can request the watermaster to investigate if inappropriate delivery of natural flow is occurring on any lateral or canal. This request needs to be accompanied by reasonable evidence that the delivery causes injury to the water user's natural flow water right(s). In the event the watermaster determines that delivery of natural flow water rights within a lateral or canal is improper, the watermaster will: (3-31-22)()

a. Notify the ditch rider and the water delivery entity of the results of his investigation and coordinate efforts to make proper delivery of the natural flow. (3-31-22)

b. If the situation has not been sufficiently resolved within ~~twenty-four~~ forty-eight (2448) hours, the watermaster will notify the ~~d~~Director, who may take all actions authorized by law to remedy the situation. (3-31-22)()

041. -- 054. (RESERVED)

055. WATER USAGE ~~(RULE 55).~~

01. Incidental Stock Water. ~~When stock water is not specifically included for a water right that includes irrigation, a portion of the quantity described for irrigation use may be diverted and used, from the same point of diversion and at the same place of use as the irrigation use, for purposes of maintaining a reasonable water supply for stock watering use during the period of use for irrigation described in the water right~~ A water user holding a water right authorizing irrigation use, but not stock water use, may divert a portion of the quantity described for irrigation use to maintain a reasonable water supply for stock water use. This stock water use needs to utilize the same point of diversion, place of use, and season of use for the irrigation use on the water right. (3-31-22)()

02. Winter (Non-Irrigation Season) Stock Water. During the non-irrigation season, from October 16 through April 30 except as modified by Rule 040.04, the storage of water in Mackay Reservoir is superior to all rights from the Big Lost River with points of diversion downstream from Mackay Dam, subject to minimum release. (3-31-22)

a. ~~Winter stock water can be called for and delivered pursuant to the list of water rights if it does not~~

~~interfere with storage in Mackay Reservoir~~ Water users holding water rights authorizing winter stock water use may call for the delivery of the water rights provided that the delivery does not interfere with storage in Mackay Reservoir. (3-31-22)()

b. A ~~right holder~~ water user calling for delivery of winter stock water must have access to a diversion point and delivery system to convey the right to the place of use recorded in the ~~list of~~ water rights. If the headgate and delivery system are controlled by an entity other than the water user, the watermaster will only deliver the water with the concurrence of the owner of the headgate and delivery system and then only when such delivery does not constitute unreasonable waste as determined by the ~~d~~Director. (3-31-22)()

056. -- 059. (RESERVED)

060. ACCOUNTING FOR WATER DELIVERY ~~(RULE 60)~~.

Water diversions shall be accounted for continuously, throughout the year by the watermaster. (3-31-22)()

061. -- 999. (RESERVED)