



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

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

FROM: Katharine Gerrity - Deputy Division Manager

DATE: September 03, 2020

SUBJECT: Temporary Rules

IDAPA 13.01.04 - Rules Governing Licensing - Adoption of Temporary Rule - Docket No. 13-0104-2003

IDAPA 13.01.09 - Rules Governing the Taking of Game Birds - Adoption of Temporary Rule - Docket No. 13-0109-2004

We are forwarding these temporary rules to you for your information only. No analysis was done by LSO. These rules are posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rules (2)

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IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2003

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is December 1, 2020.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. This action is authorized pursuant to Title 36, Idaho Code, including Sections 36-104 and 36-408, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The Governor has found that temporary rulemaking to provide the Fish and Game Commission authority to limit the number of deer and elk tags made available for sale annually to nonresident Disabled American Veterans (DAV) at current discounted prices is appropriate and consistent with the Commission's objective to address hunter congestion and crowding in general season deer and elk hunt units and zones. New limits adopted by the Commission for nonresident DAV tags (at current reduced prices) equal 500 deer and 300 elk tags.

General season deer and elk tags available to nonresident DAVs at a reduced price are not included under the statewide limits for the total number of nonresident general season deer and elk tags (14,000 regular and white-tailed deer tags, 1,500 white-tailed deer tags and 12,815 elk tags). Nonresident DAV deer and elk tags currently cost \$22.00 and \$38.00, respectively.

Since 2016, the number of nonresident DAV deer tags sold annually has increased by 60% (from 1,149 tags in 2016 to 1,839 tags in 2019). The number of nonresident DAV elk tags sold annually has increased by 85% (from 910 tags in 2016 to 1,682 in 2019). It is reasonable to expect continued growth in sales of nonresident DAV tags if tags are not limited. If not limited, the increasing popularity of nonresident DAV deer and elk tags may potentially impact the Commission's ability to manage nonresident hunter numbers to address hunter congestion and crowding. Once the limited number of deer and elk tags made available annually sell out, nonresident DAVs remain able to purchase discounted nonresident DAV hunting licenses, and available nonresident deer and elk tags at regular nonresident prices. The sale of such tags are included under the stateside limits for the total number of nonresident general season deer and elk tags.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons. The Governor has found that temporary adoption of the rule is appropriate for the protection of the public health, safety or welfare or for otherwise conferring a benefit to resident Idaho hunters.

FEE SUMMARY: Not applicable. This temporary rule does not impose new fees or charges.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Toby Boudreau at (208) 334-2920.

Dated this 31st day of July, 2020.

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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 13-0104-2003
(Only Those Sections With Amendments Are Shown)

550. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. **General Hunt Tag Quotas.** The following number of general hunt ~~deer tags and elk~~ tags will be set aside annually and reserved for sale to nonresidents: ~~(3-20-20)~~(12-1-20)T

- a. Fourteen thousand (14,000) total deer tags (regular and white-tailed deer tags); (3-20-20)
- b. Twelve thousand eight hundred fifteen (12,815) total elk tags (A and B tags); (3-20-20)
- 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. (3-20-20)

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. (12-1-20)T

- a. Five hundred (500) total disabled American veteran deer tags (regular and white-tailed deer tags); (12-1-20)T
- b. Three hundred (300) total disabled American veteran elk tags (A and B tags). (12-1-20)T

023. **Exceptions.** ~~Sales of nonresident general hunt deer and elk tags~~ Tag sales to the following persons will not be counted in the quotas in Section 550 of these rules: ~~(3-20-20)~~(12-1-20)T

- a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (3-20-20)
- 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. (3-20-20)
- c. Holders of resident lifetime license certificates who are no longer Idaho residents. (3-20-20)
- d. Holders of nonresident junior mentored ~~and disabled American veteran~~ tags. ~~(3-20-20)~~(12-1-20)T

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS
DOCKET NO. 13-0109-2004
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2020.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. This action is authorized pursuant to Title 36, Idaho Code, including Sections 36-104, 36-408 36-409, and 36-1102, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The Governor has found that temporary rulemaking to: 1) establish consistent requirements for use of game bird tags authorized by statute (I.C. 36-409(c)), 2) establish mandatory check requirements for swan and 3) designate two special waterfowl hunting days for veterans and active military is appropriate and consistent with Fish and Game Commission action.

With this rule, any hunter who kills a game bird for which a game tag is required under Section 36-409(c), Idaho Code, must immediately validate the appropriate tag and securely attach the validated tag to the carcass. This rule consolidates requirements to support a new swan hunting season in fall 2020 with prior requirements for turkey and crane tags into a single section for rule simplicity, consistent with [Executive Order 20-01](#).

The rule requires any hunter killing a swan to, within three (3) days of the date of kill, present the swan carcass (for measurement and identification) to a Fish and Game conservation officer, regional office or check station and complete a harvest report. This rule is consistent with legislation adopted to support federal approval of swan seasons.

The rule establishes a two-day veteran/active duty waterfowl season in October 2020, concurrent with the two-day youth season, for licensed hunters with migratory bird validation who are veterans or members of the Armed Forces on active duty. Adoption of this season by the Fish and Game Commission was prompted by 2019 federal legislation (the Natural Resources Management Act) allowing states to make such designations.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), (b), (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons. The Governor has found that temporary adoption of the rule is appropriate for the protection of the public health, safety or welfare or for otherwise conferring a benefit to resident Idaho hunters. This temporary rule is also necessary to comply with amendments to Idaho Code sections 36-409 and 36-416 in House Bill 545 and supports federal approval of swan hunting so that Idaho may join neighboring states to authorize limited tundra swan hunting. 2020 Idaho Sess. Laws, Ch. 323 (H.B. 545).

FEE SUMMARY: Not applicable. This temporary rule does not impose new fees or charges.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Toby Boudreau at (208) 334-2920.

Dated this 31st day of July, 2020.

Paul Kline, Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 13-0109-2004
(Only Those Sections With Amendments Are Shown)

011. – ~~098~~9. (RESERVED)

090. GAME BIRD TAG VALIDATION AND ATTACHMENT.

Any hunter who kills a game bird for which a game tag is required under Section 36-409(c), Idaho Code, must immediately validate the appropriate tag and securely attach the validated tag to the carcass. Tag validation means completely removing the two (2) triangles on the tag corresponding to the day and month of the kill date. The tag must remain attached to the carcass in transit or storage. (8-1-20)T

~~091. – 099.~~ (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

101. MIGRATORY GAME BIRD TAGS, PERMITS, AND VALIDATIONS.

01. License Validation. No person may hunt migratory game birds anywhere within the state, without having in possession the appropriate hunting license with validation for the Migratory Game Bird Harvest Information Program and tag. (3-20-20)

~~02. Sandhill Crane Tag. (3-20-20)~~

~~a. Immediately after any sandhill crane is killed, the sandhill crane tag must be validated and securely attached to the sandhill crane. Tag validation means cutting out and completely removing two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. (3-20-20)~~

~~b. The tag must remain attached so long as the sandhill crane is in transit or storage. (3-20-20)~~

~~032. Youth and Veteran/Activity Duty Waterfowl Season.~~ The youth waterfowl season is open only to licensed hunters with Migratory Bird validation who are eight (8) to seventeen (17) years of age, and who are accompanied in the field at all times by a licensed hunter eighteen (18) years of age or older. The Veteran/Active Duty waterfowl season is open only to licensed hunters with Migratory Bird validation who are veterans (as defined in Section 65-203, Idaho Code) or members of the Armed Forces on active duty (which does not include members of the National Guard and Reserves performing drills or training), and who carry proof of eligibility on their person, such as an official military or veteran identification card; DD214 form; or a state-issued driver's license or identification card with veteran's designation. (3-20-20)(8-1-20)T

102. WILD TURKEY TAGS, ~~STAMPS, PERMITS, AND VALIDATIONS.~~

No person may hunt wild turkey without having in possession the appropriate hunting license; and tag; and controlled hunt permit. (3-20-20)(8-1-20)T

01. Tags. There are three (3) types of turkey tags available: the general tag, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission or in a depredation hunt when authorized by the Director. (3-20-20)

02. Youth General Hunts and Youth Passport Holder Hunt Eligibility. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. (3-20-20)

a. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. (3-20-20)

b. Hunting passport holders eight (8) to seventeen (17) years of age are eligible to participate in general season hunts, youth-only general hunts, landowner permission hunts with the appropriate landowner permission tag, and depredation hunts. (3-20-20)

03. Controlled Hunts. A controlled hunt permit for wild turkey is valid only for the hunt area for which the permit was drawn. (3-20-20)

a. Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: (3-20-20)

i. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (3-20-20)

ii. Landowner permission hunt application eligibility is limited to persons who have a signed permission slip, which includes the landowner's name and address, from a landowner who owns more than seventy-nine (79) acres in the hunt area. (3-20-20)

iii. 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 with a senior or disabled combination or hunting license may apply on a first-come, first-served basis for leftover youth-only controlled hunt permits. (3-20-20)

b. Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. (3-20-20)

i. Duplicate license numbers will not be accepted. Applications from Holders of a Duplicate License (Type 501) will be processed only if they include original license numbers. (3-20-20)

ii. Only one (1) application per person or group will be accepted. Additional applications will result in all applicants being declared ineligible. (3-20-20)

iii. A single payment (either cashier's check, money order, certified check, or personal check) 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. (3-20-20)

iv. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (3-20-20)

v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (3-20-20)

c. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (3-20-20)

~~**04. Tag Validation.** (3-20-20)~~

~~**a.** Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. Tag and permit~~

validation means cutting out and completely removing two (2) triangles on the border of each tag and permit, one (1) for the month and one (1) for the day of the kill. (3-20-20)

~~b.~~ The tag and permit must remain attached so long as the turkey is in transit or storage. (3-20-20)

054. Tag Designation. (3-20-20)

a. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her resident minor child or grandchild who is qualified to participate in the hunt. (3-20-20)

b. Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. (3-20-20)

c. The designation of the controlled hunt permit is not effective unless it is: (3-20-20)

i. Made on a form prescribed by the Department and submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. (3-20-20)

ii. Completed before the first opening hunt date for the permit. (3-20-20)

d. Any child cannot be designated more than one (1) controlled hunt permit per calendar year. (3-20-20)

065. Landowner Permission Tags. Landowner permission hunt tags will be sold on a first-come, first-served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. (3-20-20)

(BREAK IN CONTINUITY OF SECTIONS)

201. – 249. (RESERVED)

250. MANDATORY CHECK AND REPORT – SWANS.

Any hunter killing a swan must, within three (3) days of the date of kill, present the swan carcass (for measurement and identification) to a conservation officer, regional office or check station, and complete a harvest report. A person may authorize another person to comply with the check and report if that person possesses sufficient information to complete the report. (8-1-20)T

251. – 299. (RESERVED)