



**Terri Kondeff**  
**Director**

# Legislative Services Office Idaho State Legislature

---

*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Senators VICK, Heider, Stennett and,  
Representatives GIBBS, Lickley, Rubel

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

**DATE:** September 09, 2022

**SUBJECT:** Temporary Rule

IDAPA 13.01.04 - Rules Governing Licensing - Adoption of Temporary Rule - Docket No.  
13-0104-2203

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is 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 Rule

---

Paul Headlee, Deputy Director   Kristin Ford, Manager   Keith Bybee, Manager   April Renfro, Manager   Glenn Harris, Manager  
Legislative Services Office   Research & Legislation   Budget & Policy Analysis   Legislative Audits   Information Technology

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
legislature.idaho.gov

# **IDAPA 13 – DEPARTMENT OF FISH AND GAME**

## **13.01.04 – RULES GOVERNING LICENSING**

**DOCKET NO. 13-0104-2203**

### **NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 28, 2022.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 34-104, 36-105, and 36-408, Idaho Code.

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

This temporary rule confers a benefit to outfitting businesses in Idaho, and supports implementation of statute, by providing a logical method for determining tag use history for 2023 tag allocation for outfitted hunters in general elk and deer hunts in which tags are limited for nonresidents and unlimited for residents. The Commission makes the 2023 outfitted hunter tag allocation before 2023 general hunt tags go on sale to nonresidents on December 1, 2022 to provide certainty for outfitting businesses marketing outfitted hunts to nonresidents.

The purpose of this temporary rulemaking is to bridge the transition from outfitter reporting of client use of elk and deer tags through the Idaho Outfitters and Guides Licensing Board to a system of reporting through verification of tag sales recorded via the Idaho Department of Fish and Game licensing system, consistent with 2020 amendments to Section 36-408, Idaho Code. The amended Section 36-408 authorizes the Commission to allocate deer and elk tags for outfitted hunters based on the highest number of tag use in a two-year period. As of December 1, 2022, only one complete year (2021) of tag sales data will be recorded via the Department's licensing system. This temporary rule authorizes the Commission to determine 2023 tag allocation for general hunts limited only for nonresidents by considering the higher of the 2020 outfitted hunter use data reported to the Board and 2021 use data recorded via the Department's licensing system in accordance with Section 36-408, Idaho Code.

The proposed rule adopted concurrently with this temporary rule will authorize the Commission's consideration of two years of verified outfitted hunter tag use data, recorded via the Department's licensing system, in determining tag allocation in 2024 and subsequent years.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226 (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because it confers a benefit (as described in the preceding section).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions about the temporary rule, contact Amber Christofferson at (208) 334-2920.

DATED this 4th day of August 2022.

Amber Christofferson Deputy Director  
Idaho Department of Fish and Game  
600 S. Walnut Street  
P.O. Box 25 Boise, ID 83707  
Phone (208) 334-3771  
Fax (208) 334-4885  
Email: [rules@idfg.idaho.gov](mailto:rules@idfg.idaho.gov)

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 13-0104-2203  
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

**01.** Allocated Tag. Game tag allocated under Section 36-408, Idaho Code. (7-28-22)T

**042.** **Authorized Corporate Representative.** Any shareholder in a corporation, designated in writing by the corporation as the eligible applicant, who is in actual physical control of the eligible property. (3-31-22)

**023.** **Blind Person.** A blind person has a medically documented loss or impairment of vision and includes any person whose visual acuity with correcting lens does not exceed twenty/two hundred (20/200) in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees. (3-31-22)

**034.** **Domicile.** The place where an individual has his true, fixed, permanent home and to which place he has the intention of returning whenever he is absent. An individual can have several dwelling places, but only one (1) domicile. Factors to consider establishing domicile include, but are not limited to: (3-31-22)

a. What address does the person use on tax returns and where does the person file a state resident income tax return? (3-31-22)

b. Where is the person registered to vote? (3-31-22)

c. Where do the person and his immediate family live? (3-31-22)

d. Where does the person have his mail sent or forwarded to? (3-31-22)

e. Where does he register his automobiles? (3-31-22)

f. Where has the person claimed a homeowner exemption on a personal residence? (3-31-22)

g. Where does he have a driver's license? (3-31-22)

**045.** **Disabled.** A disabled person is defined as a person meeting criteria set forth in Sections 36-406(g), or 36-1101(b), Idaho Code. (3-31-22)

**056.** **Eligible Property.** At least three hundred twenty (320) acres of land, excluding any government lands, in one (1) controlled hunt area determined by the Department to be valuable for habitat or propagation purposes for deer, elk, pronghorn, and/or black bear, whether owned by one (1) or more persons, a partnership, or corporation. (3-31-22)

**067.** **Landowner.** Any person or corporation whose name appears on a deed as the owner of eligible property or whose name appears on a contract for sale of eligible property as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability corporations wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership or corporation. (3-31-22)

**08.** Non-Allocated Tag. Game tag other than an allocated tag. (7-28-22)T

**09.** 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. (7-28-22)T

~~07~~**10. Permanent Disability.** A medically determinable physical impairment, which a physician has certified that the condition has no expectation for a fundamental or marked change at any time in the future. (3-31-22)

~~08~~**11. Physician.** A 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 if the person is not licensed to practice in Idaho. (3-31-22)

~~09~~**12. Resident.** “Resident” is defined in Section 36-202(s), Idaho Code. (3-31-22)

**13. 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. (7-28-22)T

**(BREAK IN CONTINUITY OF SECTIONS)**

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

For general hunts first limited for nonresidents in 2021, the Commission will determine outfitted hunter tag allocation for 2023 based on the higher tag number for the hunt area as between outfitted hunter tag use for 2020 reported to the Board and incorporating Board-approved adjustments as of April 29, 2022, and outfitted hunter tag use verified and recorded for 2021 in accordance with Section 36-408, Idaho Code. (7-28-22)T

**~~506~~**7. DEER AND ELK OUTFITTER ALLOCATED TAG.****

**01. Distribution of Outfitter Allocated Tags.** Allocated tags will be sold by the Department, as designated by Section 36-2107, Idaho Code, and IDAPA 24.35.01.057, “Rules of Idaho Outfitters and Guides Licensing Board,” to hunters with signed agreements with licensed outfitters in those zones with a cap on the number of tags sold and in outfitter allocated controlled hunts. Application for the purchase of allocated tags will be made by the outfitter for the hunter on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the hunter has a signed agreement to hunt with the outfitter making application. (3-31-22)

**02. Designated Buyers.** Purchasers of allocated tags who return their unused tag and a notarized affidavit stating that the tag buyer has 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. (3-31-22)

**03. Unsold Tags.** Any allocation 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)

~~507~~**8. – 549. (RESERVED)**