

OUTFITTERS AND GUIDES LICENSING BOARD
Division of Occupational and Professional Licenses
P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 4/12/2022

BOARD MEMBERS PRESENT: Brad Compton - Chair
Tammy Overacker
Louise Stark

DIVISION STAFF: Anne Lawler, Bureau Chief
Kent Absec, Licensing Program Manager
John Price, Investigative Unit Manager
Nicholas Krema, General Counsel
Cesley Metcalfe, Board Support Supervisor
Christian Runnalls, Board Support Specialist

OTHERS PRESENT: Joan Callahan, Legal Counsel
Misty Lawrence, Division of Financial Management
Aaron Lieberman, Idaho Outfitters and Guides
Association
Jeff Bitton, Idaho Outfitters and Guides Association

The meeting was called to order at 9:00 AM MDT by Brad Compton.

EXECUTIVE SESSION

Ms. Stark made a motion that the Board enter executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law, Idaho Code § 74-106(9). The purpose of the executive session was to review tag designations. It was seconded by Ms. Overacker. The vote was: Ms. Overacker, aye; Ms. Stark, aye; and Mr. Compton, aye. Motion carried.

Ms. Overacker made a motion to exit executive session. It was seconded by Ms. Stark. Motion carried.

Mr. Compton explained that the Division had to recalculate all decreased hunts due to a rule that requires a different rounding factor in a decreased hunt.

Ms. Stark made a motion to approve the nine recalculated designations and initiate notification of tag designations to outfitters. It was seconded by Ms. Overacker. Motion carried.

ZERO-BASED REGULATION

The Board discussed staff recommendations and questions for the rules below. Unless otherwise stated, the Board approved the recommendations presented.

Rule 057 – Designation of Allocated Deer and Elk Tags:

Division staff suggested replacing the references to Idaho Fish and Game Commission (IDFG) big game season setting with language regarding IDFG tag allocation for seasons starting in odd numbered years. This change will provide flexibility for capped hunt tag designations. Ms. Stark stated that she would like to see the intro statement broadened to include all allocations by IDFG, not just odd-numbered year allocations, and to specifically outline the types of hunts being allocated. Ms. Callahan stated that the suggested changes prevent the Board from having to recalculate designations even if IDFG doesn't allocate in a specific year. Ms. Lawrence stated that the Board statute provides enough coverage that the rule could simply state that tags will be designated pursuant to Idaho Code § 36-2120. Ms. Callahan stated that the rule revision is intended to tighten up the process in response to a recent legal interpretation.

Rule 057.01 – Base Allocation:

Division staff suggested deleting this section as duplicative of Idaho Code § 36-2120(b) and replacing it with language that allows for submission of required documents via email.

Rule 057.02 – Outfitted Hunter Tag Use History:

Division staff suggested updating the language to reflect that IDFG is now the entity that gathers and verifies tag use data. Subsections a and b were deleted as duplicative of statute. Subsections c and d were reworded for clarity.

Rule 057.03 – New Hunt Allocation Tag Designation:

Division staff suggested rewording for clarity and conciseness. Ms. Stark stated a desire for the rules to express that designated tags belong to the outfitted public, and not the outfitters. Mr. Compton stated that the language can be reverted if public comments demonstrate sensitivity to the idea of referring to outfitters instead of outfitting operations.

Rule 057.04 – Use of Previously Designated Allocated Tags:

Division staff suggested deleting the subsections and condensing this rule into one paragraph for conciseness.

Rule 057.05 – Remaining or Additional Allocated Tags:

Division staff suggested replacing references to outfitter operations with outfitter.

Rule 057.06 – Rounding:

Division staff asked the Board if it would like to eliminate the .05 rounding for a hunt that has decreased tag allocation. Ms. Callahan stated that this rounding convention often eliminates the opportunity to compete in a tiebreaker that relies on non-allocated use. The Board would like industry input before making any changes to this rule. No changes were made.

Rule 057.07 – Tiebreaker:

Division staff suggested adding a subsection to specify that after there is a reduction of allocated tags, the surplus tags should first be designated in amounts to restore, as close as possible, the number of previously designated tags. Language was also updated in the existing subsections to clarify the designation or rounding conventions for tiebreakers in the event of a surplus or deficit of tags. Ms. Callahan explained that the changes suggested for this rule are implementations of the decisions that the Board has made for unique scenarios to make things as fair as possible for all impacted outfitters.

Rules 057.08-057.10 – Stipulation by Outfitters/Undesignated Tag Pool/Objection to Calculation:

Division staff suggested deleting reference to big game season setting and replacing references to outfitter operations with outfitter.

Rule 057.11 – Hardship Request:

Division staff suggested rewording the rule to require hardship requests be submitted annually and clarifying the deadline to ensure more timely resolution for the designation process. Mr. Compton suggested deleting the examples of hardships. Ms. Stark suggested providing guidance on the Board's website regarding helpful documentation to submit with hardship requests and examples of hardships.

Rule 057.12 – Change in Operating Area or Owner of Business:

Division staff suggested adding language that clarifies that tag use history transfers to the new owner in the event of a change in operating area or business ownership.

Rule 002.12 – Hazardous Excursions:

Ms. Stark asked if the rule should define trapping. The Division will work on language to provide at a future meeting.

Rule 059 – River, Lake and Reservoir Power and Float Outfitter Limits:

The Board and Division staff discussed the enforceability of putting specific river restrictions in policy and having the rule reference the policy to retain flexibility for the Board to make timely adjustments. Ms. Stark stated that the information in the tables involved collaboration with multiple stakeholders and any future changes should require comparable collaboration. The Board would like industry input before making any changes to this rule. No changes were made.

Rules 037-040 – Boatman License Trainees/Float Boat Guide-Unclassified Rivers/Float Boat Guide-Classified Rivers/Float Boatman Qualifications-Classified Rivers/Float Lead Boatman Qualifications:

The Board stated the importance of establishing minimum requirements, especially for whitewater river guides. The Board would like industry input before making any changes to this rule. Ms. Lawler stated that the Idaho Outfitters and Guides Association is working on submitting comments for Board review that will include these sections. No changes were made.

Rule 035 – Guide Application Requirements – Hunting:

Division staff asked the Board for the history of this rule. Ms. Stark stated that the rule is mainly regarding packers because they may not meet all guide requirements for a specific area. This also allows a guide to work on a specific hunt but not be the sole entity responsible for the hunt. Division staff will work on suggestions for this rule to discuss at a future meeting. The Board would like industry input before making any changes to this rule. No changes were made.

Rule 051 – Placement of Hunting Camps and Leaving Outfitter's Operating Area, Big Game Hunting, and Incidental Trapping:

The Board stated the importance of this rule but suggested that it could be merged with Rule 053. Division staff will work on suggested language for Rule 053 to discuss at a future meeting. No changes were made.

Rule 030 – Availability of Outfitting Opportunities:

Division staff asked for input from the Board to ensure that any suggested changes to this rule meet the intent of the Board. The Board discussed possible options to allow equal access among outfitters for new opportunities. Division staff will work on suggested language to discuss at a future meeting. No changes were made.

Rule 044 – Skiing, Non-Hazardous, and Hazardous Terrain Outfitter, Designated Agent, Ski Guide and Ski Guide Trainee:

Division staff stated that they will discuss possible alternatives to the Technical Advisory Committee (TAC). Mr. Compton stated that it may be useful to utilize the TAC to set minimum qualifications. Ms. Stark stated that there was disagreement among TAC members the last time there was a discussion about whether it is appropriate to establish advanced qualifications. The rationale was that it is difficult to institute advanced qualifications with so many unique factors for each activity. The Board discussed defining hazardous excursion in statute. Division staff will work on suggested language to discuss at a future meeting. No changes were made.

Rule 046 -Technical Mountaineering/Rock Climbing Guide:

Division staff suggested establishing acceptable minimum qualifications for mountaineering and rock climbing. The Board was accepting of the idea. Division staff will work on suggested language to discuss at a future meeting. No changes were made.

Rule 064 – Authorization for Granting, Denial, and Revocation of Licenses:

Division staff suggested revising this language for alignment with the Division structure and processes. Ms. Lawler stated that the Board already has this authority in statute and provided examples of authority delegated to Division staff by other boards. Mr. Compton voiced concern that consistency may suffer over time if rule or policy doesn't provide specific direction. Ms. Lawrence stated that statute guides the Board and rules guide the public and shared examples of how other boards track delegated authority and the pursuant outcomes. Ms. Callahan stated that the promulgation of subsections 01 and 02 predated the Occupational Licensing Reform Act. The Board deleted the rule.

PUBLIC COMMENT

Aaron Lieberman asked the Board if the Association could be directly involved with the Zero-Based Regulation process next time the Board has a discussion on rules. Mr. Compton informed Mr. Lieberman that the public listening sessions are the time for the Association to provide input on the rules. Ms. Lawrence stated that the Association can submit comments to the Board, but it cannot be directly involved as it would give preferential treatment to one party.

ADJOURNMENT

Mr. Compton adjourned the meeting at 1:07 PM MDT.