DRAFT RULE for Outfitted Turkey and Waterfowl Hunting

011. **PRIVATE MEMBERSHIP, CLUBS, OUTFITTING ON PRIVATE LAND, AND OUTFITTED TURKEY AND WATERFOWL HUNTING.**

~~An outfitter license shall not be issued to any individual, group, corporation, or club which limits its services to a membership or does not offer services to the general public. A group, corporation, or club formed in a manner so as to solicit participation from the general public and to provide services on a guided and/or paid basis beyond a sharing of expenses shall be required to comply with the provisions of the Outfitters and Guides Act (Title 36, Chapter 21, Idaho Code). (3-1-86)~~

01. Private Membership Groups, Organizations, Clubs

a. Any group, corporation, or club formed in a manner so as to solicit participation from the general public and/or ~~to~~ who provides outfitted facilities, equipment or services to the public such as guiding and/or on a paid basis beyond a sharing of expenses shall be required to comply with the provisions of the Outfitters and Guides Act (Title 36, Chapter 21, Idaho Code) and must comply with rules provided herein.

b. Individual persons who share facilities, equipment and expenses while participating in outdoor recreational activities such as those provided by outfitters, who do not solicit participation from the general public and who are not compensated are not required to comply with the provisions of the Outfitters and Guides Act (Title 36, Chapter 21, Idaho Code) .

c. An outfitter license shall not be issued to an individual group, corporation, or club who limits its services to a membership or does not offer services to the general public.

02. Outfitting on Private Land

a. Private landowners, who only charge fees for access to their land or waters, shall not be required to be licensed as an outfitter.

i. Any individual or individuals can make arrangements with a land owner to access and hunt on their land without involvement from an outfitter or guide.

b. Private landowners ("Landowner") who advertise outfitted or guided services or solicit participation from the general public for such services, or who provide outfitted facilities or services for compensation shall be required to comply with the provisions of the Outfitters and Guides Act (Title 36, Chapter 21, Idaho Code).

i. Private landowners shall be licensed for outfitting on their own land or waters.

ii. Private landowners licensed as outfitters may designate agents (including existing outfitters) who shall be employees to provide facilities and services.

iii. Private landowners may lease lands or waters they own to an outfitter for outfitting purposes.

c. Licensed outfitters must maintain on file with the Board, a copy of each landowner lease prior to use of the leased area and during the time the leased area is licensed to them as an operating area.

i. The lease agreement must specify the area to be used by the outfitter, the activities to be provided and the date of use allowed by the private land owner. Leased areas and activities will be added or modified to an existing outfitter license by the outfitter following the major amendment process and must be approved by the Board prior to advertising or use. *(See lease restrictions for outfitters licensed for Turkey and Waterfowl hunting in sections 03.b and 04.b.)*

(a) It is recognized that the land owner has the right to control access to his property and its use. An outfitter's lease may not cause a private land owner to deny or limit public access to public or private lands or waters accessible through the private land owner's property. An outfitter's lease with a private land owner cannot cause or require non-outfitted fishing or hunting opportunities to be excluded from the private land owner's property.

ii. Outfitter lease agreements shall not exceed a period of five years. Reauthorization shall be done by the outfitter providing the Board an updated lease agreement submitted following the minor amendment process.

iii. Outfitters licensed for the use of private land or water must notify the Board immediately upon the termination of a lease or changes to the terms of use of any leased private land licensed as an operating area prior to promotion or use. Changes to the terms of use other than adding areas or activities must be done by the outfitter following the minor amendment process. Termination of an agreement must be done in writing by the land owner or the outfitter.

03. Outfitted Waterfowl Hunting

a. Non Outfitted Areas for Waterfowl Hunting - Non outfitted areas shall be identified by a clear area description, and shall be determined and maintained by the Board with input from the Idaho Department of Fish and Game. Factors in the determination of these areas shall include biological factors, such as the location of wildlife or their proximity to riparian areas, and resource management concerns, such as hunting pressure or changes in public access, congestion or the impact of shooting over public waterways or other factors set forth in these rules.

i. The following list of areas have been identified by the Board where outfitted/guided Waterfowl Hunting would not be provided:

AREA	DESCRIPTION	Factors *
Snake River	The Snake River and adjoining riparian areas within the 100 year flood plain from the Washington/Idaho State line up the Snake River to Idaho/Oregon/Washington State line in Hells Canyon.	1, 2
Snake River	The Snake River, associated reservoirs and adjoining riparian areas within the 100 year flood plain from the Railroad Bridge near Steck Park Sportsman Access in Washington County up river to the headwaters near the Wyoming border including the Henry's Fork and South Fork.	1, 2
Snake River	Public and private lands between the Snake River from Lewiston along running south and between Tammany Creek Road, Willow Road, Rosenkrantz Road and Miller Road to junction with Red Bird and the north border of the Craig Mountain WMA in Nez Perce County.	1, 2
Snake River	Public and private lands between the Snake River and Jenkins Creek Road, and Olds Ferry Road to Steck Park Sportsman Access from Weiser in Washington County.	1, 2
Snake River	Public and private lands between the Snake River and Highway 95 from Weiser in Washington County to the US Highway 95/55 Junction near Marsing in Owyhee County.	1, 2
Snake River	Public and private lands between the Snake River and Highway 78 from the US Highway 95/55 Junction near Marsing in Owyhee County to the Hammett Junction 121 on Interstate 84.	1, 2, 3
Snake River, Deer Flat Reservoir	Public and private lands and waters between the Snake River and Highways 44 in Ada and Canyon County and between the Snake River and Highway 20/26 in Canyon County including but not limited to Deer Flat Reservoir (Lake Lowell) and areas adjoining the Boise River.	3
Snake River	Public and private lands between the Snake River and Highway 19 from the US Highway 95/19 Junction in Homedale in Owyhee County north to the Oregon State line.	1, 2
Snake River	Public and private lands between the Snake River and Interstate 84/86/15 from Ada County's western border to the Highway 33 Junction 339 near Roberts.	1, 2
Snake River	Public and private lands and waters in Elmore County south of the 43 degree latitude including the Glenn's Ferry and King Hill areas.	1,2
Snake River	Public and private lands between the Snake River and Highway 30 from Bliss in Gooding County to Burley in Cassia County.	1, 2
Snake River	Public and private lands between the Snake River and Highway 91 junction 89 near Blackfoot north to Highway 91/20/21 junction in Idaho Falls.	1, 2
Snake River	Public and private lands between the Snake River and the Highway 48 junction with Highway 26 near Ririe north to the Highway 48 junction with Highway 20 near Rexburg and then north on Highway 20 to where it crosses the Henry's Fork of the Snake River north of Ashton.	1,2
Teton River	The river and adjoining riparian areas within the 100 year flood plain upstream from its confluence with the Henry's Fork of the Snake River.	1, 2
Mud Lake Area	Public and private lands and waters in Jefferson County north of Highway 28.	1, 2
Boise River	The river and adjoining riparian areas within the 100 year flood plain from Arrow Rock Dam in Boise County down river to its confluence with the Snake River near Parma in Canyon County.	1, 2
Weiser River	The river and adjoining riparian areas within the 100 year flood plain downstream from its confluence with Mann Creek	1, 2
Payette River	The river and adjoining riparian areas within the 100 year flood plain from Black Canyon Dam in Boise County downstream to its confluence with the Snake River near Payette in Payette County. Public and private lands in Payette County between Highway 30 and 52. Public and private lands in Payette and Gem County south of the Payette River to Highway 52.	1, 2
Cascade Reservoir	In Valley County. High water line of reservoir	1, 2
Bear Lake	High water line of lake	1, 2
Kootenai River	The river and adjoining riparian areas within the 100 year flood plain	1, 2
Coeur d' Alene River	The river and adjoining riparian areas within the 100 year flood plain downstream from Cataldo	1, 2
St. Joe River	The river and adjoining riparian areas within the 100 year flood plain downstream from St. Maries	1, 2
Pend Oreille River	The river, associated reservoirs and adjoining riparian areas within the 100 year flood plain	1, 2
Clark Fork	The river and adjoining riparian areas within the 100 year flood plain	1, 2
Lake Pend Oreille	High water line of lake	1, 2

Lake Coeur d' Alene	High water line of lake	1, 2
* Factors	1) Extensive public use during waterfowl season, 2) highly accessible navigable waterway, 3) Congestion due to residential and commercial development.	

ii. Areas will be reviewed for inclusion and exclusion on this list as needed by the Board with input from the Idaho Department of Fish and Game.

b. Outfitted Areas for Outfitted Waterfowl Hunting - Any area not specified in section 3.a.i. shall be available for outfitting and guiding as follows:

i. Total outfitted client days of all licensed waterfowl outfitters shall be limited to three percent (3%) of the five year moving average of the larger of the estimated number of goose or duck hunter days in each IDFG region, provided to the Board by the Idaho Department of Fish and Game (IDFG). No single outfitter may receive more than twenty percent (20%) of the total (3%) outfitter hunter days available in each IDFG region with their initial license. After their first year of operation and by establishing use, an outfitter may request additional hunter days by submitting a major amendment. The total number of outfitters sharing the 3% outfitter hunter days available in each IDFG region may be modified by the Board with input from the Idaho Department of Fish and Game. The total opportunity can never exceed the 3% average.

ii. A minimum of one hundred (100) acres of contiguous land is required to license outfitters to hunt waterfowl.

iii. An outfitter may lease parcels of land up to a total of one thousand (1000) contiguous acres for waterfowl hunting purposes comprised of no more than four separate landowner leases. This may be in addition to lands the outfitter owns privately. Contiguous means touching, connected, or shared boundaries.

iv. Appropriate buffer distances shall be established between outfitters by the Board with input from the Idaho Department of Fish and Game (IDFG).

v. Appropriate shooting/buffer distances shall be established between an outfitter's licensed area and other public or private lands or waters by the Board with input from the Idaho Department of Fish and Game (IDFG).

vi. The Board may set other limits or restrictions based upon the facts and circumstances of the application.

vii. Any individual who has an arrangement to access and hunt waterfowl on private land may access public lands or waters to hunt waterfowl where public hunting is legal. They must do so without assistance from or services provided by the landowner, the outfitter, or their employees such as guides.

viii. Use shall be measured annually by the Board. Outfitters must provide use reports annually as required elsewhere in these rules.

c. Existing Outfitters Licensed To Hunt Waterfowl - Existing outfitters licensed to hunt waterfowl identified prior to the effective date of these rules shall be grandfathered and by doing so, they shall be given priority to fill limited license opportunities in their respective regions as identified in section b. Limits i through vi shall apply.

i. Following the initial implementation of these rules and grandfathering, existing licensed outfitters shall be subject to possible changes to resources and therefore may be subject to changes in license requirements and limitations determined by the Board following operational adjustment hearing guidelines as set forth elsewhere in these rules.

ii. Should one of these existing outfitters' businesses assets be sold, the succeeding outfitter will be subject to the specific term of any rules in place at the time of submission of their license application.

04. Outfitted Turkey Hunting.

a. Non Outfitted Areas for Turkey Hunting - Non outfitted areas shall be identified by a clear area description, and shall be determined and maintained by the Board with input from the Idaho Department of Fish and Game. Factors in the determination of these areas shall include biological factors, such as the location of wildlife or their proximity to riparian areas, and resource management concerns, such as hunting pressure or changes in public access, congestion or other factors set forth in these rules.

i. The following list of areas have been identified by the Board where outfitted/guided Turkey Hunting would not be provided:

AREA	DESCRIPTION
None at this time	

ii. Areas will be reviewed for inclusion and exclusion on this list as needed by the Board with input from the Idaho Department of Fish and Game. This list will be updated following state rule making procedures.

b. Outfitted Areas for Outfitted Turkey Hunting. - Any area not specified in section 4.i shall be available for outfitting and guiding as follows:

i. Total outfitted clients of all licensed outfitters is limited to three percent (3%) of the licensed turkey hunters in a given IDFG region over a five year moving average, using data provided by the Idaho Department of Fish and Game (IDFG). No single outfitter may receive more than twenty percent (20%) of the (3%) hunter total available in each IDFG region with their initial application for licensure. After their first year of operation and by establishing use, an outfitter may request additional hunter opportunities by submitting a major amendment. The total number of outfitters sharing the 3% outfitted hunters available in each IDFG region may be modified by the Board with input from the Idaho Department of Fish and Game (IDFG). The total opportunity can never exceed the 3% average.

ii. A minimum of one hundred sixty (160) acres of contiguous land is required to license outfitters to hunt turkey

iii. An outfitter may lease parcels of lands up to a total of one thousand (1000) contiguous acres for turkey hunting purposes comprised of no more than four separate landowner leases. This may be in addition to lands the outfitter owns privately. Contiguous means touching, connected, or shared boundaries.

iv. Appropriate buffer distances shall be established between outfitters by the Board with input from the Idaho Department of Fish and Game (IDFG).

v. Appropriate shooting/buffer distances shall be established between an outfitter's licensed area and other public or private lands or waters by the Board with input from the Idaho Department of Fish and Game (IDFG).

vi. The Board may set other limits or restrictions based upon the facts and circumstances of the application.

vii. Any individual who has an arrangement to access and hunt turkey on private land may access public lands or waters to hunt turkey where public hunting is legal. They must do so without assistance from or services provided by the landowner, the outfitter, or their employees such as guides.

viii. Use shall be measured annually by the Board. Outfitters must provide use reports annually as required elsewhere in these rules.

c. Existing Outfitters Licensed To Hunt Turkey - Existing outfitters licensed to hunt turkey identified prior to the effective date of these rules shall be grandfathered and by doing so, they shall be given priority to fill limited license opportunities in their respective regions as identified in section b. Limits i through vi shall apply.

i. Following the initial implementation of these rules and grandfathering, existing licensed outfitters shall be subject to possible changes to resources and therefore may be subject to changes in license requirements and limitations determined by the Board, following operational adjustment hearing guidelines as set forth elsewhere in these rules.

ii. Should one of these existing outfitters' business assets be sold, the succeeding outfitter will be subject to the specific term of any rules in place at the time of submission of their license application.

05. Public Lands and Waters for Outfitted Turkey and Waterfowl Hunting - Outfitted turkey or waterfowl hunting on "public" lands or waters will not be initiated by the Board.

a. IC – 36-2107 requires the Board to cooperate with state and federal agencies, and the Board has a Memorandum of Understanding (MOU) in place with Bureau of Land Management and the United States Forest Service that provides for cooperation in all matters related to state outfitter licensing and federal outfitter permitting processes. Therefore, the Board will only consider licensing outfitters on federally managed lands or waters once the appropriate federal agency, using standard processes required of them and as defined in the MOU maintained with the Board, determines that outfitted turkey and waterfowl hunting is appropriate and acceptable use within that agency's jurisdiction. Additionally, the Board will only consider licensing outfitters on state managed lands once the appropriate state agency makes similar determinations.

OPTION C