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State Endangered Species Act Statutes:

Idaho



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Fish and G. Species Conservation §§ 36-2401 – 36-2405; 36.1101

Current through 2020 Legislative Session.

§ 36-2401. Definitions.

As used in this title, the following terms have the following meanings unless the context indicates otherwise:

(1) "Best scientific and commercial data available" means that where this chapter requires the use of the best scientific and commercial data available, the state, when evaluating comparable data, shall give greater weight to scientific or commercial data that is empirical or has been field tested or peer reviewed.

(2) "Candidate conservation agreements" means agreements, entered into with the fish and wildlife service or the national marine fisheries service (services), to implement mutually agreed upon conservation measures for a proposed or candidate species, or a species likely to become a candidate or proposed candidate in the near future, that include assurances from the services that additional conservation measures above and beyond those contained in the agreement will not be required, and that additional land, water or resource use restrictions will not be imposed upon them should the species become listed in the future.

(3) "Candidate species" means a species for which the secretary of interior or secretary of commerce has on file sufficient information on biological vulnerability and threats to support a proposal to list the species as an endangered species or a threatened species, but for which listing is precluded because of pending proposals to list species that are of a higher priority.

(4) "Endangered species" means those species listed as endangered pursuant to 16 U.S.C. section 1532(6).

(5) "Habitat conservation plan" means a plan submitted pursuant to a permit as provided in 16 U.S.C. section 1539, et seq.

(6) "Listed species" means threatened or endangered species.

(7) "Rare and declining species" means those species in need of additional management consideration due to natural rarity, downward trends in populations and habitats, or other factors, natural or human, that, without additional management, might be listed as threatened or endangered species under the ESA in the future.



(8) "Recovery plans" means federal plans or conservation programs, referenced in 16 U.S.C. section 1533(f), that set forth the actions designed to assure the continued survival and recovery of the species listed as "endangered" or "threatened" pursuant to the endangered species act.

(9) "Species conservation assessment" means a state analysis, based on the best scientific and commercial data available, about the status of a rare or declining species throughout its range which describes current and anticipated factors limiting the viability of the species as it relates to desired goals and objectives and identifies specific research needs relative to the species.

(10) "Species conservation strategy" means a state strategic plan for the management or conservation of a rare or declining species that describes the species needs in terms of habitat needs, population size, distribution and connectivity. The strategy shall include voluntary, landowner-based incentives and measures to achieve the management or conservation goals.

(11) "Species management plan" means a plan which provides for the consideration and management of a species upon its being delisted.

(12) "State conservation programs" means the programs developed, pursuant to 16 U.S.C. section 1535(c), for the conservation of endangered species and threatened species.

(13) "Threatened species" means those species listed as threatened pursuant to 16 U.S.C. section 1532(20).

§ 36-2402. Delisting Advisory Team — Duties — Membership.

(1) The director of the department of fish and game for animal species and plant species, in cooperation and consultation with the governor's office of species conservation, may establish a delisting advisory team (DAT) of no more than nine (9) members for a threatened species or endangered species, to recommend an appropriate state species management plan for a listed species in response to a notification from the secretary of interior or secretary of commerce of intent to delist the species or sooner if deemed appropriate.

(2) The delisting advisory team members shall be broadly representative of the constituencies with an interest in the species and its management or conservation and in the economic or social impacts of management or conservation including, where appropriate, depending on the specific species, representatives of tribal governments, local governments, academic institutions, private individuals and organizations and commercial enterprises. The delisting advisory team members shall be selected based upon:

(a) Their knowledge of the species;

(b) Their knowledge and expertise in the potential conflicts between a species' habitat requirements or management and human activities;

(c) Their knowledge and expertise in the interests that may be affected by species management or conservation; or



(d) Other factors that may provide knowledge, information, or data that will further the intent of this act.

§ 36-2403. Operations of Delisting Advisory Team.

(1) The delisting advisory team shall elect a team leader who shall chair all meetings of the team and otherwise administer its operations. The team shall meet as necessary, but shall meet no less than once every six (6) months.

(2) Members of the team not in the employ of public agencies may be compensated as provided in section 59-509(b), Idaho Code, from the budget of the governor's office of species conservation. Their department or division shall compensate its members of the team who are state employees.

§ 36-2404. State Delisting Management Plan Requirements.

(1) The delisting advisory team shall develop a state management plan for a species in response to all notification of intent to delist the species by the secretary of interior or secretary of commerce or sooner if deemed appropriate. The state management plan shall provide for the management and conservation of the species once it is delisted, and contain sufficient safeguards to protect the health, safety, private property and economic well-being of the citizens of the state of Idaho.

(2) The department of fish and game shall provide the delisting advisory teams, the informational, technical or other needs and requirements of those teams in the performance of their duties.

(3) In developing state delisting management plans, the delisting advisory team shall consult with the appropriate state agencies, commissions and boards. The appropriate state agency for wildlife biological and species management issues, and for plant life biological and species management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining activities is the department of lands. The appropriate state agencies for agricultural activities are the department of agriculture and the Idaho state soil and water conservation commission. The appropriate state agency for public road construction is the transportation department. The appropriate state agency for water rights is the department of water resources. The appropriate state agency for water quality is the department of environmental quality. The appropriate state agency for outfitting and guiding activities is the Idaho outfitters and guides licensing board.

§ 36-2405. Recommendation of Management Plans.

(1) The delisting advisory team shall submit the management plan to the director of the department of fish and game for animal or plant species, for review and recommendation.

(2) The director shall review the management plan and make a recommendation to the fish and game commission. The director may recommend either approval of the management plan, or recommend to return the management plan to the delisting advisory team for



further study and review, with instructions, prior to return of the species strategy or management plan to the directors.

(3) If the fish and game commission finds that the management plan provides for the management and conservation of the species when it is delisted by the secretary of the interior or secretary of commerce and that reasonable safeguards are included in the management plan to protect the health, safety, private property and economic well-being of the citizens of the state of Idaho, the fish and game commission shall approve the management plan.

(4) If the fish and game commission makes the finding required in subsection (3) of this section, the fish and game commission shall forward the state management plan, to the governor's office of species conservation and the legislature. The management plan is subject to legislative approval, amendment or rejection by concurrent resolution at the regular session immediately following the commission's finding and approval of the plan.

(5) The governor's office of species conservation may petition the responsible public agencies to initiate rulemaking to facilitate the implementation of the approved management plan.

(6) Each management plan developed pursuant to this chapter shall include a public education component that shall be developed and implemented in cooperation with other appropriate bureaus of the department of fish and game.

(7) Nothing in this act shall be interpreted as granting the department of fish and game with new or additional authority.

§ 36-1101. Taking of wildlife unlawful except by statute or commission rule or proclamation — Methods prohibited — Exceptions.

(a) It is unlawful, except as may be otherwise provided by Idaho law, including this title or commission rules or proclamations promulgated pursuant thereto, for any person to take any of the game animals, birds or furbearing animals of this state.

(b) Except as may be otherwise provided under this title or commission rules or proclamations promulgated pursuant thereto, it is unlawful for any person to:

1. Hunt from Motorized Vehicles. Hunt any of the game animals or game birds of this state from or by the use of any motorized vehicle, including any unmanned aircraft system, except as provided by commission rule; provided however, that the commission shall promulgate rules which shall allow a physically disabled person to apply for a special permit which would allow the person to hunt from a motorized vehicle which is not in motion. A physically disabled person means a person who has lost the use of one (1) or both lower extremities or both hands, or is unable to walk two hundred (200) feet or more unassisted by another person, or is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair, or is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to one (1) or more of the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.



The commission shall specify the form of application for and design of the special permit which shall allow a physically disabled person to hunt from a motorized vehicle which is not in motion. No fee shall be charged for the issuance of the special permit and the issuance of a special permit shall not exempt a person from otherwise properly purchasing or obtaining other necessary licenses, permits and tags in accordance with this title and rules promulgated pursuant thereto. The special permit shall not be transferable and may only be used by the person to whom it is issued. A person who has been issued a special permit which allows a physically disabled person to hunt from a motorized vehicle not in motion shall have that permit prominently displayed on any vehicle the person is utilizing to hunt from and the person shall produce, on demand, the permit and other identification when so requested by a conservation officer of the department of fish and game. A person possessing a special permit shall not discharge any firearm from or across a public highway. In addition to other penalties, any unauthorized use of the special permit shall be grounds for revocation of the permit.

2. Molest with Motorized Vehicles. Use any motorized vehicle, including any unmanned aircraft system, to molest, stir up, rally or drive in any manner any of the game animals or game birds of this state.

3. Communicate from Aircraft. Make use of aircraft, including any unmanned aircraft system, in any manner to spot or locate game animals, game birds or furbearing animals of this state from the air and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person then on the ground.

4. Hunt from Helicopter. Make use of any helicopter in any manner in the taking of game or loading, transporting, or unloading hunters, game or hunting gear in any manner except when such use is at recognized airports or airplane landing fields, or at heliports which have been previously established on private land or which have been established by a department or agency of the federal, state or local government or when said use is in the course of emergency or search and rescue operations. Provided however, that nothing in this chapter shall limit or prohibit the lawful control of wolves or predatory or unprotected animals through the use of helicopters when such measures are deemed necessary by federal or state agencies in accordance with existing laws or management plans.

5. Hunt with Aid of Aircraft. Make use of any aircraft, including any unmanned aircraft system, to locate any big game animal for the purpose of hunting those animals during the same calendar day those animals were located from the air. Provided however, that nothing in this chapter shall limit or prohibit the lawful control of wolves or predatory or unprotected wildlife through the use of aircraft when such measures are deemed necessary by federal or state agencies in accordance with existing laws or management plans.

6. Artificial Light. Hunt any animal or bird except raccoon by the aid of a spotlight, flashlight or artificial light of any kind. The act of casting or throwing, after sunset, the beam or rays of any spotlight, headlight or other artificial light capable of utilizing six (6) volts or more of electrical power upon any field, forest or other place by any person while having in his possession or under his control any uncased firearm or contrivance capable of killing any animal or bird, shall be prima facie evidence of hunting with an artificial light. Provided nothing in this subsection shall apply where the headlights of a motor vehicle, operated and proceeding in a normal manner on any highway or roadway, cast a light upon animals or birds on or adjacent to such highway or roadway and there is no intent or attempt to locate such animals or



birds. Provided further, nothing in this subsection shall prevent the hunting of unprotected or predatory wildlife with the aid of artificial light when such hunting is for the purpose of protecting property or livestock, is done by landowners or persons authorized in writing by them to do so and is done on property they own, lease or control; and provided further that the hunting and taking of unprotected or predatory wildlife with the aid of artificial light on public lands is authorized after obtaining a permit to do so from the director. The director may, for good cause, refuse to issue such permit.

Other provisions of this subsection notwithstanding, the commission may establish rules allowing the hunting of raccoon with the aid of an artificial light.

7. Regulation of Dogs.

(A) No person shall make use of a dog for the purpose of pursuing, taking or killing any of the big game animals of this state except as otherwise provided by rules of the commission.

(B) Any person who is the owner of, or in possession of, or who harbors any dog found running at large and which is actively tracking, pursuing, harassing or attacking, or which injures or kills deer or any other big game animal within this state shall be guilty as provided in section 36-1401(a)1.(F), Idaho Code. It shall be no defense that such dog or dogs were pursuing said big game animals without the aid or direction of the owner, possessor, or harborer.

(C) Any dog found running at large and which is actively tracking, pursuing, harassing, attacking or killing deer or any other big game animal may be destroyed without criminal or civil liability by the director, or any peace officer, or other persons authorized to enforce the Idaho fish and game laws.

8. Attempt to Take Simulated Wildlife.

(A) Attempt to take, by firearm or any other contrivance capable of killing an animal or bird, simulated wildlife in violation of any of the provisions of this title or commission rules applicable to the taking of the wildlife being simulated, when the simulated wildlife is being used by a conservation officer or other person authorized to enforce Idaho fish and game laws or rules promulgated pursuant thereto. No person shall be found guilty of violating either this subparagraph, or subparagraph (B) of this paragraph, provided that no other law or rule has been violated.

(B) Any person pleading guilty to, convicted of or found guilty for attempting to take simulated wildlife within this state shall be guilty of a misdemeanor and shall be punished as provided in either subsection (c) or (e) of section 36-1402, Idaho Code, and shall pay restitution in an amount of no less than fifty dollars (\$50.00) for the repair or replacement of the simulated wildlife.

9. Devices Accessed via Internet.

(A) No person shall shoot at or kill any bird or animal in Idaho, wild or domestic, including domestic cervidae governed under the provisions of chapter 37, title 25, Idaho Code, with any gun or other device accessed and controlled via an internet connection. Accessing,



regulating access to, or regulating the control of a device capable of being operated in violation of this paragraph shall be prima facie evidence of an offense under this paragraph.

(B) Any person pleading guilty to, convicted of or found guilty of a violation of this paragraph shall be guilty of a misdemeanor and shall be punished as provided in section 36-1402, Idaho Code.

