

The Idaho Department of Fish and Game considers the following document to be an agency guidance document for purposes of Idaho Executive Order 2020-002. The guidance document is not new law; it is the Department's interpretation or implementation of existing law.

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IDAHO DEPARTMENT OF FISH AND GAME

Disposition of Seized or Unclaimed Fish or Wildlife PROCEDURE NO.: ENF-2.0

Revision Date: June 2015

- Updated I.C. 36-1304
- Added wording highlighted in yellow

This procedure is to guide Department employees when they dispose of edible and inedible animal parts seized as evidence and confiscated by a court, salvaged or determined to be abandoned or unclaimed.

Section 36-1304 subsections (b) and (c) of the Fish and Game Code set forth specific guidelines for disposal of wildlife seized as evidence in a criminal matter and wildlife seized as abandoned or unclaimed.

(b) Unlawfully Taken Wildlife--Seizure, Confiscation, Disposition.

(i) The director or any other officer empowered to enforce the fish and game laws may at any time seize and take into his custody any wildlife or any portion thereof which may have been taken unlawfully, or which may be unlawfully in the possession of any person. If it appears from the evidence before the magistrate hearing the case that said wildlife was unlawfully taken, the magistrate shall:

1. Order the same confiscated or sold by the director and the proceeds deposited in the fish and game account; or
2. In his discretion, order such confiscated wildlife given to a designated tax-supported, nonprofit or charitable institution or indigent person.

(ii) Any person having unlawfully taken wildlife that is the subject of a sale by the director shall be prohibited from purchasing the unlawfully taken wildlife or any portion thereof. Provided further, no person shall knowingly purchase unlawfully taken wildlife or any portion thereof on behalf of any person who has unlawfully taken the wildlife that is the subject of the sale. Any violation of this subsection (b)(ii) shall be considered an illegal purchase or offer to purchase wildlife, or parts thereof, which has been unlawfully killed or taken.

(c) Unclaimed Wildlife--Seizure, Disposition. All carcasses, hides, pelts or portions of any wildlife protected by the provisions of this title which are deemed to be unclaimed or abandoned may be seized by the director or any other officer empowered to enforce game laws and, upon being so seized, the director shall:

1. Sell same at public or private sale and deposit the proceeds therefrom in the fish and game account.
2. In his discretion, order such wildlife to be given to a designated tax-supported nonprofit or charitable institution or indigent person.



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These two sections of law are specific in outlining procedures for disposition of wildlife that comes under the Department's jurisdiction as a result of normal Department activities.

Although the Fish and Game Code allows the Department to give fish or game meat to institutions or indigent persons, the Department of Health and Welfare believes this practice should be structured so that persons, especially those dependent upon institutions for their meals, do not eat fish or game meat unknowingly or unwillingly. Health and Welfare also believes that the Department should inform persons buying or receiving fish or game meat that the meat does not conform to the Idaho Food, Drug, and Cosmetic Act. **Therefore, all individuals purchasing or receiving meat from the Department will sign the Acknowledgment and Waiver form contained in Appendix I.**

Employees will attempt to ensure indigent or needy persons receive salvaged, unclaimed, or disposed of meat. As a guide, indigent persons may be designated by a county welfare organization, State Health and Welfare service, or church welfare program.

When fish or game meat is given to institutions for distribution to indigent or needy persons, **the institution must obtain the signature of the individual receiving meat on an institutional waiver list (Appendix II). By signing the waiver list, recipients waive liability and are informed the meat is not inspected and does not conform to the Idaho Food, Drug and Cosmetic Act. The institution must keep this waiver list on file for one year.** These institutions must agree to give the fish or game meat to the ultimate recipient and should not distribute the meat for redistribution.

Fish or game meat will not be distributed to individuals who are not capable of fully understanding the waiver.

Fish or game meat should not be distributed to institutions for the mentally handicapped, except for limited outpatient programs where the legal guardian of the handicapped individual has signed a waiver. This ensures that fish or game meat will not be distributed to persons who are not capable of fully understanding the waiver.

Fish or game meat should not be given to senior citizen organizations, soup kitchens, or any other facility that is defined as an eating and drinking establishment. That definition includes any place where food or drink intended for individual portions are served, regardless of whether consumption is on or off the site and regardless of whether there is a charge for the food or drink. Also included are delicatessen-type operations that prepare sandwiches for individual portion service. **Not included in this definition are private homes where food is prepared or served for individual family consumption, supply vehicles and private clubs, fraternal and church organizations, which do not serve or prepare meals more than once a week.**

Jails with small facilities that can properly implement and manage the waiver process to serve wild fish or game may receive wild fish or game. However, any jail desiring to do so must contact the Food Program Compliance Officer of the State Department of Health and Welfare, Division of Health, Statehouse Mail, Boise, Idaho 83720 and the district health department for approval prior to obtaining any wild fish or game. The attached



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waiver (**Appendix III**) has been approved for use by jails by the Food Program Compliance Officer.

If there is a question in reference to the eligibility of an organization, institution, or facility to receive fish or game meat, **the food service section of the Bureau of Preventive Medicine, Department of Health and Welfare, 334-3123, should be consulted.**

The United States Department of Agriculture has informed this Department that game **sausage or salami** is not eligible for sale or distribution to nonprofit or charitable institutions or indigent persons. Therefore, **all game sausage or salami seized shall be destroyed.**

While the disposition of carcasses of edible game animals taken as evidence or as unclaimed is fairly obvious, there seems to be some question regarding disposition of nonedible parts of game animals and other wildlife received in the above manner. To help resolve some of these questions, the following procedure is established for use in carrying out the provisions of Section 36-1304(b) and (c).

A. DISPOSITION OF UNLAWFULLY TAKEN FISH OR WILDLIFE

Fish or wildlife unlawfully taken will refer to **any wildlife that has been confiscated from a person charged with the unlawful taking of same.**

The disposition of such confiscated wildlife will be made in accordance with the direction of **a magistrate from that county.** A form CE-27 signed by the magistrate must be obtained directing the disposition of edible or salable portions of the animal, including hide, horns, antlers, claws, etc., whether by sale or by donation. The receipt portion of the CE-27 is completed when such evidence is disposed of. In the case of parts of wildlife not considered salable or edible, such parts should be destroyed and a form CE-27 completed.

B. DISPOSITION OF UNCLAIMED OR ABANDONED FISH OR WILDLIFE

Unclaimed or abandoned fish or wildlife refers to any fish or wildlife, or parts thereof, which cannot be determined to be in possession of any person. This includes wildlife unlawfully killed, but no suspect charged, wildlife shot and left in the field, legal wildlife left at storage facilities, taxidermy shops, etc. Salvaged wildlife may originate from a Department activity that results with the edible and animals parts that can be utilized by indigent persons. Salvaged wildlife may include capture mortalities or road-killed wildlife.

Edible portions should be given to indigent persons. Skins, heads, horns, or other parts should be used for educational purposes by the Department or given to educational institutions, or sold at the Department's annual fur and animal parts auction. Parts having no commercial value should be destroyed. A form CE-27 should be used to indicate disposition of the wildlife.



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C. FISH OR WILDLIFE TAKEN FOR SCIENTIFIC STUDY PURPOSES

Fish or wildlife taken in conjunction with a scientific study should be utilized as much as possible toward filling the requirements of the study. Wildlife not used should be disposed of, as outlined under "B." A collection report must be submitted, indicating the species, number, and disposition of all wildlife taken, including accidental kills, under scientific collecting permit authority. This report is submitted as soon after the collection is made as possible.

D. FISH OR WILDLIFE TAKEN DURING DUTY TIME

All fish or wildlife or parts thereof taken or picked up while on duty and/or acting in an official capacity are to remain the property of the state. Examples are road kills, winter kills, and depredation kills. Predators such as coyotes, badgers, etc., taken while using state equipment and/or while on Department time are also included in this category. This wildlife shall also be disposed of as outlined under "B" and included on your collecting permit report.



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APPENDIX I

ACKNOWLEDGEMENT AND WAIVER

The undersigned, _____, who is a recipient of wild game meats from the Idaho Department of Fish and Game, pursuant to I.C. 36-1304, hereby acknowledges and agrees to the following:

1. That the meat purchased or received consists of wild game meat which does not meet the requirements of the Idaho Food, Drug, and Cosmetics Act.
2. That the purchaser hereby waives any claim against the Idaho Department of Fish and Game and the State of Idaho for any damages or injuries that the purchaser may have as a result of the consumption of the wild fish and game meat.
3. That the purchaser agrees not to resell the meat and further agrees not to sell or deliver this meat to any institutions that could use this meat for human consumption.

DATED This _____ day of _____, 20_____

Purchaser/Recipient



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APPENDIX III

ACKNOWLEDGEMENT AND WAIVER

The undersigned person is aware and hereby acknowledges and agrees to the following:

1. That meals served in the _____ County, State of Idaho, jail may at times include wild fish and game meat, which does not meet the requirements of the Idaho Food, Drug, and Cosmetic Act.
2. That the undersigned hereby waives any claim against the Idaho Department of Fish and Game, the State of Idaho, and the County of _____ for any damages or injuries that the recipient may have as a result of the consumption of the wild fish or game meat.
3. That the undersigned is voluntarily agreeing to the consumption of wild fish or game meat while the undersigned is incarcerated in the _____ County, State of Idaho, jail.
4. In the event that the undersigned does not wish to agree to the consumption of wild fish or game meat, other food will be provided.

Dated _____