

**Meeting Date:** November 15, 2022

**Agenda Item No. 5D**

**Agenda Item:** Administrative Rules: Adoption of Pending Rules (Action) and Legislative Update (Information only)

**Bureau Chief Approval: ES**

**Prepared by:** Deputy Director Amber Worthington  
& Deputy Attorney General Kathleen Trever

**Background:**

The Commission previously approved four Zero-Based Regulation (ZBR) chapters of IDAPA rules this year to move to proposed and are now reviewing those chapters to adopt as pending:

- **13.01.02**, Rules Governing Mandatory Education and Mentored Hunting
- **13.01.10**, Rules Governing Wildlife Importation, Possession, Release, Sale, or Salvage
- **13.01.14**, Rules Governing Falconry
- **13.01.18**, Rules Governing Feeding of Pronghorn, Elk, and Deer

In addition to ZBR rulemaking, the Commission adopted two proposed rules originating from petitioned rulemaking that will also need to be reviewed to adopt as pending:

- **13.01.04**, Rules Governing Licensing (rule change to support outfitter tag allocation in general deer and elk hunts limited for non-residents only)
- **13.01.04**, Rules Governing Licensing (rule change for exception from method of take restriction for big game hunting to allow attached electronic camera device for a sighted assistant to help a blind hunter line up on a target)

Staff held one additional public meeting around chapter 13.01.10, Rules Governing Wildlife Importation, Possession, Release, Sale, or Salvage and acquired additional feedback from the USFWS for chapter 13.01.14, Rules Governing Falconry. The revised rule language for the Commission’s consideration for the four ZBR chapters and the two individual rules are up for adoption for pending status.

**Statutory Authority and/or Policy Issues:**

Idaho Code 36-104 grants authority to the Commission to set seasons and promulgate IDAPA rules. Additionally, these actions are authorized pursuant to Sections 36-103, 36-104, 36-105, 36-111, 36-401, 36-408, 36-409, 36-409, 36-412, 36-418, 36-701, 36-703, 36-704, 36-706, 36-708, 36-712, 36-1102, 36-1101(a), 36-1508, 36-2201, and 36-2205. Idaho Code 67, Chapter 52 (Idaho Administrative Procedure Act) governs the process for considering, adopting, and implementing IDAPA rules. Idaho Code 67-5224 provides for adoption of pending rules for additional public notice and comment.

**Public Involvement Process:**

Public involvement for rulemaking occurs through Commission meetings, negotiated rulemaking and the publication of temporary/proposed rules in the Administrative Bulletin. Consistent with Executive Order 2020-01 for ZBR, at least two public meetings were held (including the opportunity for one negotiated rulemaking meeting) to take input on the “zero-based” Fish and Game chapters 2, 10, 14 and 18, in the Idaho Administrative Code (IDAPA 13), which were opened for review and modification in year two of the five-year ZBR effort. Rulemaking

meetings were also held for the two proposed rules brought to the Department through the petition process.

Public involvement for changes to the outfitter tag allocation included negotiated rulemaking and other public comment opportunities.

Public involvement for changes to the falconry chapter included negotiated rulemaking and comment opportunities by the USFWS.

While no person(s) initially showed interest in negotiated rulemaking for the wildlife importation chapter, the Department later met with interested parties on a couple of occasions and held a public meeting after the proposed rule was published.

No one identified interest in other ZBR negotiated rulemaking meetings for chapters 13.01.02 or 13.01.18.

**Justification:**

Idaho Code (Idaho Administrative Procedure Act) governs the process for considering, adopting, and implementing IDAPA rules.

**Staff Recommendation:** The staff recommendation for pending rule language is presented by chapter in the following pages. These include pending rules for:

- 13.01.02, Rules Governing Mandatory Education and Mentored Hunting
- 13.01.04, Rules Governing Licensing (individual rule sections)
- 13.01.10, Rules Governing Wildlife Importation, Possession, Release, Sale, or Salvage
- 13.01.14, Rules Governing Falconry
- 13.01.18, Rules Governing Feeding of Pronghorn, Elk, and Deer
- 13.01.04, Rules Governing Licensing (individual rule sections)

**Sample Motions:**

Pending Rules: I move the Commission adopt pending rules as presented, with authority for the Department to make non-substantive edits in the proofreading process that do not alter the sense, meaning or effect of the rules.

**Background (Legislative Update):**

Staff will review the Commission legislative process, including regular conference calls during the legislative session to evaluate legislative proposals related to fish and wildlife management, Department administration, and other relevant items. Previously, calls have occurred on either Wednesday or Thursday mornings at 8 a.m. MST, and staff have provided the Commission with a summary of legislation and bill status. The weekly calls provide the Commission with the opportunity to determine whether a policy position is warranted.

A staff legislative analysis sheet and proposed House and Senate bill tracking forms proposed for use during the 2023 session are attached for consideration.

The Department has no agency-sponsored legislation proposed for the 2023 Legislative Session.

**Statutory Authority and/or Policy issues:**

The Commission has responsibility to provide policy direction for Department-sponsored legislation and provide policy guidance relative to other legislative initiatives and process, including issues the Commission has worked with other stakeholders to advance.

**Public Involvement Process:**

Commission quarterly meetings provide the public with comment opportunities regarding ideas for agency-sponsored legislation which follows a process and schedule determined by the Governor's office. The legislative process also provides the public a separate opportunity to comment to their elected representatives on the merits of legislation.

**Staff Recommendation:**

Continue a process similar to what was conducted in previous years that evaluates legislative proposals as directed by the Commission, including establishing the 2023 teleconference calendar (e.g., day of week, time of conference call, frequency of calls). Direct staff to initiate support work to implement the Commission legislative process.

**Justification:**

Define the Commission's legislative process to facilitate timely and effective policy input during the 2023 legislative session.

**IDFG LEGISLATION ANALYSIS**

**Date:**

**Completed By:**

**Bill – RS#:**

**Sponsors and Interested Parties:**

<u>Name</u>	<u>Phone #</u>	<u>E-mail</u>

**Current Law/Background:**

**Synopsis/Analysis:**

**Effects to Department Management/Wildlife Resources:**

**Fiscal Effect to Department:**

**Bill Status:**

**Department Action Recommendation:**     Monitor     Answer Qs     Testify  
**Justification:**

**Commission Position:**     No Position     Support     Not Support     Monitor  
**Comment:**

This analysis is provided for information purposes only. It represents only the informed analysis of this legislation by the appropriate Department subject matter expert. It does not constitute official policy of the Idaho Fish and Game Commission or the Idaho Department of Fish and Game, unless formally adopted by the Commission; nor is it a legal opinion in reference to this legislation.

**2023 Legislative Session- House Bills- Status as of X/XX**

Click on the link below for complete bill information and up-to-date bill status  
 Link to be provided when available

<b>BILL #</b>	<b>DESCRIPTION</b>	<b>IDFG Commission Position</b>	<b>House Committee*</b>	<b>House Floor</b>	<b>Senate Committee*</b>	<b>Senate Floor</b>	<b>Governor action</b>
S1237	Administrative Rules	Monitor	Jud, Rules & Admin	Passed 32-3-0	Jud and Rules		

\*Res/Env= Senate Resources and Environment Committee, Res/Con= House Resources and Conservation Committee

**2023 Legislative Session- Senate Bills Status as of X/XX**

Click on link below for complete bill information and up-to-date bill status  
 Link provided when available

<b>BILL #</b>	<b>DESCRIPTION</b>	<b>IDFG Commission Position</b>	<b>Senate Committee*</b>	<b>Senate Floor</b>	<b>House Committee*</b>	<b>House Floor</b>	<b>Governor action</b>

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