

Meeting Date: November 16, 2021

Agenda Item No. 5F

Agenda Item: Adoption of Pending Rules (Action) and **Bureau Chief Approval:** ES
Legislative Update (Information only)

Prepared by: Jim Fredericks, Deputy Director
Kathleen Trever, Deputy Attorney General

Background (Omnibus Rulemaking – Adoption of Pending Rules)

This omnibus rulemaking is to adopt as Pending previously approved and codified chapters of IDAPA 13. On June 3rd, the Commission adopted omnibus fee and non-fee rules as temporary per direction from the Division of Financial Management (DFM) to be effective July 1st. DFM subsequently issued direction to all state executive agencies to proceed with rulemaking to submit necessary rules for 2022 legislative review as an omnibus rulemaking. On September 1st the Commission approved omnibus fee and non-fee rules to move forward as “proposed rules.” The proposed rules included changes to existing rule in Chapters 4, 7, 8, and 9 and 15. These included changes to correct typographical errors, clarify points of confusion and/or make language across chapters consistent, provide for the use of crossbows as a method of take for upland game birds, make minor adjustments to Geographical Management Units (GMUs) to better align with management and enforcement objectives, adjustment of the elk tag set-aside for outfitter allocation, and inclusion of a hound hunter licensing requirement inadvertently deleted from a prior rule version. Proposed Omnibus rules were published in a special edition of the Idaho Administrative Bulletin on October 20, 2021, after which comments were accepted for 21 days.

For proposed rules to take effect as final rules, the Commission must adopt/ratify them as Pending rules to submit them for legislative review. The Department is now seeking Commission approval of all IDAPA Section 13 chapters (Fish and Game administrative rules), to advance as Pending rules.

Statutory Authority and/or Policy issues: These rulemaking actions comply with Section 67-5226, Idaho Code. These actions are authorized pursuant to Sections 36-103, 36-104, 36-105, 36-111, 36-201, 36-301, 36-303, 36-401, 36-404, 36-407, 36-408, 36-409, 36-412, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, 36-804, 36-901, 36-1101, 36-1102, 36-1508, 36-2201, Idaho Code.

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 (Zero-Based Regulation, ZBR), at least two public meetings were held (including one negotiated rulemaking meeting) to take input on “zero-based” Fish and Game chapters 1, 7, and 9, in the Idaho Administrative Code (IDAPA 13), which were opened for review and modification in year one of the five-year ZBR effort. Public involvement for changes to the outfitter set-aside also included negotiated rulemaking and other public comment opportunities. Proposed Omnibus rules were published in a special edition of the Idaho Administrative Bulletin on October 20, 2021, after which comments were accepted for 21 days.

Staff Recommendation: Staff recommends the Commission adopt fee and non-fee rules as Pending, consistent with the Commission’s prior omnibus rulemaking actions in February (fee) and May (non-fee), June (both fee and non-fee temporary), and September (both fee and non-fee proposed). Because of differences in approval processes for adoption of fee and non-fee rules, these are separated into two different rulemaking actions.

Note: Staff will provide a summary of public comment received in response to the Administrative Bulletin publication of proposed rules, and will identify if there are any changes in language between the proposed rules and the staff-recommendation for pending rules.

Sample Motions:

Fee Rules: *I move the Commission adopt fee rules as presented by staff as Pending, 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.*

Non-fee rules: *I move the Commission adopt non-fee rules as presented by staff as Pending, 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): In recent years, the Commission has met via weekly conference calls during the legislative session to evaluate legislative proposals related to fish and wildlife management, Department administration, and other items of interest. Calls have typically 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 (including Commission-sponsored legislation approved by the Governor's office). 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 2022 session are attached for consideration.

The Department has no agency-sponsored legislation proposed for the 2022 Legislative Session.

Statutory Authority and/or Policy issues: The Commission has responsibility to provide policy direction for Department-sponsored legislation and to 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 in 2022 a process similar to what was conducted in 2021 to evaluate legislative proposals as directed by the Commission, including establishing the 2022 phone conference 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 2022 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.

2022 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

BILL #	DESCRIPTION	IDFG Commission Position	House Committee*	House Floor	Senate Committee*	Senate Floor	Governor action

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

2022 Legislative Session- Senate Bills Status as of X/XX

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BILL #	DESCRIPTION	IDFG Commission Position	Senate Committee*	Senate Floor	House Committee*	House Floor	Governor action

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