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**IDAPA 13
TITLE 01
CHAPTER 01**

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO FISH AND GAME COMMISSION

000. LEGAL AUTHORITY.

The Idaho Fish and Game Commission is authorized to adopt rules concerning the administration of the wildlife policy of the state of Idaho in accordance with the Idaho fish and game code under Idaho Code, Sections 36-103(b), 36-104(b), and 36-105(l). (10-26-94)

001. TITLE AND SCOPE.

The title of this chapter is "Rules of Practice and Procedure of the Idaho Fish and Game Commission." These rules govern rulemaking, contested cases, meeting procedure, and appearances before the Commission and Department of Fish and Game. Pursuant to Idaho Code, Section 67-5206(5), the Idaho Fish and Game Commission accepts in whole the procedural rules governing rulemaking and contested cases promulgated by the Office of the Attorney General, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (10-26-94)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules and documentation of compliance with these rules are available at the headquarters office. (10-26-94)

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (10-26-94)

004. -- 009. (RESERVED).

010. HEADQUARTERS OFFICE.

Office Hours, Mailing Address, and Street Address. The headquarters office of the Department and the Commission is in Boise, Idaho. This office is open from 8:00 a.m. to 5:00 p.m. except Saturdays, Sundays and legal holidays. The Commission's mailing address, unless otherwise indicated, is Idaho Fish and Game Commission, Department of Fish and Game, P.O. Box 25, Boise, ID 83707. The street address is 600 South Walnut, Boise, Idaho. The telephone number is (208) 334-3771 and the FAX number is (208) 334-2114. (10-26-94)

011. DIRECTOR -- COMMISSION SECRETARY -- COMMUNICATIONS.

The Director of the Department is the Commission Secretary and the custodian of all public files of the Commission. The Secretary or his designee is responsible for service of all orders and notices and other documents issued by the Commission. (10-26-94)

01. Written Communications and Documents. All written communications and documents concerning any matter covered by these rules should be mailed to the headquarters office of the Commission and not to individual members of the Commission or Department. Unless otherwise provided by statutes, these rules, order or notice, documents are considered to be officially received as evidenced by the date stamp placed on all such communications and documents when received, not when mailed. (10-26-94)

02. Proceedings Information. Information concerning proceedings before the Commission or Department or the status of any matter before the Commission is available from the Commission Secretary. (10-26-94)

012. DELEGATION OF POWERS TO DIRECTOR.

The Commission may, by order, delegate such powers to the Director as the law will permit. (10-26-94)

013. INVESTIGATIONS.

The Commission may authorize any of its members, the Director, or other persons to make investigations for fact-finding purposes. The investigator or person conducting the hearing shall report the results of such investigation or hearing to the Director or if directed, to the Commission as a body. Such proceedings may be formal or informal as directed by the Commission. (10-26-94)

014. -- 049. (RESERVED).

050. COMMISSION MEETINGS.

01. Discrimination. Commission meetings shall not knowingly be held at any place where discrimination on the basis of race, creed, color, sex, age, or national origin is practiced. (10-26-94)

02. Commission Meetings Required. The Commission shall hold its annual meeting in Boise in January and hold other regular quarterly meetings in April, July, and October at places within the state of Idaho as the Commission may select. All meetings of the Commission are open to the public, except as provided under Idaho Code, Section 67-2345. (10-26-94)

03. Special Meetings. Special meetings may be called at any time and place by the Chairman and/or a majority of the members of the Commission. Special meetings are open to the public and are subject to the same requirements as regular meetings, except as provided under Section 67-2345, Idaho Code. (10-26-94)

04. Telephone Conference Call Meetings. In emergency situations or because of budget considerations, it may be necessary to hold special meetings by telephone conference call. Such meetings are open to the public and are subject to the same requirements as regular meetings, except as provided under Section 67-2345, Idaho Code. (10-26-94)

05. Attendance of Director. The Director may attend all meetings and hearings of the Commission, except when ordered otherwise by the Commission, and will have the same right to speak at such meetings as the members of the Commission. However, the Director will not be permitted to vote upon any question being decided by the Commission. (10-26-94)

06. Request to Appear Before the Commission. Any person wishing to appear before the Commission on any matter may make a written or oral request to appear. Requests must be received by the Commission at the headquarters office at least ten (10) days prior to the regularly scheduled Commission meeting at which the appearance is requested. Written requests shall contain a general statement of the purpose of the requested appearance. (10-26-94)

051. CONDUCT OF COMMISSION MEETINGS.

01. Quorum. Four (4) members of the Commission shall constitute a quorum for the transaction of any business or in the performance of any duty or for the exercise of any power. Provided, that whenever the number of Commissioners present is less than a quorum at a regular or special meeting, they may recess from day-to-day until a quorum is present. (10-26-94)

02. Call to Order. The Chairman of the Commission or, in his absence, any member of the Commission chosen by members present to act as the Acting Chairman of the Commission, shall call the meeting to order. (10-26-94)

03. Order of Business. When the Commission has been called to order and a quorum present, the order of business shall be as follows, or such other order of business as may be determined by the Chairman or a majority of Commission members: (10-26-94)

- a.** Director's report. (10-26-94)
- b.** Commission discussion. (10-26-94)
- c.** Minutes. (10-26-94)

- d. Fiscal. (10-26-94)
- e. Rules. (10-26-94)
- f. Lands. (10-26-94)
- g. Management plans and policies. (10-26-94)
- h. Legislation. (10-26-94)
- i. Reports. (10-26-94)
- j. Miscellaneous. (10-26-94)

04. Business Before the Commission. All business before the Commission shall be by motion and shall not be debated before the Chairman has properly stated or introduced the motion. After the motion has been introduced by the Chairman, each member of the Commission, or the Director, when properly recognized, may speak on the motion. (10-26-94)

05. Obtaining the Floor. To obtain recognition from the Chairman, a member will raise his hand and address the Chairman and, when duly recognized, the member may proceed, provided that such request for recognition may not be made when another has the floor. (10-26-94)

06. Voting. (10-26-94)

a. All members shall vote upon all motions placed before the commission unless excused by the Chairman and the reason for such excuse shall be stated in the record. (10-26-94)

b. A Commissioner may change his vote on any motion up to the time the vote is finally announced by the Chairman. (10-26-94)

c. Any absentee Commissioner wishing to vote on any motion, after being fully informed of the facts in the motion at hand, may cast his vote by proxy. The proxy shall be in the form of a letter designating power of attorney for a Commission member present at the meeting to cast a vote in behalf of the absent member. Such letter shall indicate the vote which is desired and shall become a part of the record of the meeting. (10-26-94)

07. Motion to Reconsider. A motion having been decided by the Commission, any Commissioner, having voted on the prevailing side, may on any day of the meeting at which such question was decided, move to reconsider the vote by which the same was lost or carried. If such motion to reconsider carries, the Chairman shall again put the original motion before the Commission. It will have the same status as if it had not been voted on by the Commission. (10-26-94)

08. Parliamentary Rules. The rules contained in Robert's Rules of Order shall govern the Commission in all cases to which they are applicable, and in which they are not inconsistent with the rules of order of the Commission. (10-26-94)

09. Suspension or Amendment of Rules. These rules of the Commission may be amended or suspended by a vote of three (3) members of the Commission. (10-26-94)

052. RECORDS OF MEETINGS.

The Director or his designee shall keep complete record of all proceedings of the Commission. Proceedings shall be kept in a permanent record book to be designated as Official Minutes of the Idaho Fish and Game Commission. Summary minutes shall be taken of all meetings, except as provided in Subsection 052.04 below. Neither a full transcript nor an electronic recording of the meeting is required. All minutes shall be available for public inspection within one (1) month after the meeting. Summary minutes shall include a minimum of: (10-26-94)

- 01. Orders Issued or Authorized.** All members of the Commission present; (10-26-94)
- 02. Director Signature.** All motions, resolutions, orders, or rules proposed and their disposition; (10-26-94)
- 03. Numbering of Orders.** The results of all votes and upon the request of any member, the vote of each member, by name; (10-26-94)
- 04. Filing of Orders.** Minutes of executive sessions may be limited to material, the disclosure of which is not inconsistent with the provisions of Section 67-2345, Idaho Code, but shall contain sufficient detail to convey the general tenor of the session. (10-26-94)

053. ORDERS.

- 01. Signature.** All orders issued or authorized by the Commission shall be signed by the Director as Secretary. (10-26-94)
- 02. Signature.** All orders that may be issued by the Director pursuant to Idaho Code, Title 36, shall be signed by the Director as the Director. (10-26-94)
- 03. Chronologically Numbered.** All orders shall be chronologically numbered for each year and reference may be made to such orders by their numbers. (10-26-94)
- 04. Filed.** All orders shall be placed on file in the headquarters office of the Department and shall become effective as provided in Chapter 52, Title 67, Idaho Code. (10-26-94)

054. PROCEDURE FOR PUBLIC TESTIMONY AT COMMISSION MEETINGS.

- 01. Moderator.** The chairman or his designee shall moderate the meeting or hearing. (10-26-94)
- 02. Sign Up Card.** Persons wishing to speak at the meeting should fill out and turn in a sign-up card. (10-26-94)
- 03. Order of Speakers.** The Director and department staff shall be heard prior to members of the public unless the Commission is considering an amendment to rules requested by a member of the public. In that event, the member of the public presenting the amendment shall be heard first. (10-26-94)
- 04. Invited Speakers.** The Chairman will call invited speakers, then participants who have turned in a sign-up card prior to calling for comments from others in attendance. (10-26-94)
- 05. Limiting Testimony.** Testimony may be limited by the Chairman to any time period deemed appropriate, depending on the number of persons in attendance. (10-26-94)
- 06. Opportunity to be Heard.** Every member of the public will be given the opportunity to be heard at least once prior to any other member of the public being heard for a second time. (10-26-94)
- 07. Written Testimony.** Written testimony is acceptable. (10-26-94)
- 08. Relevant Testimony.** Testimony must be relevant to the topic of the hearing or other business appropriate for Commission consideration. The Chairman will be the sole judge of such relevancy. (10-26-94)
- 09. Testimony Directed to Commission.** Testimony must be directed to the Commission. Direct questions, requests for a show of hands or other solicitations from the public in attendance by the person testifying will not be allowed. (10-26-94)
- 10. Conduct of Meeting.** The Chairman will be responsible for the general conduct of the meeting and will rule on all evidentiary matters and accept or reject exhibits offered as evidence. (10-20-94)

11. Questioning by Commission. All members of the Commission will have the opportunity to ask questions of those persons presenting oral and written testimony and exhibits, statements, documents, and data for the purposes of further exploring and amplifying the evidence presented. (10-26-94)

12. Supplemental Statements. The Chairman, upon his motion or motion made by the staff, if granted, may request supplemental statements from persons presenting oral and/or written testimony and statements to be submitted to him and to be included as part of the record. Such supplemental statements will be submitted no later than ten (10) days after the close of the hearing. At the expiration of the ten (10) day period, the Chairman will prepare an order indicating the acceptance or rejection of such supplemental statements or noncompliance with the request for supplemental statements. If the statements are so accepted, the order will become part of the record of the hearing. All written testimony and statements submitted under this rule must be signed by the person making same and must include his mailing address. (10-26-94)

13. Public Conduct at Commission Meetings. All persons attending Commission meetings shall conduct themselves in a respectful manner. Neither smoking nor consumption of alcoholic beverages is permitted. Persons who refuse to conduct themselves appropriately, or who are smoking, or have consumed alcoholic beverages shall leave the hearing or meeting room if requested to do so by the Chairman. (10-26-94)

055. FORMER EMPLOYEES AND EXPERT WITNESSES.

01. Former Employees. No former employee of the Department, prior Commission member, or member of the Attorney General's staff may appear in a representative capacity on behalf of other parties in a proceeding in which he or she previously took an active part. (10-26-94)

02. Former Employee as Expert Witness. No former employee of the Department shall, at any time after severing his employment with the Department, appear as an expert witness on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation or preparation. (10-26-94)

056. -- 999. (RESERVED).

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