

IDAHO ADMINISTRATIVE BULLETIN

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March 5, 2008 -- Volume 08-3

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Notice of Rulemaking published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 07-1 refers to the first Bulletin issued in calendar year 2007; Bulletin 08-1 refers to the first Bulletin issued in calendar year 2008. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 08-1 refers to January 2008; Volume No. 08-2 refers to February 2008; and so forth. Example: The Bulletin published in January 2008 is cited as Volume 08-1. The December 2007 Bulletin is cited as Volume 07-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are only published in the Bulletin and **not** printed in the Administrative Code.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.*

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date, even when published in conjunction with a temporary rule, and therefore, is not enforceable. An agency may vacate a proposed rulemaking if it decides not to proceed beyond the proposed rulemaking step, and stops the formal rulemaking process.

TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit;*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rule that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:

- a) a statement giving the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective;*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule reviewed by the legislature and not rejected, amended or modified becomes final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

The Idaho Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Idaho Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes a table of contents, reference guides, and a subject index.

Individual Rule Chapters and Individual RuleMaking Dockets, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the “**IDAPA**” number. (The “**IDAPA**” Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit “**TITLE**” number is assigned. There are “**CHAPTER**” numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.200.02.c.ii.

“**IDAPA**” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

“**38.**” refers to the Idaho Department of Administration

“**05.**” refers to Title 05, which is the Department of Administrations’s Division of Purchasing

“**01.**” refers to Chapter 01 of Title 05, “Rules of the Division of Purchasing”

“**200.**” refers to Major Section 200, “Content of the Invitation to Bid”

“**02.**” refers to Subsection 200.02.

“**c.**” refers to Subsection 200.02.c.

“**ii.**” refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0801). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket number:

"DOCKET NO. 38-0501-0801"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (**TITLE 05**), Rules of the Division of Purchasing (**Chapter 01**).

"0801" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rule-making action published in **calendar year 2008**. A subsequent rulemaking on this same rule chapter in calendar year 2008 would be designated as "0802". The docket number in this scenario would be 38-0501-0802.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

The citation may also include the IDAPA, Title, or Chapter number, as follows"

"...in accordance with IDAPA 38.05.01.201..."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the rule.

"01" denotes the Chapter number of the rule.

"201" denotes the main Section number of the rule to which the citation refers.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, "Rules Governing Capitol Mall Parking."

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2008

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
08-1	January 2008	*November 14, 2007	January 2, 2008	January 23, 2008
08-2	February 2008	January 4, 2008	February 6, 2008	February 27, 2008
08-3	March 2008	February 8, 2008	March 5, 2008	March 26, 2008
08-4	April 2008	March 7, 2008	April 2, 2008	April 23, 2008
08-5	May 2008	April 4, 2008	May 7, 2008	May 28, 2008
08-6	June 2008	May 2, 2008	June 4, 2008	June 25, 2008
08-7	July 2008	May 30, 2008	July 2, 2008	July 23, 2008
08-8	August 2008	July 3, 2008	August 6, 2008	August 27, 2008
08-9	September 2008	August 1, 2008	September 3, 2008	September 24, 2008
08-10	October 2008	**August 20, 2008	October 1, 2008	October 22, 2008
08-11	November 2008	October 3, 2008	November 5, 2008	November 26, 2008
08-12	December 2008	October 31, 2008	December 3, 2008	December 24, 2008

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2009

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
09-1	January 2009	*November 14, 2008	January 7, 2009	January 28, 2009
09-2	February 2009	January 9, 2009	February 4, 2009	February 25, 2009
09-3	March 2009	February 6, 2009	March 4, 2009	March 25, 2009
09-4	April 2009	March 6, 2009	April 1, 2009	April 22, 2009
09-5	May 2009	April 3, 2009	May 6, 2009	May 27, 2009
09-6	June 2009	May 1, 2009	June 3, 2009	June 24, 2009
09-7	July 2009	May 29, 2009	July 1, 2009	July 22, 2009
09-8	August 2009	July 3, 2009	August 5, 2009	August 26, 2009
09-9	September 2009	July 31, 2009	September 2, 2009	September 23, 2009
09-10	October 2009	**August 28, 2009	October 7, 2009	October 28, 2009
09-11	November 2009	October 2, 2009	November 4, 2009	November 25, 2009
09-12	December 2009	November 6, 2009	December 2, 2009	December 23, 2009

****Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

*****Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2007-17

AUTHORIZING THE TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT

WHEREAS, tremendous financial obligations and expenses have been incurred by various departments, agencies, and counties in responding to and assisting in efforts to deal with the extreme threat to public safety, health, property and the environment posed by declared disaster emergencies in Idaho; and

WHEREAS, all funds in the Disaster Emergency Account created by title 46, section 1005A of the Idaho Code have or soon will be expended; and

WHEREAS, funds in the General Fund are available to transfer to the Disaster Emergency Account under the requirements set forth in 46-1005A(2)(b); and

WHEREAS, it is my judgment, as Governor of the State of Idaho, that any moneys transferred from the General Fund up to the limits provided below will not be required to support the current year's appropriations.

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order as follows:

- 1. The State Controller is directed to transfer money from the General Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than two million dollars (\$2,000,000) be transferred for the purposes of this executive order from the General Fund to the Disaster Emergency Account*
- 2. In no event may the revenues made available under this Executive Order exceed one percent (1%) of the annual appropriation of the General Fund Account moneys for this fiscal year.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 16th day of November, in the year of our Lord two thousand and seven, and of the independence of the United States of America the two hundred thirty-second and of the Statehood of Idaho the one hundred eighteenth.

**C.L. "BUTCH" OTTER
GOVERNOR**

**BEN YSURSA
SECRETARY OF STATE**

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2007-18

**ESTABLISHING A DOMESTIC VIOLENCE POLICY FOR ALL STATE AGENCIES,
DEPARTMENTS, DIVISIONS, AND OFFICES**

WHEREAS, domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children and couples who live together or have lived together; it affects people of all ages in every socioeconomic, educational, racial, religious and occupational segment of society; and

WHEREAS, domestic violence can include physical, psychological, sexual and emotional abuse; and

WHEREAS, domestic violence can spill over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, absenteeism and employee turnover; and

WHEREAS, in 2006, there were approximately 5,000 intimate partner violence crimes reported in Idaho, 4,955 domestic violence civil protection order filings, and 8,701 calls to the Idaho Domestic Violence Hotline; and

WHEREAS, the Bureau of National Affairs has estimated that domestic violence costs Idaho employers \$17 million annually in lost time and productivity annually; and

WHEREAS, the State of Idaho does not tolerate any violence, including domestic violence;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the power and authority vested in me under the Constitution and laws of Idaho do hereby order all State agencies, offices, departments and divisions to:

1. Ensure that personnel policies and procedures prohibit discrimination against victims of domestic violence, protect the confidentiality of and are responsive to the needs of victims of domestic violence;
2. Inform employees of available resources for assistance by including information provided by the Idaho Coordinated Response to Domestic & Sexual Violence – a state-level committee of governmental and non-governmental organizations – on domestic violence awareness and services as part of new-employee orientation and integrate information on domestic violence into existing materials, literature, policies, protocols and procedures, as appropriate;
3. Include in training for human resources personnel information on domestic violence and its impact on the workplace as provided by the Idaho Coordinated Response to Domestic & Sexual Violence.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 20th day of November in the year of our Lord two thousand and seven and of the Independence of the United States of America the two hundred thirty-second and of the Statehood of Idaho the one hundred eighteenth.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2007-19

**PRIORITIZING AND DEVELOPING RESEARCH AND CONSERVATION STRATEGIES
FOR RARE AND DECLINING SPECIES IN IDAHO'S FORESTS**

WHEREAS, in 2005 the State of Idaho, in response to a congressional mandate, developed a Comprehensive Wildlife Conservation Strategy (CWCS) identifying rare and declining species and priority habitats; and

WHEREAS, the Idaho CWCS identifies 229 species of greatest conservation need in the State, of which 64 species still lack essential information pertaining to their population status, historic range and distribution within Idaho; and

WHEREAS, the Idaho CWCS does not rank or prioritize the remaining 165 species of greatest conservation need; and

WHEREAS, the lack of prioritization makes it difficult for government agencies and private sector land managers to focus conservation efforts; and

WHEREAS, limited resources are available for research and management of high-priority species, making it imperative that we identify those species most requiring immediate attention;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the power and authority vested in me under the Constitution and laws of Idaho do hereby order:

- 1. The Governor's Office of Species Conservation (OSC), in conjunction with state agencies and private sector land managers, to develop and publish a list of priority forest-dwelling species from those listed in the Idaho CWCS; and*
- 2. OSC to coordinate the collection of data, development of conservation strategies and other efforts as necessary for the list of priority forest-dwelling species with private land owners, federal, state and local governments and the tribes of Idaho.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 4th day of December in the year of our Lord two thousand and seven and of the Independence of the United States of America the two hundred thirty-second and of the Statehood of Idaho the one hundred eighteenth.

**C.L. "BUTCH" OTTER
GOVERNOR**

**BEN YSURSA
SECRETARY OF STATE**

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2007-20

**ESTABLISHING THE IDAHO 25 X '25 RENEWABLE ENERGY COUNCIL
REPEALING AND REPLACING EXECUTIVE ORDER 2007-02**

WHEREAS, it is the policy of Idaho to utilize to the fullest extent possible the natural resources we possess to increase our energy supply and diversity in an economically efficient and friendly manner; and

WHEREAS, the presence of an affordable, reliable and plentiful energy supply is critical for our state and national economy; and

WHEREAS, the development of renewable energy sources, including but not limited to bio-diesel, biomass, ethanol, methane digesters, wind power and solar, would be beneficial to farmers and rural communities by establishing additional markets for agricultural commodities, creating added-value for crop and livestock products and creating new job opportunities; and

WHEREAS, agriculture and forestry are an important part of Idaho's economy and heritage; and

WHEREAS, Idaho's farms, ranches and forests can help Idaho and the nation to lessen dependence on foreign oil; and

WHEREAS, to this end, it is the goal of the State of Idaho that 25% of Idaho's energy needs be provided through renewable sources by the year 2025 from our farm, ranch, timber and other working lands, while continuing to produce abundant, safe and affordable food and fiber; and

WHEREAS, multiple agencies, authorities, and information sources are used to implement a wide variety of renewable energy programs in Idaho;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho do hereby order the following:

- 1. The establishment of Idaho 25 x '25 Renewable Energy Council (the Council) as a joint effort between local, tribal, state, and federal governments, as well as the profit and not-for-profit private sectors. The purpose of the Council is to foster coordinated approaches that support the 25 x '25 initiative for Idaho's agricultural and forestry sectors to produce 25 percent of the state's energy requirements from renewable sources by the year 2025.*
- 2. The Council's responsibilities shall be:*
 - A. To provide policy level direction and planning for increasing the state's production of renewable energy from agricultural and forestry sources.*
 - B. To improve cooperation, collaboration and information sharing among the state's public and private sector entities in the area of renewable energy.*
 - C. To participate in and support the 25 x '25 Work Group.*
 - D. To further explore and define the overarching contribution which the agricultural and forestry sectors can make as producers of energy.*
 - E. To consider ways to increase production of renewable energy in Idaho.*
- 3. Membership shall include a representative from the Office of the Governor and the directors of the following State entities or their designees:*

- A. *Department of Agriculture;*
 - B. *Department of Environmental Quality;*
 - C. *Department of Lands;*
 - D. *Department of Water Resources;*
 - E. *Department of Commerce;*
 - F. *Idaho Transportation Department; and*
 - G. *Office of Energy Resources.*
4. *Representatives and members of federal entities, local government organizations, tribal governments, Idaho universities and private and not-for-profit organizations with an interest in the energy future of Idaho pertaining to renewable energy will be encouraged to participate.*
 5. *Additional members may be added by the Governor.*
 6. *All members shall serve at the pleasure of the Governor.*
 7. *The Council shall meet no less than twice annually. The chairman of the council shall be the administrator of the Office of Energy Resources or his representative.*
 8. *The Council shall submit a report of its activities to the Governor and the Legislature annually.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 14th day of December in the year of our Lord two thousand and seven, and of the Independence of the United States of America the two hundred thirty-second and of the Statehood of Idaho the one hundred eighteenth.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 56-202(b), 56-203(g) & (l), and 56-250 through 257, Idaho Code; 42 CFR Parts 431, 440 and 441.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Monday, March 24, 2008 - 2:00 p.m.
Department of Health & Welfare
Medicaid Office - Conference Room "D-East"
3232 Elder, Boise, ID

METHOD OF PARTICIPATION: Persons wishing to participate in this formal negotiated rulemaking must do at least one of the following:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both, at the negotiated rulemaking; or
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Federal regulations regarding targeted case management were revised and published in the December 4, 2007, Federal Register. These federal regulations may be accessed at <http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-5903.pdf>. Idaho's service coordination rules will be amended to comply with these new federal regulations. The Department is entering into negotiations regarding service coordination services in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 720-779.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact David Simnitt at (208) 364-1992.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before March 31, 2008.

DATED this 6th day of February, 2008.

Sherri Kovach, Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.12 - RULES FOR ADMINISTRATION OF WATER POLLUTION CONTROL LOANS

DOCKET NO. 58-0112-0801

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by April 1, 2008.

April 3, 2008 - 9 a.m. to 3 p.m.
Department of Environmental Quality
Conference Room D
1410 N. Hilton, Boise, Idaho

PRELIMINARY DRAFT: A preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/wastewater_loans/58_0112_0801_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to provide flexibility to the Department of Environmental Quality (DEQ) in its use of loan fees to meet statewide planning needs, to reduce administrative burden on a majority of wastewater loan recipients, and to achieve administrative efficiency.

The preliminary draft rule will include the following proposed revisions:

- 1) Allow for funding to certain individuals to help address nonpoint source water pollution [Subsections 005.09., 005.24. and 005.34.].
- 2) Make possible a reduced administrative burden by utilizing federal allowances that allow for flexibility in requiring federal consultations for certain loans [Subsection 042.08].
- 3) Expand the use of wastewater loan fees to allow fees to supplement planning grants [Section 032.].
- 4) In a very limited set of circumstances, allow for 30 year repayment periods (when DEQ purchases or refinances existing debt obligations) [Subsection 050.05.h.].
- 5) Adopt existing state wastewater planning grant priority list scoring process so that the planning grants and the loans can be scored by the same criteria [Subsection 020.02].
- 6) Align the definitions of "Point Source" and "Nonpoint Source Pollution" to clarify how loan applications should be classified [Subsections 005.23 and 005.27].

This rulemaking will also include any necessary corrections that are typographical and nonsubstantive in nature (e.g., making corrections for consistency with IDAPA 58.01.20, Rules for Administration of Drinking Water Loan Program, and other DEQ rules).

Cities, counties, districts, engineering firms, public health districts, soil conservation districts, nonprofit organizations (conservation/environmental/agricultural), Association of Idaho Cities, Association of Idaho Counties, individual property owners and associations that own and operate wastewater treatment facilities or engage in or are considering nonpoint source projects may be interested in participating in this rulemaking. Some or all would have an interest in the ability of individuals to qualify for loans to address nonpoint source issues, reduction of administrative burden on the majority of loan applicants, and the expansion of the use of fees to meet increasing planning costs.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2008 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2008. If adopted, the pending rule will be reviewed by the 2009 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Tim Wendland at tim.wendland@deq.idaho.gov, (208)373-0439.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by April 4, 2008. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 6th day of February, 2008.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

Because of the moratorium on proposed rulemaking during the legislative session, there are no proposed rules being promulgated or published in this month's Bulletin.

Please refer to the Idaho Administrative Bulletin, **March 5, 2008, Volume 08-3** for notices and text of all rulemakings, public hearing schedules, Governor's executives orders, and agency contact names.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering call (208) 332-1820 or write the Office of the Administrative Rules Coordinator, Department of Administration, 650 W. State St., Room 100, Boise, Idaho 83720. Visa and Mastercard accepted.

The Idaho Administrative Bulletin and Administrative Code are available on the Internet at the following address:
<http://adm.idaho.gov/adminrules/>

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**FOR THE ABOVE LINK TO WORK YOU HAVE
TO BE CONNECTED TO THE INTERNET**

**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
and final rules, public hearing notices
and vacated rulemaking notices.**
