

IDAHO ADMINISTRATIVE BULLETIN

June 4, 2014 -- Volume 14-6

Idaho Department of Administration
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Preface

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual “Notice of Rulemaking - Proposed Rule” for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **13-1** refers to the first Bulletin issued in calendar year **2013**; Bulletin **14-1** refers to the first Bulletin issued in calendar year **2014**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **13-1** refers to January 2013; Volume No. **13-2** refers to February 2013; and so forth. Example: The Bulletin published in January 2014 is cited as Volume **14-1**. The December 2014 Bulletin is cited as Volume **14-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon becoming effective. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code until approved as final.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho’s administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. 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 must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. 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 rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so.

The agency files a “Notice of Intent to Promulgate - Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

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 Rulemaking - Proposed Rule” 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 for or is occasioning 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) a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided, however, that notwithstanding Section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or enforceability of the rule.
- d) if any document is incorporated by reference in the proposed rule, a brief written synopsis of why the incorporation is needed must be included in the notice of proposed rulemaking, along with a link to the electronic version of the incorporated material or information on how it can be obtained.
- e) the text of the proposed rule prepared in legislative format;
- f) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- g) 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;
- h) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- i) the deadline for public (written) comments on the proposed rule.

Any proposed rulemaking that is submitted for publication in the Bulletin that would impose a fee or charge must be accompanied by a cost/benefit analysis that is prepared by the agency. This cost/benefit analysis must estimate, as reasonably as possible, the costs to the agency to implement the rule and the estimated costs that would be borne by citizens or the private sector. This analysis is filed with the Director of Legislative Services Office who then forwards it to the appropriate germane joint subcommittee assigned to review the promulgating agency’s proposed rules.

When incorporating by reference, the notice of proposed rulemaking must include a brief synopsis detailing the need to incorporate by reference any additional materials into the rule. The agency must also provide information regarding access to the incorporated materials. At a minimum, and when available, the agency must provide an electronic link to the documents that can be accessed on a web site or post this information on its own web site, or both. This link can be placed into the rule and activated once it is posted on the Coordinator’s web site.

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 adopt the pending rule. Because a proposed rule is not enforceable, it has no effective date, even when published in conjunction with a temporary rule that is of full force and effect. An agency may vacate (terminate) a rulemaking after the publication of a proposed rule if it decides, for whatever reason, not to proceed further to finalize the rulemaking. The publication of a “Notice of Vacation of Proposed Rulemaking” in the Bulletin officially 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 one or more of the above legal criteria and the governor determines that it is necessary that a rule become effective prior to receiving legislative authorization and without allowing for any public input, the agency may proceed and adopt a temporary rule. The law allows an agency to make a temporary rule immediately effective upon adoption. 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 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 extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

The statute that regulates rulemaking in Idaho requires that the text of all proposed rulemakings publish in the Bulletin in order for the rulemaking to be valid. This is true for all temporary rules as well. In most cases, the agency wants the temporary rule to also become a final rule and in most of these cases, the temporary rule and the proposed rule text is identical. In this event, both rulemakings may be promulgated concurrently, however, they remain separate rulemaking actions. The rulemaking is published in the Bulletin as a temporary/proposed rule. Combining the rulemaking allows for a single publication of the text in the Bulletin.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. The agency must publish a notice of rescission to effectively rescind the temporary rule. 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, will 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 Rulemaking - Pending Rule." 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 and a statement that the pending rule may be rejected, amended or modified by concurrent resolution of the legislature;
- d) an identification of any portion of the rule imposing or increasing a fee or charge and a statement that this portion of the rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature;
- e) the specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; and
- f) a specific description, if applicable, of any negative fiscal impact on the state general fund greater

than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided however, that notwithstanding section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

Agencies are required to republish the text of the pending 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 sections or their subparts 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 Rulemaking - Adoption of Pending Rule" is published.

FINAL RULEMAKING

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

No pending rule adopted by an agency becomes final and effective until it has been submitted to the legislature for review and approval. Where the legislature finds that an agency has violated the legislative intent of the authorizing statute, a concurrent resolution may be adopted to reject the rulemaking in whole or in part. A "Notice of Rulemaking - Final Rule" and the final codified text must be published in the Bulletin for any rule that is partially rejected by concurrent resolution of the legislature. Unless rejected by concurrent resolution, a pending rule that is reviewed by the legislature becomes final and effective at the end of the session in which it is reviewed without any further legislative action. All pending rules that are approved by concurrent resolution become final and effective upon adoption of the concurrent resolution unless otherwise stated. In no event can a pending rule 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

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

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs, 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 Code - annual subscription on CD-ROM. The Code is an annual compilation of all final administrative rules and all enforceable temporary rules and also includes all executive orders of the Governor that have published in the Bulletin, all legislative documents affecting rules, a table of contents, reference guides, and a subject index.

The Idaho Administrative Bulletin - annual subscription available on individual CD-ROM sent out monthly. The Bulletin is an official monthly publication of the State of Idaho and is available for purchase on CD-ROM only. Yearly subscriptions or individual CD-ROM's are available for purchase.

Internet Access - The Administrative Code and Administrative Bulletin, and many other rules-related documents are available on the Internet at the following address: adminrules.idaho.gov

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 schematic. 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 that are further subdivided into 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. Each rulemaking that is filed with the Coordinator is assigned a **“DOCKET NUMBER.”** The docket number is a series of numbers separated by a hyphen **“-”**, (**38-0501-1401**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1401”

“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**).

“1401” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as **“1402”**. The docket number in this scenario would be **38-0501-1402**.

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)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2014

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
14-1	January 2014	*November 29, 2013	January 1, 2014	January 22, 2014
14-2	February 2014	January 10, 2014	February 5, 2014	February 26, 2014
14-3	March 2014	February 7, 2014	March 5, 2014	March 26, 2014
14-4	April 2014	March 7, 2014	April 2, 2014	April 23, 2014
14-5	May 2014	April 4, 2014	May 7, 2014	May 28, 2014
14-6	June 2014	May 9, 2014	June 4, 2014	June 25, 2014
14-7	July 2014	June 6, 2014	July 2, 2014	July 23, 2014
14-8	August 2014	July 11, 2014	August 6, 2014	August 27, 2014
14-9	September 2014	August 8, 2014	September 3, 2014	September 24, 2014
14-10	October 2014	**August 29, 2014	October 1, 2014	October 22, 2014
14-11	November 2014	October 10, 2014	November 5, 2014	November 26, 2014
14-12	December 2014	November 7, 2014	December 3, 2014	December 24, 2014

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2015

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
15-1	January 2015	*November 28, 2014	January 7, 2015	January 28, 2015
15-2	February 2015	January 9, 2015	February 4, 2015	February 25, 2015
15-3	March 2015	February 6, 2015	March 4, 2015	March 25, 2015
15-4	April 2015	March 6, 2015	April 1, 2015	April 22, 2015
15-5	May 2015	April 3, 2015	May 6, 2015	May 27, 2015
15-6	June 2015	May 8, 2015	June 3, 2015	June 24, 2015
15-7	July 2015	June 5, 2015	July 1, 2015	July 22, 2015
15-8	August 2015	July 10, 2015	August 5, 2015	August 26, 2015
15-9	September 2015	August 7, 2015	September 2, 2015	September 23, 2015
15-10	October 2015	**August 28, 2015	October 7, 2015	October 28, 2015
15-11	November 2015	October 9, 2015	November 4, 2015	November 25, 2015
15-12	December 2015	November 6, 2015	December 2, 2015	December 23, 2015

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

*****Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.***

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.03.03 - IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-1401

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 Section 22-3421, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Wednesday, June 18, 2014, 1:30 to 2:30 p.m. (MST)

**Idaho State Department of Agriculture
Meeting Rooms A & B
2270 Old Penitentiary Road
Boise, Idaho 83712**

A draft of the proposed rule change, as recommended by the Pesticide Licensing Advisory Committee, will be available on June 4, 2014 on the ISDA web site at www.agri.idaho.gov. Comments must be received by ISDA by June 27, 2014.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

All written comments must be directed to Ben Miller and must be delivered on or before June 27, 2014. Comments can be sent via email to Ben.Miller@agri.idaho.gov or via mail to: Ben Miller, Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701.

Interested parties may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on June 18, 2014.

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:

Amends Subsection 02.03.03.500.02 to eliminate the specific names of low volatile liquid ester formulations and the date restriction of May 1 to October 1. These rules have an older restriction that prohibits the use of ester herbicides around any home or garden after May 1. The industry has informed us that this date is not needed because many parts of the state do not reach the eighty (80) degree threshold until June or July, if at all, and has requested the removal of the date. The temperature restriction is a much better cut-off mechanism to reduce the likelihood of possible damage throughout the different parts of the state. Also, the newer low volatile ester herbicides being used around homes and gardens in Idaho are safer, more stable, are more effective than older ester herbicides, and have adequate restrictions on the label to protect against volatilization. Since there are other formulations of ester herbicides not listed in the current rule, the industry also recommended that we remove the specific names of the herbicides.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Ben Miller at (208) 332-8593, or via email at Ben.Miller@agri.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Department of Agriculture web site at the following web address: http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php.

All written comments must be directed to the undersigned and must be delivered on or before June 27, 2014. Comments can be sent via email to Ben.Miller@agri.idaho.gov or via mail to: Ben Miller, Idaho State Department of Agriculture, PO Box 790, Boise, Idaho 83701.

DATED this 9th day of May, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 790
Boise, Idaho 83701
Phone: (208)332-8500
Fax: (208)334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE

**02.04.05 - RULES OF THE DEPARTMENT OF AGRICULTURE
GOVERNING MANUFACTURE GRADE MILK**

DOCKET NO. 02-0405-1401

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 Section 37-516, Idaho Code.

MEETING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, July 22, 2014, 10:00 a.m. to 2:00 p.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to John Bilderback, Dairy, Beef, and Poultry Programs. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule is being updated to reflect and be consistent with the statute change (Senate Bill No. 1338) which was passed during the 2014 Legislature and signed by Governor C. L. "Butch" Otter on April 3, 2014 effective July 1, 2014. The last changes to the rule were accepted in 1994. Since this time, some of the contents of the rule have become outdated and need to be revised or removed. Specifically, documents referenced throughout the rule will be listed under the incorporation by reference. All mentions of the Babcock tests will be removed since this test is no longer used. Likewise, the Methods Of Analysis section will be removed because IDAPA 02.04.09, "Rules Governing Milk and Cream Procurement and Testing," now covers the requirements for the methods of testing milk and cream for sale. The standards of identity of products will be consistent with the federal definitions.

ISDA will also take the opportunity to update the rule format to bring it into compliance with the new rule format (adding incorporation by reference, address, office hours, telephone, and fax numbers, and the Idaho public records act). The name of the rule will also be changed to Rules Governing Manufacture Grade Milk to be consistent with Office of Administrative Rule's policy.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact John Bilderback, 208-332-8541, john.bilderback@agri.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA rulemaking web site at http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php. All written comments must be delivered on or before July 31, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712

PO Box 790, Boise, ID 83701-0790
Phone (208) 332-8500
Fax (208) 332-4062

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.06 - REQUIREMENTS FOR LICENSED DAIRY PLANTS
DOCKET NO. 02-0406-1401
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 37-516, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule is being proposed to reflect and be consistent with the statute change (Senate Bill No. 1338) which was passed during the 2014 Legislature and signed by Governor C. L. "Butch" Otter on April 3, 2014 effective July 1, 2014. Specifically the legal authority will change from Chapter 4 to Chapter 5, Title 37, Idaho Code, the title of the rule has changed, and the incorporation by reference is being updated from the 2002 version to 2011.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to the rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule is merely incorporating the statute changes to ensure the rule coincides with these changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The materials incorporated by reference will be updated to the current version of Subpart E Requirements for Licensed Dairy Plants of the Milk for Manufacturing Purposes and its Production and Processing, Recommended Requirements published on July 21, 2011 by United States Department of Agriculture, Agricultural Marketing Service, Dairy Programs. The current rule references the 2002 version. Since 2002, the document was revised in 2005 and 2011. The document is published nationally and receives industry comments prior to final publication. Comparing the 2002 and the 2011 versions the following have been changed:

1. If the last three (3) out of five (5) consecutive commingled milk bacterial estimates exceed 1 million per milliliter, the plant license shall be suspended, whereas in the 2002 version reads a penalty sanctioned by the state regulatory agency shall be imposed on the plant until an additional sample of commingled milk is tested and found satisfactory. Note: Since 2002, there has not been a dairy plant in Idaho that has had a three (3) out of five (5) exceedances;
2. The definition of heat treated cream (section E 1.9) has been simplified in the 2011 version; and
3. Rooms and Compartments for Cottage Cheese (section E 5.1 and corresponding subsections) was removed because it was in conflict with the Pasteurized Milk Ordinance and cottage cheese is a Grade A product which is subject to the requirements of the Pasteurized Milk Ordinance.

These three changes will not affect how ISDA will license or inspect dairy plants.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Bilderback at 208-332-8541 or john.bilderback@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone (208) 332-8500
Fax (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0406-1401
(Only those Sections being amended are shown.)

IDAPA 02, TITLE 04, CHAPTER 06

02.04.06 - ~~REQUIREMENTS FOR~~ RULES GOVERNING LICENSED DAIRY PLANTS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapter ~~45~~, Idaho Code. (4-6-05)()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is rules of the Department of Agriculture governing IDAPA 02.04.06, "~~Requirements for~~ Rules Governing Licensed Dairy Plants." (4-6-05)()

02. Scope. This chapter has the following scope: These rules shall govern the requirements for the design, construction, and operation of dairy plants licensed to process milk for manufacturing purposes. The official citation of this chapter is IDAPA 02.04.06.000 et seq. For example, this section's citation is IDAPA 02.04.06.001. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

This rule incorporates by reference ~~the Federal Register Volume 37, Number 68, Part II,~~ "Subpart E -- Requirements for Licensed Dairy Plants," ~~June 17, 2002~~ of the 'Milk for Manufacturing Purposes and Its Production and Processing. Recommended Requirements' published by USDA, AMS, Dairy Programs and made effective July 21, 2011. Copies of this document may be obtained from the Idaho State Department of Agriculture central office or accessed online at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3004791>. (4-6-05)()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.14 - RULES GOVERNING DAIRY WASTE

DOCKET NO. 02-0414-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 37-603, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule is being proposed to reflect and be consistent with the statute change (Senate Bill No. 1376) which was passed during the 2014 Legislature and signed by Governor C. L. "Butch" Otter on March 26, 2014 effective July 1, 2014. The specific changes add new definitions and removes obsolete definitions and revises the rule provisions regarding unauthorized discharges, compliance schedules, and penalties for violations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact to the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is being done to comply with the requirements provided for in statute.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact John Bilderback at 208-332-8541 or john.bilderback@agri.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
P.O. Box 790, Boise, ID 83701-0790
Phone (208) 332-8500
Fax (208) 334-7120

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0414-1401
(Only those Sections being amended are shown.)

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 37, Chapter 46, Idaho Code.

~~(3-20-97)~~()

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Office. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (3-29-10)

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain *Standard* Time, Monday through Friday, except holidays designated by the state of Idaho. ~~(3-29-10)~~()

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, PO Box 790, Boise, Idaho 83701. (3-29-10)

04. Telephone Number. The telephone number of the central office is (208) 332-8500. (3-29-10)

05. Fax Number. The fax number of the central office is (208) 334-2170. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

007. FINDINGS.

The Department finds that pursuant to Section 67-5226(1), Idaho Code, these rules are necessary to protect the public health, safety, and welfare of Idaho, enhance Idaho water quality and preserve the integrity of the Idaho dairy industry. These rules establish design, construction, operation, location, and inspection criteria for dairy farms and dairy waste systems on Idaho dairy farms and enable the Department to implement the 1999 NRCS Nutrient Management Standard (NMS) on dairy farms to appropriately manage livestock dairy waste. These rules also provide penalty provisions. ~~(4-5-00)~~()

008. -- 009. (RESERVED)

010. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter: (3-20-97)

01. Best Management Practice. A practice, technique, or measure that is determined to be a reasonable precaution, a cost-effective and practicable means of preventing or reducing the discharge of pollutants from a point source or a nonpoint source to a level compatible with environmental goals, including water quality goals and standards. ()

~~02.~~ **Certified Planner.** A person who has completed nutrient management certification in accordance with the Nutrient Management Standard (NMS) and is approved by the Department. (3-29-10)

~~03.~~ **Certified Soil Sampler.** An individual qualified and approved by the Department to collect soil samples according to the 1997 University of Idaho Soil Sampling protocols or other method as approved by the Department. (3-29-10)

034. **Dairy Farm.** A Land owned or operated by a dairy farm and is a place or premises where one (1) or more milking cows, sheep, or goats are kept, and from which all or a portion of the milk produced thereon is delivered, sold or offered for sale for human consumption. (3-29-10)()

05. **Dairy Waste.** Manure and process wastewater that may also contain bedding, spilled feed, compost, water, or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof. ()

06. **Dairy Waste System or Waste System.** The portion of a dairy farm where dairy waste is stored, collected, or treated. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons, and evaporative ponds. ()

047. **Department.** The Idaho State Department of Agriculture. (3-29-10)

058. **Director.** The Director of the Idaho State Department of Agriculture or his designee. (3-29-10)

~~**06.** **Discharge Violation.** *A practice or facility condition which has caused an unauthorized release of Livestock Waste into surface, ground water, or beyond the Dairy Farm's property boundaries or beyond the property boundary of any facility operated by the Producer. Contract manure haulers, producers and other persons who haul Livestock Waste beyond the Producer's property boundaries are responsible for releases of Livestock Waste between the property boundaries of the Producer and the property boundaries at the point of application.* (3-29-10)~~

079. **Farm Certification.** A permit issued by the Department allowing the sale of manufacture grade milk. (3-20-97)

~~**0810.** **Fieldman.** An individual qualified and approved by the Department to perform dairy farm inspections. (3-20-97)~~

~~**0911.** **Inspector.** A qualified, trained person employed by the Department to perform dairy farm inspections. (3-20-97)~~

102. **Livestock.** For the purposes of these rules the term livestock shall include bovidae, suidae, equidae and other animals that are kept on or contiguous to a dairy farm and are owned or controlled by a dairy farm. (3-19-99)

~~**11.** **Livestock Waste.** *Manure that may also contain bedding, spilled feed, compost, water or soil. It also includes wastes not particularly associated with manure, such as milking center or washing wastes, milk, feed leachate, or livestock carcasses or parts thereof.* (3-29-10)~~

123. **Manufacture Grade Milk.** Milk produced for processing into dairy products for human consumption but not subject to Grade A requirements. (3-20-97)

14. **Modification or Modified.** Structural changes and alterations to the dairy waste system that would require increased storage or containment capacity or such changes that would alter the function of the waste system. ()

15. **National Pollutant Discharge Elimination System (NPDES).** The point source permitting program established pursuant to section 402 of the federal clean water act. ()

136. **Non-Compliance.** A practice or facility condition which will that causes an ~~Discharge Violation~~ unauthorized discharge; or, if left uncorrected, or a condition on a Dairy Farm that does not meet the requirements of the Nutrient Management Plan; will cause an unauthorized discharge, or does not meet a nutrient ~~Management~~ standards; and Appendix 10D comply with a NMP. (3-29-10)()

147. **Nutrient Management Plan (NMP).** A plan prepared in conformance with the Nutrient Management Standard (NMS) or other equally protective standard ~~approved by the Department~~

amount, ~~source~~, placement, form, and timing of the land application of nutrients and soil amendments ~~for plant production, and for minimizing the potential for environmental degradation, particularly impairment of water quality.~~ (3-29-10)()

158. Permit. A permit issued by the Department allowing the sale of Grade A milk. (3-20-97)

169. Person. Any individual, partnership, association, ~~firm, joint stock company, joint venture, trust, estate, political subdivision, public or private~~ corporation, ~~state or federal governmental department, agency, or instrumentality~~; or any ~~organized group of persons whether incorporated or not~~ legal entity that is recognized by law as the subject of rights and duties. (3-20-97)()

20. Process Wastewater. Liquid containing dairy manure. ()

1721. Producer. The person who exercises control over the production of milk delivered to a plant, and who receives payment for this product. (3-20-97)

22. Unauthorized Discharge. A discharge of dairy waste to state surface waters or ground waters, or beyond a dairy farm's property boundaries, that does not meet the requirements of these rules or ground water or surface water quality standards. ()

(BREAK IN CONTINUITY OF SECTIONS)

030. WASTE SYSTEM APPROVAL.

The Department is authorized to approve the design, construction, operation, and location of dairy waste systems. These systems must conform to the NMP, NMS, and Appendix 10D. (3-29-10)

01. Waste Containment and Storage. (3-29-10)

a. Waste containment structures shall be constructed to meet a minimum of one hundred eighty (180) days of holding capacity. Wastewater containment structures that are utilized as the secondary or final storage for effluent shall have a minimum two (2) vertical feet of freeboard. (3-29-10)

b. Earthen waste containment structures less than ten (10) vertical feet high with a maximum high water line of eight (8) vertical feet shall be required to have a top embankment width of at least eight (8) feet and a minimum of one (1) vertical foot of freeboard shall be maintained. The combined inside and outside embankment slopes must be at least five (5) horizontal to one (1) vertical, and neither slope shall be steeper than two (2) horizontal to one (1) vertical. Earthen waste containment structures with outside embankments higher than ten (10) vertical feet from the naturally occurring ground level shall meet the NRCS Idaho Conservation Practice Standard Waste Storage Facility Code 313 December 2004 embankment requirements as incorporated by reference in Subsection 004.03 of these rules. (3-29-10)

c. The inside bottom of the waste containment structure shall be a minimum of two (2) feet above the high water table, bed rock, gravel, or permeable soils. For an earthen waste containment structure, a soil liner shall be installed such that the specific discharge rate of the containment structure meet $1 \times 10^{-6} \text{ cm}^3/\text{cm}^2/\text{sec}$ or less as described in Appendix 10D. Concrete or synthetic liners must be constructed to the American Society of Agricultural and Biological Engineers Specification ASAE EP393.3 Manure Storages February 2004 and Appendix 10D as incorporated by reference in Section 004 of these rules. (3-29-10)

d. Storage areas for ~~Livestock~~ dairy ~~W~~waste including compost and solid manure storage areas shall be located on approved soils and appropriately protected to prevent run on and run off. (3-29-10)()

e. Waste storage systems shall be maintained in a condition that allows the Producer to regularly inspect the integrity of the systems. (3-29-10)

02. Nutrient Management. All dairy farms shall implement a ~~an approved~~ Nutrient Management Plan (NMP) approved by the Department that accurately reflects the operation of the facility. The NMP shall include an accurate description of the one hundred eighty (180) days of holding capacity of the waste containment system. It shall be the dairy farm's responsibility to update the NMP. ~~(3-29-10)()~~

a. Producer annual soil tests shall be conducted as set forth in the NMS. (3-29-10)

b. Regulatory soil tests will be conducted at frequencies sufficient to provide assurance of compliance with the NMS. (3-29-10)

i. If the regulatory or Producer soil tests reveal that phosphorus thresholds have exceeded the levels established in the NMS, the Producer shall only apply nutrients at the appropriate phosphorus crop uptake rate. (3-29-10)

ii. Subsequent regulatory soil test(s) on fields that were identified as exceeding the phosphorus threshold will be conducted. If two (2) out of three (3) tests reveal the phosphorus index continues to trend upward, the Producer will be penalized as provided in these rules. These tests shall be taken in the top one (1) foot of soil. (3-29-10)

c. Accurate NMP records shall be maintained. These records shall include at a minimum: (3-29-10)

i. Regulatory soil samples shall be taken by a Certified Soil Sampler and tested by a laboratory that meets the requirements and performance standards of the North American Proficiency Testing Program under the auspices of the Soil Science Society of America outlined in the NMS, as incorporated by reference in Subsection 004.02, as part of NMS 590 or other methods as approved by the Department; (3-29-10)

ii. Annual soil analysis; (3-29-10)

iii. Date and amount of Livestock dairy Wwaste and commercial fertilizer applied to individual dairy owned or operated fields; ~~(3-29-10)()~~

iv. Date(s) of exported Livestock dairy Wwaste, number of acres applied, amount of Livestock dairy Wwaste exported and to whom Livestock dairy Wwaste was exported; and ~~(3-29-10)()~~

v. Actual crop yields on dairy owned or operated fields. (3-29-10)

031. -- 039. (RESERVED)

040. INSPECTIONS.

Each dairy farm shall be inspected by an Inspector or Fieldman at least annually or at intervals sufficient to determine that Livestock dairy Wwaste has been managed to prevent an unauthorized discharge or contamination of surface and ground water. An official inspection report form as described in Section 041 will be completed at the time of inspection. ~~(3-29-10)()~~

(BREAK IN CONTINUITY OF SECTIONS)

050. COMPLIANCE SCHEDULES.

01. Non-Compliance or Unauthorized Discharge Violations Identified. When the Director identifies items of non-compliance or unauthorized discharge violations, the deficiencies will be noted and discussed with the Producer. Appropriate corrective actions will be identified and scheduled informally. The Director may develop a formal compliance schedule in the following cases: ~~(3-29-10)()~~

a. When corrective actions cannot be completed within thirty (30) days; (4-5-00)

- b. When corrective actions require significant capital investment; (4-5-00)
- c. When informal schedules have not been complied with. (4-5-00)

02. Re-Inspection. Re-inspection of the dairy farm will be conducted as appropriate, to ensure compliance. An unauthorized discharge violation shall be corrected immediately, when at all possible. ~~(4-5-00)~~ ()

051. -- 059. (RESERVED)

060. UNAUTHORIZED DISCHARGES -- PENALTIES.

~~**01. Suspend Producer's Permit.** The Director may suspend the Producer's Permit or Farm Certification authorizing the Producer to sell milk until such time that the Dairy Farm is in compliance. Repeat non-compliance violations on significant items, Discharge Violations, or violation of formal compliance schedule also may cause a Dairy Farm to lose authorization to sell milk. (3-29-10)~~

01. Unauthorized Discharge. No dairy farm shall cause an unauthorized discharge. ()

02. Non-compliance. Non-compliance with requirements for dairy waste systems, the NMS, and NMP shall be addressed through corrective actions and compliance schedules pursuant to these rules. ()

03. Penalties. For unauthorized discharges and non-compliance conditions, the Director shall have the authority to assess a fine of up to ten thousand dollars (\$10,000) per occurrence. Civil penalties collected under this subsection shall be remitted to the county where the violation occurred for deposit in the county current expense fund. ()

024. Suspend Planners or Soil Samplers Certification. The Director may suspend certification of Certified Planners or Certified Soil Samplers in the event such Certified Planners or Soil Samplers fail to develop NMPs or collect soil samples as required by these rules. (3-29-10)

~~**061. REINSTATEMENT.**~~

~~Whenever a Producer has lost authorization to sell milk for human consumption under the provisions of Section 060, the Producer may request for reinspection. Subsequent to the request, a Departmental reinspection may be conducted. If corrections have been made, the producer will be reinstated. (3-29-10)~~

0621. -- 999. (RESERVED)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1401

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 Section 25-3704, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Tuesday, July 1, 2014, 11:00 a.m. to 12:00 p.m. (MST)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to Dr. Scott Leibsle, Deputy Administrator, Division of Animal Industries. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

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:

Amend Section 090 - To establish the new fee schedule for cervidae producers, collected by ISDA, to cover the cost of administering the program, pursuant to the change in statute.

Amend Section 101 - To change the frequency of required facility inspections to coincide with the statutory amendment.

Amend Section 500 - To establish the new required frequency of testing for Chronic Wasting Disease for elk that die or are harvested on cervidae facilities.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator - Division of Animal Industries at (208) 332-8540. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php.

All written comments must be directed to the undersigned and must be delivered on or before July 8th, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd

P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS

DOCKET NO. 02-0421-1401

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 Section 25-203, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Tuesday, July 1, 2014, 10:00 a.m. to 11:00 p.m. (MST)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to Dr. Scott Leibsle, Deputy Administrator, Division of Animal Industries. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

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:

Remove Section 605 - To eliminate the restriction of domestic cervidae imports from regions known to be endemic for the meningeal worm parasite. The section is not necessary because the parasite is no longer of significant concern to the industry.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator - Division of Animal Industries at (208) 332-8540. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php.

All written comments must be directed to the undersigned and must be delivered on or before July 8th, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.29 - RULES GOVERNING TRICHOMONIASIS

DOCKET NO. 02-0429-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-203, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency 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:

Removes Subsection 100.05 to conform to the 2014 statutory amendment which requires all non-virgin breeding bulls to test for Trichomoniasis (Trich) annually, thereby removing the Trich testing exemption for non-virgin breeding bulls located north of the Salmon River.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact as a result of this proposed rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is being made to coincide with the 2014 statutory amendment, which was already passed by the Idaho Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator - Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0429-1401
(Only those Sections being amended are shown.)

100. TRICHOMONIASIS CONTROL AND ERADICATION PROGRAM.

The Trichomoniasis testing season shall begin on September 1 of each year and continue until August 31 of the succeeding year. All bulls within the state of Idaho shall be tested negative for Trichomoniasis before being allowed to come into contact with female cattle or by April 15 of each Trichomoniasis testing season, whichever occurs first, except: (3-30-07)

01. Bulls in Public Grazing Allotments. Bulls that are to be turned out on public grazing allotments shall be tested for Trichomoniasis by April 15 of each Trichomoniasis testing season or forty-five (45) days prior to turnout on a public grazing allotment, which ever occurs first. (3-30-07)

02. Virgin Bulls. All bulls native to Idaho that are less than twenty-four (24) months of age, which have never serviced a cow shall be exempt from the Trichomoniasis testing requirements. (4-7-11)

a. Such bulls shall be identified by a registered veterinarian with an official Trichomoniasis bangle tag of the correct color for the current testing season and the identification recorded on a Trichomoniasis Test and Report Form. (3-30-07)

b. If sold, such bulls shall be accompanied by a certificate signed by the owner or his representative attesting that they are virgin bulls. (3-30-07)

03. Dairy Bulls. All dairy bulls in dry lot operations shall be exempt from the Trichomoniasis testing requirements. Dairy bulls that are pastured or grazed must meet the Trichomoniasis testing requirements. (3-30-07)

04. Bulls Consigned to Slaughter or to an Approved Feedlot. Bulls consigned directly to slaughter at an approved slaughter establishment or to an approved feedlot for finish feeding for slaughter are exempt from testing requirements. (3-30-07)

~~**05. Bulls in Northern Idaho.** Bulls located in the area of Idaho north of the Salmon River are exempt from the annual testing requirement, except:~~ (3-30-07)

~~**a.** Non virgin breeding bulls that are purchased or sold shall be Trichomoniasis tested.~~ (3-30-07)

~~**b.** Non virgin breeding bulls that are imported into Northern Idaho shall meet the importation requirements of Section 210 of this rule.~~ (3-30-07)

~~**c.** Bulls in Northern Idaho that cross into the area of Idaho south of the Salmon River shall be tested negative to a Trichomoniasis culture test within thirty (30) days prior to entering Southern Idaho and shall have had no contact with female cattle from the time of test to the time that they enter Southern Idaho, unless consigned directly to slaughter at an approved slaughter establishment or to an approved feedlot for finish feeding for slaughter.~~ (3-30-07)

~~**06.5. Extension of Testing Deadline.** The Administrator may grant an extension of time beyond April 15 to accomplish Trichomoniasis testing after the owner submits a written request for extension of time to the Division of Animal Industries.~~ (3-30-07)

~~**a.** The written request shall outline the reasons for the extension request and the length of extended time being requested.~~ (3-30-07)

~~**b.** The herd of bulls shall be put under Hold Order until the owner furnishes documentation that the bulls have been tested.~~ (3-30-07)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2710, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To incorporate by reference information and updates contained in the 2015 Official Publication of the Association of American Feed Control Officials (AAFCO) as they pertain to the methodology and practice of conducting regulatory commercial feed registration and label review.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

ISDA has incorporated the Association of American Feed Control Officials (AAFCO) Official Publication into the Rules Pertaining to the Idaho Commercial Feed Law for a number of years. The only change to the incorporation by reference section is to the date of the Official Publication.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0602-1401
(Only those Sections being amended are shown.)**

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (3-30-07)

01. The Association of American Feed Control Officials (AAFCO) Official Publication. The Terms, Ingredient Definitions and Policies as published in the “2014~~5~~ Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The AAFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAFCO website at: www.aafco.org. (~~3-20-14~~)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc at: <http://www.merckbooks.com/mindex/index.html>.. (4-7-11)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.05 - RULES GOVERNING DISEASES OF HOPS (*HUMULUS LUPULUS*)

DOCKET NO. 02-0605-1401

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 Section 22-2006, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Monday, June 16, 2014, 10:00 a.m. to 12:00 p.m. (MDT)

**University of Idaho Parma Research and Extension Center
29603 U of I Lane, Parma, Idaho 83660**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to Jared Stuart, Section Manager Plant Industries Field Services. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

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:

The proposal is for the change in the quarantine area to allow free movement of hops green matter between Idaho, Oregon, and Washington, and require a negative test and a Clean Plant Health Network certification prior to shipment to Idaho if green matter is sourced outside of the three-state area.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Jared Stuart, Section Manager, Plant Industries Field Services, 208-332-8620 or email Jared.Stuart@agri.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php.

All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-1401
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To incorporate by reference information and updates contained in the 2015 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory fertilizer registration and label review.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact to the general fund as a result of this rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the fertilizer industry and all state and federal fertilizer control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0612-1401
(Only those Sections being amended are shown.)**

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (4-7-11)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication. The Terms, Ingredient Definitions, and Policies, as published in the “2014~~5~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/publication_order_form.pdf.

(3-20-14)()

02. The Merck Index. The “2006 Merck Index,” 14th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>.

(4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International.

(3-29-12)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

**02.06.27 - RULES GOVERNING BACTERIAL RING ROT CAUSED BY
(CLAVIBACTER MICHIGANENSIS SUBSP. SEPEDONICUS) OF POTATO**

DOCKET NO. 02-0627-1402

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 22-101A, 22-505, 22-1907, and 22-2006, Idaho Code.

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

Best Western Pocatello, 1415 Bench Rd., Pocatello, Idaho 83201		
Tuesday, June 17, 2014 10:00 a.m. to 3:00 p.m. (MDT)	Wednesday, July 9, 2014 10:00 a.m. to 3:00 p.m. (MDT)	Tuesday, August 5, 2014 10:00 a.m. to 3:00 p.m. (MDT)

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to Lloyd B. Knight, Plant Industries Division Administrator. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

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:

The current temporary rule which originally published as docket no. 02-0627-1401 on February 26, 2014, needs to be negotiated and promulgated as a new docket before it is presented to the Legislature in 2015 as a pending rule. The proposed rule will help prevent the introduction and/or spread of *Clavibacter michiganensis*, subsp. *Sepedonicus*, and subsequently bacterial ring rot into and through Idaho and the United States.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Lloyd B. Knight, Plant Industries Division Administrator, 208-332-8620 or email Lloyd.Knight@agri.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php.

All written comments must be directed to the undersigned and must be delivered on or before August 12, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd

P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE

02.06.33 - ORGANIC FOOD PRODUCTS RULES

DOCKET NO. 02-0633-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-1103, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 02.06.33.300 requires annual registration and payment of fees of \$50 each for organic producers and handlers with \$5,000 or less of annual gross sales, and other certifying agents operating in Idaho. This registration and fee is prohibited by the National Organic Program (NOP) administered by the U.S. Department of Agriculture under 7 CFR Part 205. Idaho State Department of Agriculture desires to operate in compliance with NOP rules and moves to repeal IDAPA 02.06.33.300.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

\$50 annual registration fee being repealed.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

No impact to the General Fund. There will be a \$1,250 reduction in annual revenue to the Organic Food Program dedicated fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the federal NOP rules take precedence over IDAPA 02.06.33.300, which must be repealed.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dave Ogden, Section Manager at (208) 332-8612.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 9th of May, 2014.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0633-1401
(Only those Sections being amended are shown.)

010. DEFINITIONS.

01. Agent. Any entity accredited by the Secretary of the United States Department of Agriculture as a certifying agent for the purpose of certifying a production or handling operation. (3-19-07)

02. Certification. A document issued by the Department to a producer/handler who is in compliance with this rule who has more than five thousand dollars (\$5,000) annual gross organic sales. (3-19-07)

03. Department. The Idaho State Department of Agriculture. (4-2-03)

04. Director. The director of the department of agriculture or the director's designee. (4-2-03)

05. Educational Activity. Seminar, conference, farm tour, class, or research. (3-19-07)

06. Food Products. Shall include all agricultural, horticultural, viticultural and vegetable products of the soil, apiary and apiary products, poultry and poultry products, livestock and livestock products, milk and dairy products and aquaculture products. (4-2-03)

07. Handler. Any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products. (4-2-08)

08. Livestock. Any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural- based consumer products; wild or domesticated game; or other non-plant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products. (4-2-08)

09. Materials. Any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling. (3-27-13)

10. Organic Certification Seal. The design approved by the director and which when imprinted or affixed on labels, packages or products, or used in advertising in any manner, shall signify that the standards and rules developed in accordance with the provisions of Chapter 11, Title 22, Idaho Code, and all other conditions of the provisions of that chapter have been met. (4-2-03)

11. Organic Food Product. Any food product that is marketed using the term organic, or any derivative of the term organic in its labeling or advertising. Organic foods are those processed, packaged, transported and stored to retain maximum nutritional value, without the use of artificial preservatives, coloring or other additives, irradiation, or synthetic pesticides. (4-2-03)

12. Organically Grown Food Products. Food products which are produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators for a period not less than thirty-six (36) months prior to harvest. Organically grown food products are produced under the standards and rules established in accordance with the provisions of Chapter 11, Title 22, Idaho Code, and by other qualified agencies. (4-2-03)

13. Person. Any individual, partnership, association, corporation, cooperative, or other entity. (4-2-08)

14. Producer. A person who engages in the business of growing or producing food, fiber, feed, or other agricultural-based consumer products. (4-2-08)

~~**15. Registration.**~~ (3-19-07)

- ~~a.~~ *A document issued by the Department to an organic producer/handler who has five thousand dollars (\$5,000) or less annual gross organic sales; or* (3-19-07)
- ~~b.~~ *A document issued by the Department to an agent certifying organic producers/handlers in the state of Idaho; or* (3-19-07)
- ~~c.~~ *A document issued by the Department to a producer/handler certified by an agent other than the Department.* (3-19-07)
- 165.** **Vendor.** Any person who sells organic food products to the consumer or another vendor. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

~~300. REGISTRATION REQUIREMENTS, DEADLINES AND FEES.~~

- ~~01. **Registration Requirements and Deadlines.** All applicants applying for registration with the Department, shall submit the application to the Department on forms prescribed by the Department.~~ (3-19-07)
- ~~a.~~ *All organic producers/handlers in Idaho with five thousand dollars (\$5,000) or less annual gross organic sales shall register with the Department by July 1st of each year.* (3-29-10)
- ~~b.~~ *All organic producers/handlers in Idaho certified by agents other than the Department shall register with the Department within thirty (30) days of initial certification and by July 1st of each year thereafter.* (3-29-10)
- ~~c.~~ *All agents certifying producers/handlers in Idaho shall register with the Department within thirty (30) days of issuing their first Idaho producer/handler certificate.* (3-19-07)
- ~~d.~~ *Agents shall provide the Department, by January 2 of each year, a list of Idaho producers/handlers, addresses, and telephone numbers for each certificate issued during the prior calendar year.* (3-19-07)
- ~~02. **Registration Fees.**~~ (3-29-10)
- ~~a.~~ *The annual registration fee is fifty dollars (\$50).* (3-19-07)
- ~~b.~~ *A person who produces and handles their own organic food products shall pay only one (1) annual registration fee.* (3-19-07)

~~301.0. CERTIFICATION REQUIREMENTS AND FEES.~~

- 01. **Certification Requirements.**** All applicants applying for certification with the Department, shall submit the application to the Department on forms prescribed or approved by the Department. (3-29-12)
- a.** All organic food producers/handlers in Idaho with annual gross organic sales of more than five thousand dollars (\$5,000) shall be certified with the Department, unless certified by agents other than the Department accredited under the National Organic Program. (3-19-07)
- b.** Producers/handlers with annual gross organic sales of five thousand dollars (\$5,000) or less may select certification ~~in place of registration.~~ (4-7-11)()
- c.** All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. (3-19-07)

- d.** Livestock producer and handler applications will be accepted throughout the year. (3-19-07)
- 02. Certification Fees.** (3-29-10)

 - a.** Organic producers/handlers with annual gross organic sales of more than five thousand dollars (\$5,000) up to fifteen thousand dollars (\$15,000) or producers with annual gross income of five thousand dollars (\$5,000) or less requesting certification - One hundred twenty-five dollars (\$125). (4-7-11)
 - b.** Organic producer/handler with annual gross organic sales of more than fifteen thousand dollars (\$15,000) –Two hundred dollars (\$200). (4-7-11)
 - c.** A person who produces and handles their own organic food products shall pay only one (1) annual certification fee based on gross annual organic sales. (3-19-07)
- 03. Certification Inspection Fees.** (3-19-07)

 - a.** The hourly rate is thirty-five dollars (\$35) including travel time. (3-19-07)
 - b.** Travel time from an inspector’s normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. (3-19-07)
 - c.** There will be a minimum charge of thirty-five dollars (\$35) plus mileage for any inspection. (3-19-07)
 - d.** A mileage rate as approved by the Board of Examiners will be included in the inspection fees. (3-19-07)
 - e.** Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of forty-seven dollars and fifty cents (\$47.50) including travel time with a minimum charge of one (1) hour plus mileage. (3-19-07)
 - f.** Upon approval by the Department, private inspectors may be utilized. The applicant shall bear the total cost of the private inspection. (3-29-10)

3021. GRADUATED GROSS SALES FEE SCHEDULE.

01. Graduated Gross Sales Fee Table. In addition to the fees prescribed above, all producers and handlers certified by the Department ~~and those registered by the Department with five thousand dollars (\$5,000) or less annual gross organic sales~~ shall remit with their ~~registration~~ certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, a projected gross dollar amount for the upcoming calendar year, with a minimum fee of ten dollars (\$10). The graduated gross organic sales fee structure is as follows:

0 - 2,000	\$10
2,001 - 5,000	\$25
5,001 - 10,000	\$50
10,001 - 15,000	\$75
15,001 - 20,000	\$100
20,001 - 25,000	\$125
25,001 - 30,000	\$150
30,001 - 35,000	\$175

35,001 - 50,000	\$250
50,001 - 75,000	\$375
75,001 - 100,000	\$500
100,001 - 150,000	\$750
150,001 - 200,000	\$1,000
200,001 - 280,000	\$1,400
280,001 - 375,000	\$1,875
375,001 - 500,000	\$2,500
500,001 and up	0.5% of gross organic sales up to \$5,000

(3-19-07)()

02. Non-Refundable. ~~Registration and e~~Certification application fees are non-refundable.

(3-19-07)()

3032. -- 399. (RESERVED)

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2204, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To incorporate by reference information and updates contained in the 2015 Official Publication of the Association of American Plant Food Control Officials (AAPFCO) as they pertain to the methodology and practice of conducting regulatory soil and plant amendment registration and label review.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Association of American Plant Food Control Officials (AAPFCO) Official Publication and the Official Methods of Analysis (OMA) published by the Association of Official Agricultural Chemists (AOAC) International are the recognized and primary reference books of approved fertilizer terms, ingredient definitions and policies used by the industry and all state and federal soil and plant amendments control officials and regulators.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Mink, Agriculture Section Manager at (208) 332-8564.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, ID 83701
Phone: (208) 332-8500 / Fax: (208) 334-2170

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0641-1401
(Only those Sections being amended are shown.)**

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (4-7-11)

01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.

The terms, ingredient definitions and policies as published in the “2014~~5~~ Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The AAPFCO Official Publication is a copyrighted publication and not available in electronic format. A copy may be purchased online from the AAPFCO website at: http://www.aapfco.org/pdf/publication_order_form.pdf.

~~(3-20-14)~~()

02. The Merck Index. The “2006 Merck Index,” 14th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. The Merck Index is a copyrighted publication and not available in an electronic format. A copy may be purchased online from Merck & Co., Inc. at: <http://www.merckbooks.com/mindex/index.html>. (4-7-11)

03. The Association of Official Agricultural Chemists (AOAC) International. The “2005 Official Methods of Analysis (OMA) of the AOAC,” 18th Edition, a copyrighted publication, is maintained and published by the AOAC International. The AOAC OMA is available in electronic format at: www.EOMA.AOAC.org. A copy may be purchased online from AOAC International. (3-29-12)

IDAPA 06 - BOARD OF CORRECTION

06.01.02 - RULES OF CORRECTIONAL INDUSTRIES

DOCKET NO. 06-0102-1401 (NEW CHAPTER)

NOTICE OF PROCLAMATION OF RULEMAKING

EFFECTIVE DATE: Pursuant to Section 20-212(1), Idaho Code, this rule shall become final and effective 30 days after the date of publication of this proclamation in the Administrative Bulletin by the Office of the Administrative Rules Coordinator. The effective date of this rule is July 4, 2014.

AUTHORITY: In compliance with Section 20-212, Idaho Code, notice is hereby given that this agency has initiated rulemaking procedures. Section 20-413A, Idaho Code, (see 2014 senate bill S1374, effective July 1, 2014) requires the Idaho State Board of Correction to promulgate rules. Pursuant to Section 20-212(1), Idaho Code, rules of the Idaho State Board of Correction are subject to review of the Idaho State Legislature pursuant to Sections 67-454, 67-5291, and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the Board, except as otherwise specifically provided by statute.

PUBLIC HEARING SCHEDULE: Pursuant to Section 20-212(1), Idaho Code, the Idaho State Board of Correction is exempt from the provisions of Section 67-5222, Idaho Code, regarding public participation in rulemaking.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rulemaking is to comply with the legislative intent of Senate Bill 1374 (2014) which directs the Board of Correction to promulgate rules to provide terms and conditions for the operation of the agricultural inmate work program by Correctional Industries. These rules provide for establishing contracts with private agricultural employers while ensuring that non-inmate worker displacement does not occur, provides for inmate safety and security, and develops a system for deductions from inmate worker's wages.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no fee or charge being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 20-212(1), Idaho Code, the Idaho State Board of Correction is exempt from the provisions of Section 67-5220(2), Idaho Code, regarding negotiated rulemaking.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking proclamation, contact Andrea Sprengel, Services Manager, at (208) 577-5561.

DATED this 9th day of May 2014.

Andrea Sprengel
Services Manager
Idaho Correctional Industries
1301 N. Orchard St. Suite 110
Boise, ID 83706
Ph: (208)577-5561 / Fax: (208)577-5560

THE FOLLOWING IS THE TEXT OF THE PROCLAMATION FOR DOCKET NO. 06-0102-1401

IDAPA 06
TITLE 01
CHAPTER 02

06.01.02 - RULES OF CORRECTIONAL INDUSTRIES

000. LEGAL AUTHORITY.

Pursuant to Sections 20-212, 20-408 and 20-413A, Idaho Code, the Board of Correction is authorized to promulgate and adopt rules necessary for Correctional Industries to enter into contracts with private agricultural employers for inmate labor. (7-4-14)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 06.01.02, "Rules of Correctional Industries," IDAPA 06, Title 01, Chapter 02. (7-4-14)

02. Scope. These rules are established to provide factors to be considered by Correctional Industries when entering into a contract with private agricultural employers for inmate labor to prevent non-inmate labor displacement, ensure inmate safety, identify security risks and needs, and disperse inmate earnings. (7-4-14)

002. WRITTEN INTERPRETATIONS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code, except as specifically noted therein, so there are no written interpretations of these rules. (7-4-14)

003. ADMINISTRATIVE APPEALS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code, except as specifically noted therein, so there are no provisions for administrative appeal. (7-4-14)

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter. (7-4-14)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Street Addresses and Business Hours. (7-4-14)

a. The Board of Correction administrative office is located at 1299 N. Orchard St., Suite 110, Boise, ID 83706-2266. Business hours are 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. (7-4-14)

b. Correctional Industries administrative office is located at 1301 N. Orchard St., Suite 110, Boise, ID 83706. Business hours are 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. (7-4-14)

02. Mailing Addresses. (7-4-14)

a. Mail regarding the Board of Correction rules shall be directed to the Board of Correction, Office of the Director, 1299 N. Orchard St., Suite 110, Boise, ID 83706-2266. (7-4-14)

b. Mail regarding Correctional Industries shall be sent to Correctional Industries, 1301 N. Orchard St., Suite 110, Boise, ID 83706. (7-4-14)

- 03. Telephone Numbers.** (7-4-14)
- a.** The telephone number of the Board of Correction is (208) 658-2000. (7-4-14)
 - b.** The telephone number for Correctional Industries is (208) 577-5555. (7-4-14)
- 04. Facsimile Numbers.** (7-4-14)
- a.** The fax number for the Board of Correction is (208) 327-7404. (7-4-14)
 - b.** The fax number for Correctional Industries is (208) 577-5569. (7-4-14)
- 05. Internet Websites Addresses.** (7-4-14)
- a.** The Internet website for the Board is http://www.idoc.idaho.gov/content/about_us/leadership/board_of_correction. (7-4-14)
 - b.** The Internet website for Correctional Industries is <http://ci.idaho.gov/>. (7-4-14)
- 006. PUBLIC RECORDS ACT COMPLIANCE.**
The rules of Correctional Industries are subject to, and in compliance with, the Idaho Public Records Act. The rules are maintained by Correctional Industries, and shall be open to the public for inspection and copying at all reasonable times. (7-4-14)
- 007. -- 009. (RESERVED)**
- 010. DEFINITIONS.**
- 01. Inmate.** An individual in the physical custody of the Board. (7-4-14)
 - 02. Private Agricultural Employer.** As defined in 44-1601(2), Idaho Code, any individual engaged in farm labor contracting for an agricultural operation owned or operated exclusively by such individual or a member of such individual's immediate family, if such activities are performed only for such operation and exclusively by such individual, but without regard to whether such individual has incorporated or otherwise organized for business purposes. (7-4-14)
 - 03. Work Site.** Any place where inmates may be found when assigned to a work project. (7-4-14)
- 011. ABBREVIATIONS.**
- 01. IDOC.** Idaho Department of Correction. (7-4-14)
 - 02. IDOL.** Idaho Department of Labor. (7-4-14)
- 012. CONTRACTS WITH PRIVATE AGRICULTURAL EMPLOYERS.**
Correctional Industries shall make all reasonable efforts to ensure non-inmate workers are not displaced when entering into a contract with a private agricultural employer for inmate labor. (7-4-14)
- 01. Wage Determination.** On an annual basis, Correctional Industries shall request a prevailing wage determination letter from the Idaho Department of Labor (IDOL) for the prevailing wage of the region for Standard Occupational Classification codes related to the agricultural work to be performed. (7-4-14)
 - 02. Prior to Contract.** Prior to entering into any contract with a private agricultural employer for inmate labor, Correctional Industries shall conduct a work site evaluation with assistance from Idaho Department of Correction staff to identify inmate safety and security risks and needs. (7-4-14)
 - 03. Contract Requirements.** Contracts with a private agricultural employer will include the

following:

(7-4-14)

a. At a minimum, the hourly rate per inmate paid to Correctional Industries by the private agricultural employer for inmate labor will be set at the prevailing wage provided by IDOL for that region, or state minimum wage, whichever is higher. The hourly rate per inmate will also account for any other costs the private agricultural employer would be required by law to pay for non-inmate workers even if not required by law to pay for inmate workers, for example workers compensation insurance premiums. (7-4-14)

b. The security and safety provisions identified during the work site evaluation and the responsibilities of each party. Security and supervision of the inmates will be provided at the work site by Idaho Department of Correction (IDOC) correctional officers. (7-4-14)

c. A statement certifying that the private agricultural employer was unable to employ a sufficient number of non-inmate workers to complete the job as described in the contract. (7-4-14)

013. INMATE COMPENSATION.

01. Correctional Industries Betterment Account. The moneys received from the private agricultural employer for inmate labor shall be deposited into the Correctional Industries Betterment Account pursuant to Section 20-416, Idaho Code. The funds deposited will be dispersed between Correctional Industries and the IDOC to cover costs of the agricultural inmate labor program and contribute to the Idaho Victim's Compensation Fund. (7-4-14)

a. The funds dispersed to Correctional Industries will also be used in accordance with Section 20-416, Idaho Code. (7-4-14)

b. The funds dispersed to IDOC shall also be used to offset the costs incarceration, supplement education opportunities to inmates, provide resources for reentry to the community, or any other use identified by the director as a means to reduce recidivism. (7-4-14)

02. Inmate Trust Account. All remaining funds will be deposited into the inmate's trust account. Upon deposit, deductions for court-ordered financial obligations, including child support and restitution, will be made by IDOC. Any other deductions by IDOC will be made according to IDOC policy. (7-4-14)

014. -- 999. (RESERVED)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-1401

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 39-4107 and 39-4109, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

ORIGINATING LOCATION -- LIVE MEETING Thursday, July 17, 2014 -- 9:30 a.m. MDT (8:30 a.m. PDT)	
Idaho Building Code Board Idaho Division of Building Safety 1090 E. Watertower, Suite 150, Meridian, Idaho 83642	
VIDEO CONFERENCE LOCATIONS	
1250 Ironwood Drive Suite 220 Coeur d'Alene, Idaho 83814	2055 Garrett Way Building 1, Suite 4 Pocatello, Idaho 83201

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho Building Code Board. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho Building Code Board will allow oral comments or presentations to be made. The Division is also aware of a collaborative group considering ideas for submission to the Board. You may contact the group by contacting Leon Duce at the Association of Idaho Cities. Mr. Duce's email address is LDuce@idahocities.org.

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:

Pursuant to Sections 39-4107 and 39-4109, Idaho Code, the Idaho Building Code Board has the authority through the promulgation of rules to adopt and amend building codes which establish the building construction and safety standards in the state of Idaho. These codes include the International Building Code, International Residential Code, International Energy Conservation Code, and the International Existing Building Code. The Building Code Board desires to amend provisions of these codes as it determines necessary through the negotiated rulemaking process. The Board seeks the participation of the affected industry, enforcement jurisdictions, and the public at large in this rulemaking process to ensure that due consideration is given to the varying views about the adoption of amendments to these codes for application in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments, questions, recommendations, and ideas must be submitted to the Division of Building Safety or the Idaho Building Code Board by July 1, 2014. Proposals may be submitted via email to neg.rules@dbs.idaho.gov.

DATED this 29th day of April, 2014.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83542
Phone: (208) 332-8986
Fax: (877) 810-2840

**IDAPA 08 - IDAHO STATE BOARD OF EDUCATION
REGENTS OF THE UNIVERSITY OF IDAHO**

08.05.01 - RULES GOVERNING SEED AND PLANT CERTIFICATION

DOCKET NO. 08-0501-1401 (NEW CHAPTER - FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 14, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-1504, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In 1959 the Idaho legislature passed the "Seed and Plant Certification Act of 1959" (the "1959 Act"). This act vested in the Regents of the University of Idaho, through the College of Agriculture or its agent, the authority for certification of seeds, tubers, plants and plant parts in the state of Idaho. The 1959 Act called for establishing and maintaining reasonable rules and regulations for this purpose. The process for establishing the rules and regulations called for them to be filed with the Department of Agriculture where they would be available for public inspection. Amendments made to the Act in 1990 authorized the adoption of rules and regulations for the purposes of certification of seeds, tubers, plants and plant parts through Idaho Administrative Rules. The proposed changes would create a new administrative rule chapter and incorporate by reference the procedures of the Idaho Crop Improvement Association Standards into this new administrative rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Certification of varieties or strains of seeds, tubers, plants and plant parts raised in the state of Idaho and offered or intended to be offered for sale is in the public interest and is a critical component of crop production in the state of Idaho; thus necessary for the protection of the public health and welfare. Additionally, this rule confers a benefit on the Idaho potato industry through enhanced inspection and sample analysis, which is needed for an effective overall disease management program, and aligns the Idaho Crop Improvement Association standards with Title 22, Chapter 15, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This rule adopts the current fee schedule of the Idaho Crop Improvement Association Standards.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Fees charged by the ICAI are to offset the costs of seed testing and the costs administering the seed certification program. ICIA cannot properly function without the ability to charge these fees. The public would be in immediate danger from the failure of the seed certification program absent the ability to charge these fees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt a temporary rule and make it immediately effective.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

This rule incorporates by reference the standards of the Idaho Crop Improvement Association. The Association is the duly authorized agent of the Regents of the University of Idaho to administer and conduct seed certification in Idaho pursuant to the Seed and Plant Certification Act (Title 22, Chapter 15, Idaho Code). As such ICIA promulgates seed certification standards. This rule will bring the Seed Certification Standards of the Idaho Crop Improvement Association, Inc. into compliance with Idaho Code by incorporating such standards into the Idaho Administrative Code. Certification of varieties or strains of seeds, tubers, plants and plant parts raised in the state of Idaho and offered or intended to be offered for sale is in the public interest and is a critical component of crop production in the state of Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Donn Thill, Associate Dean, College of Agriculture and Life Sciences, at (208)885-6214, or dthill@uidaho.edu.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this May 20, 2014.

Tracie Bent
Chief Planning and Policy Officer
Idaho State Board of Education
650 W State St
PO Box 83720
Boise, ID 83720-0037

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF FEE DOCKET NO. 08-0501-1401**

**IDAPA 08
TITLE 05
CHAPTER 01**

08.05.01 - RULES GOVERNING SEED AND PLANT CERTIFICATION

000. LEGAL AUTHORITY.

This chapter is adopted under the authority of Title 22, Chapter 15, Idaho Code.

(5-14-14)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 08.05.01, "Rules Governing Seed and Plant Certification," by Idaho Crop Improvement Association, Inc.

(5-14-14)T

02. Scope. These rules shall govern the standards and procedures for the certification of seeds, tubers, plants, or plant parts in the state of Idaho by the Regents of the University of Idaho through the Idaho Agricultural Experiment Station in the College of Agricultural and Life Sciences and its duly authorized agent, Idaho Crop Improvement Association, Inc., as an agent and instrumentality and servant of the State.

(5-14-14)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of the rule of this chapter will be made available at the Idaho State Board of Education office. (5-14-14)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Board under this chapter. Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (5-14-14)T

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this rule. The Idaho Seed and Plant Certification Standards are adopted by the Idaho Crop Improvement Association. Copies of the following documents may be obtained from the Idaho Crop Improvement Association, Inc. website at <http://www.idahocrop.com/index.aspx>, or from the Idaho Crop Improvement Association, Inc. office. (5-14-14)T

01. General Seed Certification Standards. The General Seed Certification Standards of the Idaho Crop Improvement Association, Inc., as last modified and approved on February 25, 2014. (5-14-14)T

02. Seed Certification Fee & Application Schedule. The Seed Certification Fee and Application Schedule of the Idaho Crop Improvement Association, Inc., as last modified and approved on August 8, 2013. (5-14-14)T

03. Interagency Certification Regulations and Procedures. The Interagency Certification Regulations and Procedures of the Idaho Crop Improvement Association, Inc., as last modified and approved on April 6, 2006. (5-14-14)T

04. Alfalfa Certification Regulations in Idaho. The Alfalfa Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on April 6, 2006. (5-14-14)T

05. Beans Certification Regulations in Idaho. The Beans Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on December 12, 2009. (5-14-14)T

06. Red Clover Certification Regulations in Idaho. The Red Clover Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 6, 2006. (5-14-14)T

07. Chickpea (Garbanzo Beans) Certification Regulations in Idaho. The Chickpea (Garbanzo Beans) Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 6, 2006. (5-14-14)T

08. Grain Certification Regulations in Idaho. The Grain Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 10, 2014. (5-14-14)T

09. Grass Seed Certification Regulations in Idaho. The Grass Seed Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 10, 2014. (5-14-14)T

10. Canola, Mustard and Rapeseed Certification Regulations in Idaho. The Canola, Mustard and Rapeseed Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on January 29, 2014. (5-14-14)T

11. Rules of Certification for Seed Potatoes in Idaho. The Rules of Certification for Seed Potatoes adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 21, 2014. (5-14-14)T

12. Pre-Variety Germplasm Certification Regulations in Idaho. The Pre-variety Germplasm Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved April 11, 2014. (5-14-14)T

13. Miscellaneous Crop Certification Regulations in Idaho. The Miscellaneous Crop Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved April 6, 2006.

(5-14-14)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Physical Addresses. The main office of the Idaho Crop Improvement Association, Inc. is located at 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices are located at: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. (5-14-14)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays. These office hours apply to each branch. (5-14-14)T

03. Mailing Addresses. The mailing address for the Idaho Crop Improvement Association, Inc. main office is 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices mailing addresses are: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. (5-14-14)T

04. Telephone Numbers. The telephone number for the Idaho Crop Improvement Association, Inc. main office is (208) 884-8225. The telephone numbers for the branches are: Idaho Falls (208) 522-9198; Dalton Gardens (208) 762-5300; Twin Falls (208) 733-2468. (5-14-14)T

05. Fax Numbers. The fax number for the Idaho Crop Improvement Association Inc. main office is (208) 884-4201. The fax numbers for the branches are: Idaho Falls (208) 529-4358; Dalton Gardens (208) 762-5335; Twin Falls (208) 733-4803. (5-14-14)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Idaho Crop Improvement Association Inc., and the State Law Library. (5-14-14)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Title 22, Chapter 15, Idaho Code, the definitions found in the standards of the Idaho Crop Improvement Association, Inc., incorporated by reference in Section 004 of these rules, shall apply to these rules. (5-14-14)T

011. (RESERVED)

012. APPLICABILITY.

These rules shall apply to all seeds, tubers, plants, or plant parts located in, imported into, or exported from the state of Idaho that have an application for certification properly filed with a seed certification agency. (5-14-14)T

013. OFFICIAL IN CHARGE OF CERTIFIED SEED.

The Idaho Legislature, at its 35th Session, enacted Senate Bill No. 107, the "Seed and Plant Certification Act of 1959". This Act designated the Regents of the University of Idaho, through the Agricultural Experiment Station of the College of Agriculture, as the seed certifying agency for the State. This Act further gives the Regents of the University of Idaho the authority to designate an agent to administer and conduct the certification program. The Regents of the University of Idaho on April 27, 1959, appointed the Idaho Crop Improvement Association, Inc., as its duly authorized agent to administer and conduct seed certification in Idaho as provided by the Seed and Plant Certification Act of 1959. (5-14-14)T

014. SEED CERTIFICATION FEE AND APPLICATION SCHEDULE.

The Idaho Crop Improvement Association may assess a fee to defray the costs of seed testing and administration of the seed certification program. Fees are established through the Idaho Crop Improvement Association, Inc. (5-14-14)T

015. -- 999. (RESERVED)

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO STATE LIQUOR DIVISION**

15.10.01 - RULES OF THE IDAHO STATE LIQUOR DIVISION

DOCKET NO. 15-1001-1401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 23-206(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho distilleries have been increasing in number over the last decade. These manufacturers of distilled spirits desire to promote their product in the most responsible and best way possible, and this includes a desire to sell bottles of manufactured product purchased from the Division at retail to tourists visiting the distillery. Idaho law provides for exclusive sale of bottled "alcoholic liquor" (distilled spirits) within the state of Idaho by the Idaho State Liquor Division. Therefore, in order to allow for this practice, the Division contracts with interested distillery manufacturers, in essence, making them limited contract stores/distributing stations for purposes of retail sale of their product to on-premises tourists. With the passage of SB 1335 (section 23-509A, Idaho Code) allowing on-premises sample tasting, there is a potential conflict/ambiguity with section 23-313, Idaho Code, which prohibits consumption on the premises of contract stores/distributing stations.

This temporary and proposed rulemaking simply clarifies the ongoing authority for, and practice of, manufacturers of distilled spirits to provide limited retail sales of manufactured distilled spirits products to consumers in light of the new authority to offer sample tasting consumption on the premises of the distillery/distributing station.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The Idaho Legislature has passed SB 1335 (New Section 23-509A, Idaho Code), effective July 1, 2014, which allows manufacturers of distilled spirits to offer sample tastings in accordance with the statute. It has been determined that a temporary rulemaking is necessary, effective July 1, 2014, in order to clarify the ongoing authority for, and practice of, manufacturers of distilled spirits to provide limited retail sales of manufactured liquor products to Idaho consumers in light of the new authority to offer sample tasting consumption on premises.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Idaho Legislature has passed SB 1335 (New Section 23-509A, Idaho Code), effective July 1, 2014, which allows manufacturers of distilled spirits to offer sample tastings in accordance with the statute. It has been determined that a temporary rulemaking is necessary, effective July 1, 2014, in order to clarify the ongoing authority for, and practice of, manufacturers of distilled spirits to provide limited retail sales of manufactured liquor products to Idaho consumers in light of the new authority to offer sample tasting consumption on premises. With the rather expedited need for the rulemaking and the short time available, formal negotiated rulemaking is not feasible,

but it is recognized that some informal communication and discussion will be advantageous to the Division and stakeholder manufacturers and such communication is anticipated.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jeffrey R. Anderson, Director, at (208) 947-9402.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Jeffrey R. Anderson
Director
Idaho State Liquor division
1349 Beechcraft Court
P. O. Box 179001
Boise, ID 83717-9001
Phone: (208) 947-9402
Fax: (208) 947-9401

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF
DOCKET NO. 15-1001-1401
(Only those Sections being amended are shown.)**

004. DEFINITIONS.

The following terms, whenever used in these rules, shall have the meanings ascribed thereto, unless the context in which they are used clearly requires otherwise. (3-20-97)

01. Bailment. A system of storing Supplier-owned inventory in state-operated Warehouses. The Division holds the Liquor in trust until stock is needed at retail. (3-29-12)

02. Central Office. The main business office and Warehouse of the Idaho State Liquor Division. (3-20-97)

03. Close Relative. A person related by blood or marriage within the second degree of kinship. (3-20-97)

04. Contract Store. Distributing Stations, as defined in Subsection 004.08 of these rules, whose Liquor inventory is owned by the state under an Agreement. (3-29-12)

05. Delisting. The process of discontinuing any product offered for sale resulting in the product's removal from the Division's Product Line. The decision to retain or delist a product rests solely with the Director. (3-29-12)

06. Director. The chief executive officer of the Division. (3-29-12)

- 07. Division.** The Idaho State Liquor Division. (3-20-97)
- 08. Distressed Liquor.** Liquor which is not in its original state of packaging. (3-20-97)
- 09. Distributing Station.** A privately owned business that sells Liquor. It operates under an Agreement with the Division pursuant to Title 23, Chapter 3, Idaho Code. Distributing Stations may also be termed Contract Stores. (3-29-12)
- 10. Distillery Distributing Station.** A privately owned business that holds a permit issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB), a manufacturer's license pursuant to Section 23-507, Idaho Code, and sells Liquor to retail customers pursuant to a Special Distributor Agreement with the Division in accordance with Title 23, Chapter 3, Idaho Code. Distillery Distributing Stations are "manufacturers of distilled spirits" under Section 23-509A, Idaho Code. Distillery Distributing Stations may also be termed Contract Stores for purposes of retail sales of Liquor within the state of Idaho. (7-1-14)T
- ~~101.~~ **Liquor.** Liquor controlled by the Division shall have the definition ascribed to it by Section 23-105, Idaho Code, excluding certain beers as defined in Section 23-1002, Idaho Code, and certain Wines as defined in Section 23-1303, Idaho Code. (3-20-97)
- ~~142.~~ **Licensee.** Person authorized to sell beer or Wine by the drink or by the bottle, Liquor by the drink, or any combination thereof. (3-20-97)
- ~~123.~~ **Listing (Listed).** Liquor that is carried or approved to be carried in the Division's Product Line. (3-20-97)
- ~~134.~~ **Political Office.** A public office for which partisan politics is a basis for nomination, election, or appointment. (3-20-97)
- ~~145.~~ **Price Quotation.** Written verification of detailed product information submitted to the Division by Suppliers. (3-29-12)
- ~~156.~~ **Product Line.** Items offered for sale by the Division. (3-29-12)
- ~~167.~~ **Promotional Samples.** Liquor furnished by the liquor industry to local representatives for the purpose of promoting the product which must be attached to another Liquor product in the liquor store as a value added promotion. (3-29-12)
- ~~178.~~ **Retail Store.** Any State Store or Distributing Station. (3-20-97)
- ~~189.~~ **Samples.** Liquor furnished by the liquor industry to Supplier Representatives for the purpose of promoting the product. (3-29-12)
- ~~1920.~~ **Shortage.** Any amount of cash or Liquor less than the true balance as maintained by the Central Office. Liquor Shortages shall be based on current retail value. (3-20-97)
- ~~201.~~ **Special Distributor (Distributor).** A private business owner authorized to operate a Distributing Station. A Special Distributor is not a state employee. (3-20-97)
- ~~242.~~ **Special Distributor Agreement (Agreement).** The contract signed by a Special Distributor acknowledging the conditions and terms for operation of a Distributing Station in accordance with Idaho Code and the rules of the Division. (3-20-97)
- ~~223.~~ **Special Order.** Any item not regularly offered as part of the Division's Product Line. (3-29-12)
- ~~234.~~ **State Store.** A Retail Store that sells Liquor. It is operated by state employees under the direct supervision of the Division. (3-20-97)

~~245.~~ **Supplier.** Any manufacturer, rectifier, importer, wholesaler or Supplier of Liquor, Wine, or related products offered for sale by the Division. (3-29-12)

~~256.~~ **Supplier Representative.** An individual, company, or entity authorized to represent a Supplier in the state of Idaho. A Supplier Representative may be an individual, a group of individuals operating as a brokerage firm or may be a direct employee of the Supplier. A Liquor Supplier Representative must obtain an annual Supplier Representative permit from the Division. (3-29-12)

~~267.~~ **Warehouse.** The main Division distribution center and satellite distribution points operated by the Division. (3-29-12)

~~278.~~ **Wine.** Alcoholic beverages defined in Section 23-1303, Idaho Code. (3-29-12)

~~289.~~ **Wine Gallon.** The liquid measure equivalent to the volume of two hundred thirty-one (231) cubic inches or one hundred twenty-eight (128) ounces. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

012. DISTILLERY DISTRIBUTING STATIONS.

~~01.~~ **Sample Tasting.** Distillery Distributing Stations may offer sample tastings on the premises of its distillery in accordance with Section 23-509A, Idaho Code. (7-1-14)T

~~02.~~ **Retail Sales.** Distillery Distributing Stations may sell Liquor manufactured on premises of such distillery to customers outside the state of Idaho in accordance with Section 23-507, Idaho Code. Distillery Distributing Stations may sell Liquor manufactured on the premises that is purchased from the Division to customers on the premises of its distillery in accordance with and pursuant to a Special Distributor Agreement with the Division. The Special Distributor Agreement shall include governing terms and conditions for retail sale of Liquor manufactured on the premises within the state of Idaho in accordance with Title 23, Chapter 3, Idaho Code, and applicable rules of the Division governing retail sale operations. (7-1-14)T

013. CONTRACT STORES.

~~01.~~ **Fiduciary Responsibility.** Any and all unremitted monies collected by the Contract Store are held in trust for the Division, and upon their receipt by the Contract Store, are assigned to the Division in accordance with Section 23-401, Idaho Code. (3-20-97)

~~02.~~ **Liquor Shortage.** The Contract Store must pay the monetary value of any Shortage to the Division immediately after receipt of the request for payment from the Division showing its calculation of the Shortage. (3-20-97)

a. If the Contract Store disputes the existence, amount of, or responsibility for Liquor or cash Shortages, the Contract Store may request a hearing before the Director. (3-20-97)

b. Any payment made by the Contract Store for Liquor Shortages may be refunded in whole or in part if the Contract Store's position is upheld by the Director. (3-20-97)

~~03.~~ **Compensation.** For Contract Store, compensation will be the gross profit allowance set by the Division. Compensation will vary based on sales volume. (3-20-97)

014. SALES TO LICENSEES.

To be eligible to purchase Liquor at discount (Section 23-217, Idaho Code) a Licensee shall obtain a no cost purchase order permit from any State Store or Distributing Station. (3-29-12)

01. Permit Term. The permit shall remain valid only as long as the permit holder is an authorized Licensee as defined in Section 23-902(e), Idaho Code. (3-29-12)

02. Permits Are Not Transferable. Permits are not transferable and will automatically terminate on suspension, revocation, sale, lease, or transfer of the liquor license. (3-29-12)

0145. -- 019. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.27 - IDAHO RADIATION CONTROL RULES

DOCKET NO. 16-0227-1401

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 56-1041, 56-1043, 56-1044, and 56-1046, Idaho Code.

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

Wednesday, June 11, 2014, 1:00 p.m. (MDT)
Idaho Bureau of Laboratories 2220 Old Penitentiary Road Boise, Idaho 83712-8299

The following teleconferences will be held as follows:

Friday, June 13, 2014 10:00 a.m. (MDT)	Monday, June 16, 2014 1:00 p.m. (MDT)
Teleconference 1-866-343-3911 Conference ID: 29600	Teleconference 1-866-343-3911 Conference ID: 29601

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

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

**Katey Anderson, Laboratory Improvement Manager and X-Ray Program Director
Idaho Department of Health and Welfare
2220 Old Penitentiary Road
Boise, Idaho 83712-8299**

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:

The Department intends to update these rules to include handheld x-ray devices, and define the frequency of x-ray producing device registration periods. In addition, the Department intends to propose fees to ensure continued participation of organizations operating x-ray producing devices and enhanced monitoring of exposure rates to operators and the public. The Department's Bureau of Laboratories (IBL) desires feedback on proposals to collect fees and institute regular renewal of registration through the negotiated rulemaking process. IBL seeks participation and comments from health professionals, industry, and the public at large in this rulemaking process.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated

rulemaking, contact Katey Anderson by email at andersok@dhw.idaho.gov or by phone at (208) 334-2235. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Department's web site at the following web address: <http://statelab.idaho.gov>.

All written comments must be directed to the contact person above and must be delivered on or before June 20, 2014.

DATED this 14th day of May, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.17 - MEDICARE/MEDICAID COORDINATED PLAN BENEFITS
DOCKET NO. 16-0317-1401
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-251(2)(c), 56-255(4), and 56-263, Idaho Code; Medicare Prescription Drug Improvement and Modernization Act of 2003, P.L. 108-173, Section 231; and Section 1937 of the Social Security Act.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, June 17, 2014 10:00 a.m. (MDT)	Thursday, June 19, 2014 10:00 a.m. (PDT)	Thursday, June 19, 2014 2:00 p.m. (MDT)
Conf. Room D-East & West 3232 Elder Street Boise, ID 83705	3rd Floor Conf. Room 1118 "F" Street Lewiston, ID 83501	2nd Floor Large Conf. Room 150 Shoup Avenue Idaho Falls, ID 83402

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is needed to implement a managed care plan for participants who are dually eligible, in accordance with the intent of House Bill 260 (2011), now codified under Section 56-263, Idaho Code. The changes in this rulemaking update the list of Medicaid-only services benefits to include Aged and Disabled Waiver services, prescribed drugs and home and community based services, self-directed community supports, and targeted service coordination for persons with developmental disabilities.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate since the Medicare-Medicaid Coordinated Plan (MMCP), as described in this chapter, is being amended to include additional benefits. These benefits include Aged and Disabled Waiver services, prescribed drugs and home and community based services, self-directed community supports, and targeted service coordination for persons with developmental disabilities.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking:

Since the services are shifting from a fee-for-services to a capitation payment model, these rule changes are intended to be budget-neutral. Therefore, there is no anticipated fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 2, 2014, Idaho Administrative Bulletin, [Vol. 14-4, page 15](#).

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alexandra Fernandez at (208) 287-1156.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 19th day of May, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0317-1401
(Only those Sections being amended are shown.)**

010. DEFINITIONS.

For the purposes of this chapter of rules, the following definitions are used: (4-2-08)

01. Capitated Payment. The amount paid to a Medicare Advantage Organization for Medicare/Medicaid Coordinated Plan services as expressed in a per member per month amount. (4-2-08)

02. Department. The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. (4-2-08)

03. Dual-Eligible. Individuals who meet all the eligibility requirements under Section 100 of these rules. (4-2-08)

04. Evidence of Coverage. The Medicare Advantage Plan contract the MAO has with the participant. This document explains the covered services, including services included in Medicare Parts A, B, and D. It also defines the Medicaid Advantage Plan obligations, and explains the participant's rights and responsibilities. ~~(4-2-08)~~(7-1-14)T

05. Medicare. Medicare is a federal health insurance program for people age sixty-five (65) or older, people under age sixty-five (65) with certain disabilities, and people of all ages with End-Stage Renal Disease. It has three (3) types of coverage: Part A Hospital Insurance, Part B Medical Insurance, and Prescription Drug Coverage. It is administered under Title XVIII of the Social Security Act. (4-2-08)

06. Medicare Advantage Organizations (MAOs). Insurance companies approved by the Centers for Medicare/Medicaid Services to offer Medicare Advantage Plans in accordance with Title XVIII, Part C, of the Social Security Act and 42 CFR, Part 422, which include those services available under Medicare Parts A, B, and D, and who are Medicaid providers authorized to enroll participants in the Medicare/Medicaid Coordinated Plan. ~~(4-2-08)~~(7-1-14)T

- 07. Medicare Advantage Plan.** A health plan approved by Medicare but offered by a private company that contracts with Medicare to provide Medicare Part A, Part B, and Part D benefits. The Medicare Advantage Plan under this chapter is a special integrated plan offered by participating MAOs that includes ~~the services listed under Section 301 of these rules~~ a benefit package in its “Evidence of Coverage” approved by CMS. (4-2-08)(7-1-14)T
- 08. Medicare/Medicaid Coordinated Plan (MMCP).** Medical assistance in which Medicaid purchases services from an MAO and provides other Medicaid-only services covered under the Medicaid Basic Plan or the Medicaid Enhanced Plan in accordance with these rules. (4-2-08)(7-1-14)T
- 09. Medicaid.** Idaho's Medical Assistance program administered under Title XIX of the Social Security Act. (4-2-08)
- 10. Medicaid Basic Plan.** The medical assistance benefits included under IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” (4-2-08)
- 11. Medicaid Enhanced Plan.** The medical assistance benefits included under IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (4-2-08)
- 12. Medical Assistance.** Payments made by Medicaid. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

102. MEDICARE/MEDICAID COORDINATED PLAN (MMCP): PARTICIPANT RESPONSIBILITIES.

Participants who select the MMCP must comply with the following requirements: (4-2-08)

- 01. Selecting the Medicare/Medicaid Coordinated Plan.** The participant must contact a participating MAO and request to sign up for the MMCP. Participation in the MMCP begins the month following the month the participant signs an application for the Medicare Advantage Plan that includes MAO-covered services listed under Section 301 of these rules in its “Evidence of Coverage.” (4-2-08)(7-1-14)T
- 02. Compliance with Medicare Advantage Organization Requirements.** The participant must comply with all of the requirements of the participating MAO, including the requirement to pay for services provided by out-of-network providers. Out-of-network providers are those who do not have a contract with the MAO with which the participant is enrolled. (4-2-08)
- 03. Notification to the Provider.** (4-2-08)
- a.** The participant must present his Medicare Advantage card when seeking any of the services listed under Section 301 of these rules in the MAO’s “Evidence of Coverage.” (4-2-08)(7-1-14)T
- b.** The participant must present his Medicaid card when seeking any of the Medicaid-covered services listed under Section 302 of these rules in IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” or IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (4-2-08)(7-1-14)T
- 04. Termination of the Medicare/Medicaid Coordinated Plan.** The participant can terminate his MMCP at any time. Coverage will continue until the end of the month in which the termination date falls. The participant will subsequently be automatically reenrolled in the Medicaid benefit plan, either Basic or Enhanced, in which they were initially enrolled. (4-2-08)

103. -- 199. (RESERVED)

~~GENERAL PROVIDER PROVISIONS~~ **MAO CONTRACT REQUIREMENT**

(Sections 200 Through 299)

200. PROVIDER APPLICATION PROCESS CONTRACT WITH MEDICAID.

~~A prospective provider may apply for a provider number with the Department as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 200. Any MAO seeking to offer MMCP services must have a contract with the State Medicaid agency. An MAO retains responsibility under the contract for providing benefits, or arranging for benefits to be provided, for individuals entitled to receive medical assistance under Title XIX.~~ (4-2-08)(7-1-14)T

~~201. -- 204. (RESERVED)~~

~~205. AGREEMENTS WITH PROVIDERS.~~

~~All provisions of IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, apply to providers of services under the MMCP.~~ (4-2-08)

~~206. -- 209. (RESERVED)~~

~~210. CONDITIONS FOR PAYMENT.~~

~~All provisions of IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 210, apply to providers of services under the MMCP.~~ (4-2-08)

~~211. -- 299. (RESERVED)~~

COVERED SERVICES

(Sections 300 Through 303~~1~~)

300. MEDICARE/MEDICAID COORDINATED PLAN (MMCP): COVERAGE AND LIMITATIONS.

Medicare Advantage Plans and Medicaid are subject to applicable federal managed care requirements that provide participant protections regarding acceptable marketing activities, information regarding cost sharing, quality assurance, grievance systems, and participant rights. (4-2-08)

01. MMCP-Covered Services. The MMCP-covered services include the following: (4-2-08)

a. MAO-Covered Services. Services covered by the MAO as listed ~~under Section 301 of these rules~~ in its "Evidence of Coverage." The MAO may limit or expand the scope of services as defined in the "Evidence of Coverage." MAO-covered services, including Medicare Parts A, B, and D benefits, are detailed in the MMCP contract. (4-2-08)(7-1-14)T

b. Medicaid-Only Services. Services listed under ~~Section 302 of these rules~~ IDAPA 16.03.09, "Medicaid Basic Plan Benefits," or IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," provided by Medicaid providers that are not MAOs. Medicaid may cover additional services that are not included in the MAO's "Evidence of Coverage." (4-2-08)(7-1-14)T

02. Services Excluded from the MMCP. Services not ~~listed under Sections 301 or 302 of these rules~~ included in the MAO "Evidence of Coverage" or listed under the IDAPA 16.03.09, "Medicaid Basic Plan Benefits," or IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," are not covered under the MMCP. (4-2-08)(7-1-14)T

03. Premiums and Cost-Sharing. The participant will not pay for any premiums or cost-sharing when covered under the MMCP, except as provided under Subsection 102.02 of these rules. (4-2-08)

~~301. MAO COVERED SERVICES.~~

~~Under the MMCP, an MAO must cover, at a minimum, the following services:~~ (4-2-08)

~~01. Inpatient Hospital Services.~~ (4-2-08)

~~02. Outpatient Hospital Services.~~ (4-2-08)

- ~~03. Emergency Room Services. (4-2-08)~~
- ~~04. Ambulatory Surgical Center Services. (4-2-08)~~
- ~~05. Physician Services. (4-2-08)~~
- ~~06. Other Practitioner Services (Nurse Practitioner, Nurse Midwife, Chiropractor, Podiatrist, Physician Assistant). (4-2-08)~~
- ~~07. Prevention Services (Adult Physicals, Screening Services). (4-2-08)~~
- ~~08. Laboratory and Radiological Services. (4-2-08)~~
- ~~09. Prescribed Drugs (Medicare Covered Drugs). (4-2-08)~~
- ~~10. Family Planning Services. (4-2-08)~~
- ~~11. Inpatient Psychiatric Services. (4-2-08)~~
- ~~12. Outpatient Mental Health Services. (4-2-08)~~
- ~~13. Home Health Care. (4-2-08)~~
- ~~14. Therapy Services. (4-2-08)~~
- ~~15. Speech, Hearing, and Language Services. (4-2-08)~~
- ~~16. Medical Equipment and Supplies. (4-2-08)~~
- ~~17. Prosthetic Devices. (4-2-08)~~
- ~~18. Vision Services. (4-2-08)~~
- ~~19. Dental Services. (4-2-08)~~
- ~~20. Primary Care Case Management. (4-2-08)~~
- ~~21. Prevention and Health Assistance Benefits. (4-2-08)~~
- ~~22. Medicare Part D Excluded Drugs Covered by Medicaid. (4-2-08)~~
- ~~23. Specialized Medical Equipment and Supplies. (4-2-08)~~
- ~~24. Dentures. (4-2-08)~~
- ~~25. Rural Health Clinic Services. (4-2-08)~~
- ~~26. Federally Qualified Health Center (FQHC) Services. (4-2-08)~~
- ~~27. Indian Health Clinic Services. (4-2-08)~~
- ~~302. MEDICAID ONLY SERVICES:~~
~~Medicaid will cover the following services only if the MAO's "Evidence of Coverage" does not cover them: (4-2-08)~~
- ~~01. Psychosocial Rehabilitation (PSR). IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 123 through 146. (4-2-08)~~

~~02. **Nursing Facility Services.** IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 220 through 296. (4-2-08)~~

~~03. **Personal Care Services (PCS).** IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 300 through 308. (4-2-08)~~

~~04. **Non-Emergency Transportation Services.** IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” Sections 870 through 875. (4-2-08)~~

~~05. **Home and Community Based (HCBS) Waiver Services.** IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 326 and 703. (4-2-08)~~

~~06. **Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID).** IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 581 through 632. (4-2-08)~~

~~07. **Developmental Disability Agency (DDA) Services.** IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Sections 650 through 656. (4-2-08)~~

3031. MEDICARE/MEDICAID COORDINATED PLAN BENEFITS: PROVIDER REIMBURSEMENT.

Each provider must apply for and be approved as a Medicaid provider under the MMCP before it can be reimbursed. (4-2-08)

01. Medicaid-Only Service Providers. Medicaid-only service providers are reimbursed according to the reimbursement methodology in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” related to the Medicaid-only service. Medicaid-only service providers are also subject to the General Provider Provisions under IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” (4-2-08)

02. Medicare Advantage Organizations. Each MAO will be paid a monthly per member per month (PMPM) rate that is defined in the ~~Medicaid Provider Agreement~~ **MAO contract**. The MAO is responsible for submitting a monthly invoice to the Department in the Department-specified electronic format. This invoice must include the name of the Medicaid participant, the Medicaid ID number, and the time frame of coverage. The PMPM rate paid to the MAO includes the participant’s Medicare premium, any cost-sharing required by the MAO, and the services listed ~~under Section 301 of these rules~~ **in its “Evidence of Coverage.”** (4-2-08)(7-1-14)T

3042. -- 999. (RESERVED)

IDAPA 20 - IDAHO DEPARTMENT OF LANDS

**20.07.02 - RULES GOVERNING CONSERVATION OF CRUDE OIL
AND NATURAL GAS IN THE STATE OF IDAHO**

DOCKET NO. 20-0702-1401

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 Section 47-319(8), Idaho Code.

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

Friday, June 6, 2014 8:30 a.m. MDT	Wednesday, June 18, 2014 8:30 a.m. MDT
Wednesday, July 2, 2014 8:30 a.m. MDT	Tuesday, July 22, 2014 8:30 a.m. MDT
Capitol Lincoln Auditorium (WW02) Lower Level, West Wing 700 W. Jefferson Street, Boise Idaho	

The meeting site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting, to the agency address below.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Please contact Bobby Johnson at 208-334-0243 or brjohnson@idl.idaho.gov to be added to the e-mail list of interested parties. This list will be used to keep people informed of the rulemaking process. You may visit our website at www.idl.idaho.gov for updates on the process and draft rule changes. You may participate by attending at any of the above listed meetings, or submitting comments during any of the allowed comment periods.

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:

IDAPA 20.07.02 was last updated by negotiated rulemaking in 2011 and approved by the Legislature in 2012. As IDL has administered the rule since 2012, the agency has identified provisions that need to be clarified and updated.

- Definitions and abbreviations need to be updated.
- Time periods will be clarified for publishing notices in newspapers.
- Reporting requirements for spud activities, cementing, and production need to be added.
- Well pad construction and step off requirements need to be added.
- Well treatment reporting requirements need to identify how chemical information is disclosed.
- Bond amounts for inactive wells need to be increased to adequately cover the potential well plugging liabilities, consistent with bonding requirements in other states, and the allocation of interest on cash bonds needs to be clarified.
- Blow out prevention testing and well control requirements need to be revised for consistency and allow inspection of device testing and installation.
- Well identification requirements need to include operator contact information and permit information.
- Well spacing and unit operations requirements need to be updated.
- New sections will be added addressing integration within spacing units, regulation of refrigeration, compression and dehydration facilities, and hydrocarbon storage requirements.

- Sections will be grouped by topic to improve the organization and readability of the rule.
- Non-substantive housekeeping changes are needed.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Bobby Johnson, Oil and Gas Program Manager. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Lands web site at the following web address: www.idl.idaho.gov.

All written comments must be directed to the undersigned and must be delivered on or before Tuesday, July 22, 2014.

DATED this 7th day of May 2014.

Bobby Johnson
Oil and Gas Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, ID 83720-0050
208-334-0243 – Phone/208-334-5342 – Fax
brjohnson@idl.idaho.gov

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-1401

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 Section 54-1404, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Thursday, July 17, 2014, 10:30 a.m. (MDT)

**Idaho Board of Nursing
Spring Hill Suites by Marriott
424 E. Park Center Blvd.
Boise, Idaho**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho Board of Nursing. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho Board of Nursing will allow oral comments or presentations to be made.

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

The 2014 Legislature amended the Board of Nursing's disciplinary statute to provide that sexual conduct or sexual exploitation by a nurse of a current or (in certain situations) a former patient constitutes grounds for discipline. The rulemaking is intended to define the terms sexual conduct and sexual exploitation, clarify the prohibited conduct, and otherwise implement the statutory amendment.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Sandra Evans, M.A. Ed., R.N., Executive Director, (208) 334-3110 ext. 2476.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments, questions, recommendations, and ideas must be directed to the undersigned and must be submitted to the Board of Nursing by July 3, 2014. Written comments may also be submitted via email to sandra.evans@ibn.idaho.gov.

DATED this 9th day of May, 2014.

Sandra Evans, M.A. Ed., R.N., Executive Director
Board of Nursing
280 N. 8th St. (8th & Bannock), Ste. 210
P. O. Box 83720
Boise, ID 83720-0061
Phone: 334-3110 ext. 2476
Fax: (208) 334-3262

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-1402

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 Section 54-1404, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Thursday, July 17, 2014, 10:30 a.m. (MDT)

**Idaho Board of Nursing
Spring Hill Suites by Marriott
424 E. Park Center Blvd.
Boise, Idaho**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho Board of Nursing. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho Board of Nursing will allow oral comments or presentations to be made.

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

Current statute authorizes the Board of Nursing to develop standards and criteria to evaluate the continued competency of licensed nurses. This rulemaking establishes those standards and criteria. For public safety, the rulemaking will require registered and licensed practical nurses seeking to renew their licenses to demonstrate their continued competence to practice nursing in Idaho. The rule establishes several methods for nurses to comply with this obligation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Sandra Evans, M.A. Ed., R.N., Executive Director, (208) 334-3110 ext. 2476.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments, questions, recommendations, and ideas must be directed to the undersigned and must be submitted to the Board of Nursing by July 3, 2014. Written comments may also be submitted via email to sandra.evans@ibn.idaho.gov.

DATED this 9th day of May, 2014.

Sandra Evans, M.A. Ed., R.N., Executive Director
Board of Nursing
280 N. 8th St. (8th & Bannock), Ste. 210
P. O. Box 83720
Boise, ID 83720-0061
Phone: 334-3110 ext. 2476
Fax: (208) 334-3262

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1401

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by June 25, 2014.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

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:

Rule 560 is being amended consistent with the language from the MTC (Multistate Tax Commission). The current version of this rule is an enactment of the model regulation drafted by the MTC in 1973. In 2010, the MTC revised the model regulation language to remove the phrase about "unusual fact situations (which ordinarily will be unique and non-recurring)." This newer version of the rule follows the reasoning found in the Idaho Supreme Court's holding in the Union Pacific case, 139 Idaho 572 (2004). Enacting this revised version of the rule would provide an interpretation and application of Section 63-3027, Idaho Code, that is consistent with the Idaho Supreme Court's interpretation and application of the statute.

Rule 750 is being amended to give guidance regarding the carryover period for the broadband tax credit. As a result of taxpayer inquiry, this version of the rule clarifies the broadband equipment tax credit and its allowable 14 year carryover period.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Cynthia Adrian, (208) 334-7670. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Tax Commission web site at the following web address: www.tax.idaho.gov.

All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014. Comments may be submitted electronically via email to sherry.briscoe@tax.idaho.gov.

DATED this 19th day of May, 2014.

Cynthia Adrian
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd., Plaza IV

P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7670
Fax: (208) 334-7844

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1402

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 63-105(2), 63-3039, 63-3624(a), & 63-3635, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Thursday, June 19, 2014, 1:30 p.m. (MDT)

**Idaho State Tax Commission
Room 1CR5 - 1st Floor
800 Park Boulevard, Plaza IV
Boise, ID 83712-7742**

It is possible that the rules will require further discussion in follow up meetings that will also be open to the public. Notification of any additional meetings will be posted on the Tax Commission's website at <http://tax.idaho.gov/i-1090.cfm> at least one week prior to the date of the meeting. All meeting agendas are also posted on the website which will contain specific information on the rules that will be discussed at a particular meeting. Keep in mind there is no guarantee that a particular rule will be discussed beyond the meeting noted above, so please plan accordingly.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do either of the following:

1. Attend the scheduled meeting and participate in the discussion for any of the rules on the agenda. You may join the meeting by phone if you wish; however, notice must be given in advance so accommodations can be arranged;
2. Submit a written comment addressing one or more of the rules to be negotiated. All written comments must be received by July 31, 2014, or they may not receive consideration in the negotiated rulemaking process.

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:

Rule 022. Drop Shipments - A drop shipment is a transaction in which a purchaser buys a product from a retailer but the product is shipped directly to the purchaser from the manufacturer or wholesaler. There has been feedback from the public over time that the rule as written can be confusing. The purpose of amending the rule would be to clarify the responsibilities of both in-state and out-of-state retailers, wholesalers, and manufacturers in a drop shipment situation.

Rule 049. Warranties and Service Agreements - There has been confusion expressed by taxpayers on how to tax certain aspects of extended service agreements. Of particular concern are agreements in which consumables are provided on a routine basis (i.e. toner cartridge for a leased copier) and overage charges when the customer exceeds a certain amount of usage of the property in question.

Rule 063. Bad Debts and Repossessions - When a retailer makes a sale, the sales tax is computed at that time, collected from the customer, and paid to the Tax Commission. If the sale is made on account, the retailer must still remit the entire amount of tax at the time of the sale. If the purchaser later defaults on some or all of its account, the

retailer may claim a refund of the portion of sales tax that has not yet been paid by the purchaser. In claiming a refund, the calculation of the amount of remaining tax can be rather complicated factoring in the down payment, payments made, interest, additional finance charges, sales price of the property if repossessed and sold again, etc. The complicated calculations can be quite difficult for taxpayers to navigate and for the Tax Commission to review. Consequently, there will be a review of this rule with the goal of simplifying the calculation where possible. Of particular note, an alternative method of calculating the refund claim has been proposed and submitted by the owner of Fairly Reliable Bob's, a local motor vehicle dealership. This proposal will be one of the focal points of the discussion.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact McLean Russell, Tax Policy Specialist at (208) 334-7531. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency's web site at the following web address: <http://tax.idaho.gov/i-1090.cfm>.

All written comments must be directed to the undersigned and must be delivered on or before July 31, 2014. Comments may be submitted via e-mail to sherry.briscoe@tax.idaho.gov.

Dated this 27th day of May, 2014.

McLean Russell
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
PO Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531
Fax: (208) 334-7844

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1402

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of these temporary rules is January 1, 2014.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 63-105A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Rule 205T - The temporary rule deletes paragraph 35-01-03(b) of the existing rule which are the same words deleted by recently enacted HB441a [I.C. 63-201(9)]. The proposed (permanent) rule will be the same as the temporary version. This temporary rule allows Rule 205 to conform to Idaho Code 63-201(9) as amended by HB441a. It further deletes (as did HB441a) language that clouds the three-factor test, which is used to determine if an item of property is a fixture and therefore real property.

Rule 508T - Deletes personal property exempt value notification by taxing district or unit rule because reporting is no longer required.

Rule 509T - This rule required the reporting of the personal property exemption amount, which no longer needs to be reported. SB1213 deletes the need to apply for the oil and gas well exemption so the value may not be known. This rule deletes the requirement to report on the abstract exempt personal property and certain exempt oil and gas well property.

Rule 626T - With the passage of HB441a certain reporting requirements have been deleted, and the process of reporting by the counties needs to be clarified. Personal property declarations need not be filed every 5th year and replacement funds which have been established as of 2013 may need to be adjusted as errors may be discovered. Taxpayer ownership clarifications contained in this rule will be transferred to proposed rule 627.

Rule 803T - Requires that the amount of personal property replacement funds received by the taxing districts be reported to the tax commission.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Alan Dornfest (208) 334-7742.

DATED this 28th day of April, 2014.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Blvd., Plaza IV
PO Box 36
Boise, ID 83722-0410
(208) 334-7742

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 35-0103-1402
(Only those Sections being amended are shown.)

205. PERSONAL AND REAL PROPERTY -- DEFINITIONS AND GUIDELINES (RULE 205).
Sections 39-4105, 39-4301, 63-201, 63-302, 63-309, 63-602KK, 63-1703, 63-2801, Idaho Code. (5-8-09)

01. Real Property. Real property is defined in Section 63-201, Idaho Code. Real property consists of land and improvements. (5-8-09)

a. Land. Land is real property as well as all rights and privileges thereto belonging or any way appertaining to the land. (5-8-09)

b. Law and Courts. Real property also consists of all other property which the law defines, or the courts may interpret, declare, and hold to be real property under the letter, spirit, intent, and meaning of the law. (5-8-09)

c. Improvements. Improvements are buildings, structures, fences, and similar property~~ies~~ that ~~is~~ are built upon land. Improvements are real property regardless of whether or not such improvements are owned separately from the ownership of the land upon or to which the same may be erected, affixed, or attached. (5-8-09)(1-1-14)T

02. Personal Property. Personal property is defined in Section 63-201, Idaho Code, as everything that is the subject of ownership that is not real property. (5-8-09)

03. Fixtures. Fixtures are defined in Section 63-201, Idaho Code, as articles that were once moveable personal property items but have become real property as determined by the application of the three factor test. (5-8-09)(1-1-14)T

a. The ~~three~~ ~~part~~ -factor test consists of annexation, adaptation, and intent as explained below. ~~If an item of property satisfies all three tests, the item becomes a fixture and therefore real property.~~ (5-8-09)(1-1-14)T

i. Annexation. Although once moveable chattels, articles become accessory to and a part of improvements to real property by having been physically or constructively incorporated therein or annexed or affixed thereto in such a manner that removing them would cause material injury or damage to the real property; and (5-8-09)

ii. Adaptation. The use or purpose of an item is integral to the use of the real property to which it is affixed; and (5-8-09)

iii. Intent. Items should be considered personal property unless a person would reasonably be considered to intend to make the articles, during their useful life, permanent additions to the real property. The intent depends on an objective standard and what a reasonable person would consider permanent and not the subjective intention of the owner of the property. (5-8-09)

b. ~~Fixtures does not include machinery, equipment, or other articles that are affixed to real property to enable the proper utilization of such articles.~~ If an item of property satisfies all three (3) factors of the three-factor test, the item becomes a fixture and therefore real property. (5-8-09)(1-1-14)T

04. Operating Property. Operating Property is defined in Section 63-201, Idaho Code. For any purpose for which the distinction between personal property and real property is relevant or necessary for operating property, operating property will be characterized as personal or real based upon the criteria stated in this guideline and the rules of the State Tax Commission. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

418. -- ~~507~~8. (RESERVED)

~~508. NOTIFICATION OF PERSONAL PROPERTY EXEMPT VALUE BY TAXING DISTRICT OR UNIT (RULE 508).~~

~~Sections 63-510 and 63-602KK, Idaho Code. In addition to the requirements of Section 63-510, Idaho Code, for reporting of net taxable value for each taxing district or unit, the value of property exempt pursuant to Section 63-602KK, Idaho Code, shall be reported to the Tax Commission. The value of such exempt property that is included in the increment value within each tax code area in each revenue allocation area shall also be reported. This report shall be submitted by the August and March dates provided under Section 63-510, Idaho Code. (5-8-09)~~

509. CITY, COUNTY, SCHOOL DISTRICT, AND SPECIAL DISTRICT OR UNIT OF GOVERNMENT ABSTRACTS OF VALUE AND IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL EXEMPTION VALUES (RULE 509).

Sections 63-105A and 63-509, Idaho Code. (3-30-07)

01. Definitions. The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code. (3-30-07)

a. Increment Value. Increment value means, as defined in Section 50-2903, Idaho Code, the total value calculated by summing the differences between the current equalized value of each taxable property in the revenue allocation area and that property's current base value on the base assessment roll, provided such difference is positive. (3-30-07)

b. Primary Category. Primary category means the categories established and described by Subsections 130.02 through 130.06 of these rules and used by the State Tax Commission to test for equalization under Section 63-109, Idaho Code. (3-30-07)

c. Secondary Category. Secondary category means the categories established and described by Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the State Tax Commission under Section 63-509, Idaho Code, and this Rule. Secondary categories may also be tested for equalization purposes, provided they meet the criteria in Subsection 131.05 of these rules. (3-29-12)

02. Indicate Increment and Exemption Values. In addition to the value of exemptions required under Section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections 63-602W(4), 63-602GG, 63-602HH, 63-602II, ~~63-602KK~~, 63-602NN, 63-4502, 63-606A, and 63-3029B, Idaho Code, shall be indicated and subtracted from the taxable value shown for each secondary category of property on each city and county abstract, and the Boise School District abstract. Increment value and the value of the exemptions found in this subsection shall also be indicated and subtracted from the taxable value for each secondary category subject to taxation by special districts and units of government which do not levy property tax against all otherwise taxable property. ~~(4-4-13)~~(1-1-14)T

03. Submittal of Corrections to Erroneous Abstracts or Related Documents. When completing the procedures set forth in Section 63-810, Idaho Code, boards of county commissioners should submit the corrections to the taxable values submitted on the abstracts or related documents under provisions of Section 63-509, Idaho Code, and this rule, no later than when they submit the corrected levies under Section 63-810, Idaho Code. (4-2-08)

04. Cross Reference. See Rule 115 of these rules for requirements to submit city, Boise School District, and special district or unit of government abstracts. For the descriptions of the categories used to test for equalization, see Subsections 130.02 through 130.06 of these rules. For descriptions of secondary categories used to list and report land values, see Rule 510 of these rules, used to list and report the value of improvements, see Rule 511 of these rules, or used to list and report all property values other than that for land or improvements, see Rule 512 of these rules. For information relating to notification of corrections to erroneous levies, see Sections 63-809 and 63-810, Idaho Code, and Rule 809 of these rules. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

626. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY (RULE 626).

Sections 63-105(A), 63-201, 63-302, 63-308, 63-313, 63-602Y, and 63-602KK, Idaho Code. (3-20-14)

01. Locally Assessed Property - Application Required. (3-20-14)

a. The taxpayer must file one (1) or more of the lists of taxable personal property as required by Section 63-302, Section 63-313, or Section 63-602Y, Idaho Code if the total market value of the property to be listed is greater than one hundred thousand dollars (\$100,000). The filing of said list(s) shall constitute the filing of an application for exemption. For purposes of reporting personal property, the value is to be based on market value, not book value. (3-20-14)

b. Taxpayers establishing initial eligibility for the exemption provided in Section 63-602KK(2), Idaho Code, may in lieu of a list, file only an application attesting to ownership of otherwise taxable personal property having a cost of one hundred thousand dollars (\$100,000) or less. In providing such cost, newly acquired personal property items acquired at a price of three thousand dollars (\$3,000) or less, that are exempt pursuant to Section 63-602KK(1), Idaho Code, shall not be included. The application must be filed no later than April 15th of the first year for which the exemption is claimed. (3-20-14)

~~**e.** In addition, for taxpayers with personal property with a total market value less than or equal to one hundred thousand dollars (\$100,000) in a single Idaho county, in every fifth year following the first year in which the exemption in section 63-602KK(2) is granted for any property, the taxpayer must file an application for the exemption to continue. The application must include certification by the taxpayer that the total market value of all otherwise taxable personal property is less than or equal to one hundred thousand dollars (\$100,000), and must be filed with the county assessor no later than April 15 of the appropriate year. (3-20-14)~~

02. Locally Assessed Property - Taxpayers' Election of Property Location. (3-20-14)

a. Multiple Locations Within A County. In cases where the taxpayer has personal property located in multiple places within the county, the taxpayer may elect the location of the property to which the exemption will apply by filing the "Idaho Personal Property Exemption Location Application Form" available from the State Tax Commission (Commission) for this purpose. To make the election for property required to otherwise be listed as provided in Section 63-302, Idaho Code, the form must be filed with the county assessor by April 15. For taxpayers with personal property required to be listed as provided in Sections 63-602Y and 63-313, Idaho Code, any application specifying the location of the property to which the exemption provided for in Section 63-602KK(2) will apply, must be filed by the dates specified for filing the lists required by these Sections. Should the taxpayer not make an election as to where to apply the exemption, the county shall have discretion regarding the property to which the exemption shall apply. However, to the extent possible and assuming the assessor is not aware of any changes in eligibility, the exemption will be first applied to the same property to which it applied in the immediate prior year. (3-20-14)

b. Multiple locations in different counties. The one hundred thousand dollar (\$100,000) limit on the exemption applies to a taxpayer's otherwise taxable personal property within any county. If the taxpayer owns qualifying personal property in more than one county, the limit is one hundred thousand dollars (\$100,000) in market value per county. (3-20-14)

03. Centrally Assessed Property - Application Required. (3-20-14)

a. Except for private railcar fleets, the taxpayer must file a list of personal property with the operator's statement filed pursuant to Rule 404 of these rules. The filing of such a list shall constitute the filing of an application for this exemption. Except as provided in Subsection 626.03.c. of this rule, for such personal property to be considered for the exemption, the operator's statement must include: (3-20-14)

i. A description of the personal property, including any tax code area in which the personal property

subject to assessment as situs property is located; (3-20-14)

ii. Cost and depreciated cost of the personal property; (3-20-14)

iii. The county in which the personal property is located, if the taxpayer wishes to receive the exemption on property located in more than one county. (3-20-14)

b. For private railcar fleets subject to assessment by the Commission, and having an Idaho taxable market value of five hundred thousand dollars (\$500,000) or greater, the application procedure described in Subsection 626.03.a. of this rule shall apply. However, the requirements to show specific or county locations, found in Subsections 626.03.a.i. and 626.03.a.iii. shall not apply. Instead, the Commission shall, after using apportionment procedures described in Rule 413 of these rules to apportion the market value of these fleets, allow an exemption of up to one hundred thousand dollars (\$100,000) to be applied to the apportioned market value within each county. The remaining taxable and exempt market value is to be further apportioned to each taxing district and urban renewal revenue allocation area. (3-20-14)

c. For private railcar fleets subject to assessment by the Commission, and having an Idaho taxable market value of less than five hundred thousand dollars (\$500,000), the application procedure described in Subsection 626.03.a. of this rule shall apply. However, the property of such fleets is never apportioned to counties, so the exemption amount is limited to one hundred thousand dollars (\$100,000) per company, unless the company provides proof showing the multiple counties in which the personal property is located for the entire tax year, in which case the one hundred thousand dollar (\$100,000) limit shall apply per company per county. (3-20-14)

d. When operating property companies have locally assessed property, any exemption pursuant to Section 63-602KK(2), Idaho Code must be applied to the locally assessed property first. In this case, the county assessor must notify the Commission of the value of the exemption granted. (3-20-14)

04. Centrally Assessed Property - Taxpayers' Election of Property Location. Except for private rail car fleets having an Idaho taxable value of five hundred thousand dollars (\$500,000) or greater, to which the procedures in Subsection 626.03.b. of this rule shall apply, the taxpayer owning personal property located in multiple counties may indicate the county in which the property is located. Should the taxpayer not make an election as to where to apply the exemption, the exemption shall be limited to one hundred thousand dollars (\$100,000) applied to the Idaho value of the taxpayer prior to apportionment. (3-20-14)

05. Valuation Assessment Notice. The valuation assessment notice required by Section 63-308, Idaho Code, must show the taxable market value before granting the exemption provided in Section 63-602KK(2), Idaho Code, the exempt market value pursuant to the exemption provided in Section 63-602KK(2), Idaho Code, and the net taxable market value of the personal property. After the year of initial eligibility, if the net taxable market value is zero, no valuation assessment notice is required ~~until every fifth year following when the claimant must reapply.~~ (3-20-14)(1-1-14)T

06. ~~Tax Commission's Review and Correction of the Personal Property Tax Reduction Lists~~ Replacement Amounts. (3-20-14)(1-1-14)T

~~**a.** If an entry on the personal property tax reduction list is found to be erroneous, the Commission shall disapprove as much of the claim as necessary and so notify the county clerk. (3-20-14)~~

~~**b.** If, after certifying the personal property tax reduction list, the county learns of any erroneous information included in said list, the county clerk will immediately, and not later than the fourth Monday in February, 2014, notify the Commission of the correction. If the county cancels the tax otherwise due, the county must notify the Commission of the cancellation, and the Commission will adjust the replacement money accordingly. In addition to any other errors, corrections may include market value and tax changes resulting from actions of the county board of equalization related to property listed and assessed as required in Sections 63-313 and 63-602Y, Idaho Code. Corrections may also include market value changes as a result of appeals to the state board of tax appeals or district court, provided however, that the Commission is notified by the county of such changes by the fourth Monday in February, 2014. Once notified of any correction, the Commission shall adjust the total certified personal property tax reduction amount for any applicable taxing district or urban renewal agency, and shall change any payment due to~~

~~the county in accordance with the correction.~~

~~(3-20-14)~~

~~e. If a disapproval occurs after the Commission has certified the amount to be paid to the county in December, the Commission shall notify the county as soon as practicable and shall make all necessary adjustments in the amount to be paid in June of 2014.~~

~~(3-20-14)~~

~~da. If the amount of the disapproval exceeds the amount remaining to be paid to the county, the Commission subsequent to finalization of the amount of replacement money to be paid to any county, an amount paid on behalf of any taxpayer is disapproved by the county, the county shall so notify the Commission, which shall adjust the payment to the county; and then the county shall may begin proceedings to recover any remaining excessive amounts paid on behalf of any taxpayer, pursuant to the recovery procedures found in Section 63-602KK(7), Idaho Code. Any amount so recovered shall be remitted to the Commission.~~

~~(3-20-14)(1-1-14)T~~

~~e. Corrections may also be made to account for additional amounts of exemptions granted provided the Commission is so notified not later than January 30, 2014. Such additional amounts may be related to exemptions granted for transient personal property, or for other personal property listed on the subsequent or missed assessment rolls and shall be subject to review by the Commission.~~

~~(3-20-14)~~

07. Limitation on Eligibility for the Exemption.

(3-20-14)

a. Except for taxpayers claiming and receiving the exemption provided for in Section 63-4502, Idaho Code, taxpayers receiving the personal property exemption provided in Section 63-602KK, Idaho Code, may be eligible for, and are not precluded from, other applicable exemptions.

(3-20-14)

b. Personal property exempt in accordance with statutes other than Section 63-602KK, Idaho Code, shall not be included in determining when the one hundred thousand dollar (\$100,000) limit provided in Section 63-602KK(2) is reached.

(3-20-14)

c. Taxpayers with requirements to annually apply for, or list personal property for, which other statutorily provided personal property exemptions are sought, must continue to comply with the requirements of these statutes.

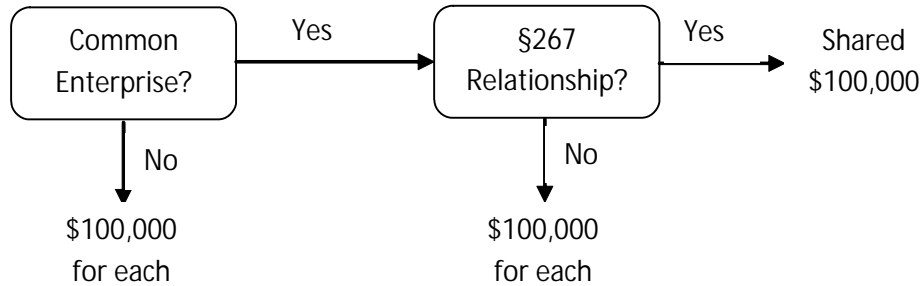
(3-20-14)

d. Improvements, as defined or described in Sections 63-201 and 63-309, Idaho Code, shall not be eligible for the exemption provided in Section 63-602KK. Improvements shall be deemed to include mobile and manufactured homes and float homes, regardless of whether such property is considered personal property. Leasehold real properties and other leasehold improvements that are structures or buildings shall be considered improvements, and therefore ineligible for the exemption. Structures, such as cell towers, are improvements and therefore are not personal property eligible for the exemption.

(3-20-14)

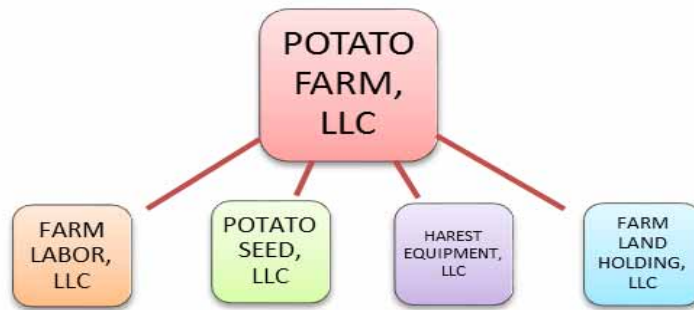
08. Illustrations of Eligibility Situations Related to Common Enterprise and Related Ownerships. If the taxpayer owns more than one (1) business within one (1) county, he may be entitled to more than one (1) one-hundred thousand dollar (\$100,000) exemption within the county. For purposes of this exemption, a taxpayer includes two or more individuals or organizations using the property in a common enterprise, and the individuals or organizations are within a relationship described in Section 267 of the Internal Revenue Code. This is illustrated in the following chart:

(3-20-14)



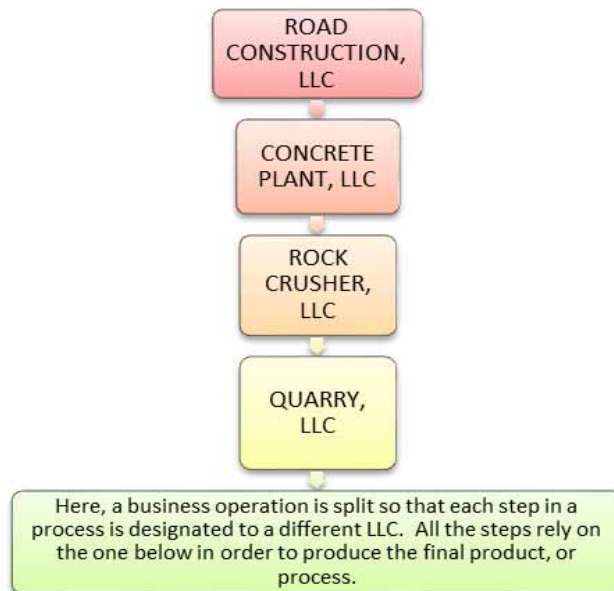
a. First, an analysis must be made to determine if a common enterprise exists. If entities or individuals are organized to manage a common scheme of business, they would be in common enterprise. (3-20-14)

i. Horizontal Commonality is explained by the following chart: (3-20-14)



Here, the usual functions involved in a working potato farm are split between several LLCs, all of which own the property involved with the functions they perform. The operation of the business is no different than if all the functions were combined in just Potato Farm, LLC

ii. Vertical Commonality is explained by the following chart: (3-20-14)

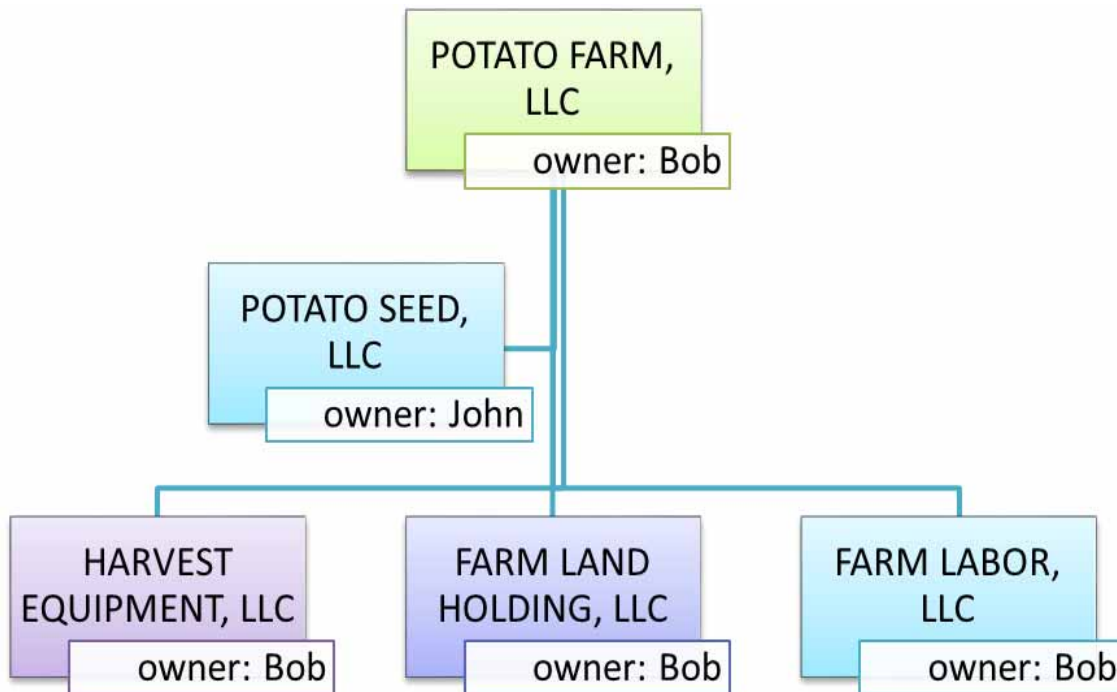


b. Second, an analysis would be made to determine whether the ownership between the entities are within the relationships identified in Section 267 of the Internal Revenue Code. If such a relationship is found to exist, the entities or individuals would be considered one (1) taxpayer for purposes of this exemption. (3-20-14)

c. Ownership alone does not determine whether entities are considered one taxpayer for purposes of this exemption. Two (2) businesses can have identical ownership, and each receive the exemption, providing they do not operate as a common enterprise. In addition, entities in a common enterprise can receive separate exemptions, providing that their ownership does not consist of a relationship identified in Section 267 of the Internal Revenue Code. (3-20-14)

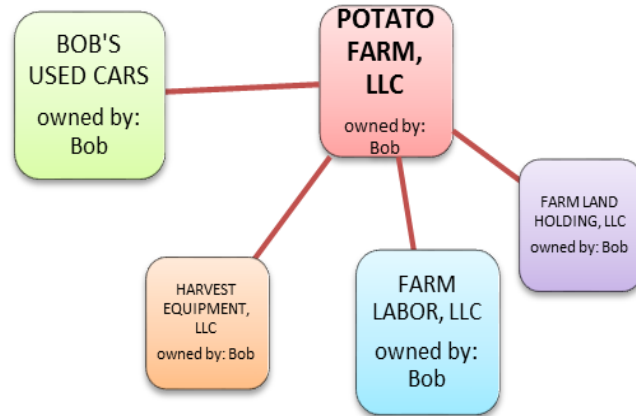
d. The following examples are given to illustrate eligibility situations related to common enterprise and related ownerships: (3-20-14)

i. Example 1. This is an example of common enterprise, but being entitled to two (2) exemptions because the owners are not related in a manner as described in Section 267 of the Internal Revenue Code. (3-20-14)



So long as Bob and John are not related in a manner identified in IRC 267, two exemptions exist. One for Potato Seed, LLC. The other for all of Bob's businesses, because they are in a common enterprise and all owned by him.

ii. Example 2. This is an example of the same owner with multiple businesses not all united in a common enterprise. Bob's farm businesses are common enterprises, and therefore entitled to only one (1) exemption for all the farm businesses. Bob's used car business is not involved with Bob's farm businesses, so Bob is entitled to an additional exemption related to his used car business. (3-20-14)

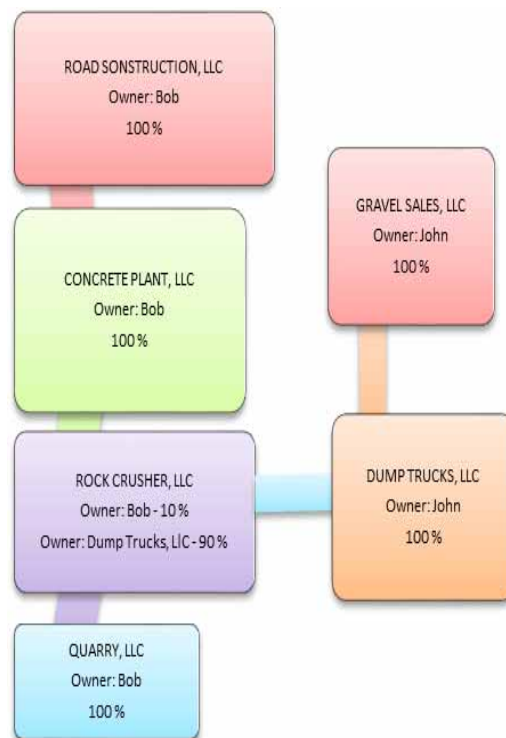


iii. Example 3. This is an example of multiple businesses being entitled to only one (1) exemption because common enterprise exists. (3-20-14)



Here, one exemption exists for all of the entities because they are in a common enterprise, due to their vertical commonality, and are all constructively owned by Bob, pursuant to IRC 267.

- iv. Example 4. This is an example showing how owners of common enterprises may intersect. (3-20-14)



This is an example of how common enterprises can intersect with one another. The companies Bob owns completely receive one exemption; John's companies also receive one exemption, including Rock Crusher, LLC, because John's ownership interest in that company falls within IRC 267.

- e. In cases of partial ownership as noted in example four wherein Bob owns ten percent (10%) and Dump Trucks, LLC owns ninety percent (90%) only the majority owner is eligible to receive this exemption. (3-20-14)

09. Special Rules for the Exemption Provided in Section 63-602KK(1), Idaho Code. (3-20-14)

- a. Newly acquired items of personal property, exempt as provided in Section 63-602KK(1), are not to be reported on any list otherwise required pursuant to Sections 63-302, 63-602Y, and 63-313, Idaho Code. (3-20-14)

- b. The exemption provided in Section 63-602KK(1), Idaho Code, is in addition to the one hundred thousand dollar (\$100,000) per taxpayer, per county exemption provided in Section 63-602KK(2), Idaho Code. (3-20-14)

- c. No application for the exemption provided in Section 63-602KK(1), Idaho Code, is necessary. (3-20-14)
- d. The requirement in Section 63-602KK(6) requiring the assessor to provide the application by no later than March 1, applies only to taxpayers who have an obligation to file any application. (3-20-14)

10. Limitation on Replacement Money. (3-20-14)

a. ~~Once the 2013 amount of replacement money for each taxing district, and unit, and for each urban renewal district revenue allocation area is made final, following corrections as provided in this rule, there shall be no additions. However~~ In addition to replacement money reductions due to corrections as provided in Subsection 06 of this rule, there may be changes and reductions as follow: ~~(3-20-14)(1-1-14)T~~

i. If a taxing district dissolves, the state will make no payment of the amount previously certified for that district, and when an urban renewal district revenue allocation area dissolves and is no longer receiving any allocation of property tax revenues, the state will discontinue payment of amounts previously certified for that revenue allocation area, beginning with the next scheduled distribution. (3-20-14)

ii. If taxing districts or revenue allocation areas within urban renewal districts are consolidated, the amounts of replacement money attributed to each original district or revenue allocation area shall be summed and, in the future, distributed to the consolidated taxing or urban renewal district. (3-20-14)

iii. No urban renewal district shall receive replacement money based on exempt personal property within any revenue allocation area (RAA) established on or after January 1, 2013, or within any area added to an existing RAA on or after January 1, 2013. (3-20-14)

iv. Any payment made to the Idaho Department of Education, as provided in Subsection 626.11 of this rule shall be discontinued if the state authorized plant facilities levy is not certified in any year. Certification in subsequent years shall not cause any resumption of this payment. (3-20-14)

b. ~~If otherwise eligible personal property is exempt in 2013 by reason of any property tax exemption other than the exemption found in Section 63-602KK(2), Idaho Code, there shall be no personal property replacement money related to exempt taxes on this property nor shall the amount of replacement money be adjusted if this personal property~~ adjustment to replacement money if personal property not receiving the exemption found in Section 63-602KK(2), Idaho Code, receives the is exemption in Section 63-602KK(2) in the future. ~~(3-20-14)(1-1-14)T~~

11. Special Provision For Replacement Money For State Authorized Plant Facilities Levy. The amount of replacement money calculated based on any 2013 state authorized plant facilities levy ~~will be applied to the exempt personal property, in any school district within which this levy has been certified in 2013, and the amount of tax calculated will be billed to the Commission as part of the property tax reduction list. The Commission shall be~~ remitted any related funds directly to the Idaho Department of Education for deposit to the Public School Cooperative Fund. ~~(3-20-14)(1-1-14)T~~

12. Special Provision For Exempt Personal Property Within Urban Renewal Revenue Allocation Areas (RAAs). When personal property subject to the exemption in Section 63-602KK(2), Idaho Code, is within an RAA, any adjustment shall first be to the increment value, and there shall be no adjustment to the base value of the RAA unless the remaining taxable market value of the parcel is less than the most current base value of the parcel. In that case, the base value shall be reduced. The amount to be subtracted is to be determined on a parcel by parcel basis in accordance with procedures found in Rule 804 of these rules. (3-20-14)

13. ~~Special Provision For~~ No Reporting of Exempt Value. Beginning in 2014, taxing district values submitted to the Commission as required in Section 63-510, Idaho Code, shall not include or indicate the otherwise taxable value exempt pursuant to Section 63-602KK(2), ~~in addition to the net taxable value of each district. In the absence of a more current value of the exemption, the value of the exemption may be estimated based on the last known value determined in 2013 by the county assessor, or in the case of centrally assessed property, the~~

Commission. The Commission will include this exempt value in the total taxable valuation reported to the Idaho State Board of Education and the Idaho Department of Education for each school district, as required in Section 63-1312, Idaho Code. ~~(3-20-14)~~(1-1-14)T

14. Cross Reference. For information on transient personal property see Rule 313 of these rules and for information on the definition of personal property see Rule 205 of these rules. (3-20-14)

(BREAK IN CONTINUITY OF SECTIONS)

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (RULE 803). Sections 63-602G(5), 63-802, 63-803, 63-3029B(4), and 63-3638(101) and (13), Idaho Code. ~~(4-2-08)~~(1-1-14)T

01. Definitions. (4-5-00)

a. “Dollar Certification Form” (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the State Tax Commission the budget request from each Board of County Commissioners for each taxing district. This form shall be presumed a true and correct representation of the budget previously prepared and approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy and action as provided in Section 63-809, Idaho Code. (4-6-05)

b. “Prior Year’s Market Value for Assessment Purposes.” Prior year’s market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code. (4-2-08)

c. “Annual Budget.” For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f) or 63-802(1)(g), Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(f) or 63-802(1)(g), Idaho Code, then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT*				
	FY 1999	FY 2000	FY 2001	FY 2002
Annual Budget	\$10,000	\$10,000	\$10,700	\$11,621
3% Increase	\$0	\$300	\$321	\$349
Subtotal	\$10,000	\$10,300	\$11,021	\$11,970
1999 Election Amount	\$0	\$400 of \$1,000	\$600 of \$1,000	\$0
Certified Budget	\$10,000	\$10,700	\$11,621	\$11,970

*The Library District with zero dollars (\$0) in value for new construction and/or annexation approves an additional budget amount of one thousand dollars (\$1,000) in 1999, but only certifies four hundred dollars (\$400) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. (4-6-05)

d. “Property Tax Funded Budget.” Property tax funded budget means that portion of any taxing district’s budget certified to the Board of County Commissioners, approved by the State Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (3-20-04)

e. “Recovered/Recaptured Property Substitute Funds Tax List.” Recovered/recaptured property tax substitute funds list means the report sent by the county auditor to the appropriate taxing district(s)/unit(s) by the first Monday in August and to the State Tax Commission with the L-2 Forms, listing the amount of revenue distributed to each appropriate taxing district/unit as recovery of property tax or other payments during the twelve (12) month period ending June 30 each year under the following sections: (5-8-09)

i. Section 63-602G(5), Idaho Code; and (5-8-09)

ii. Section 63-3029B(4), Idaho Code; and (5-8-09)

iii. Section 31-808(11), Idaho Code; ~~and~~ (5-8-09)(1-1-14)T

~~iv. Section 63-602KK(7), Idaho Code. (1-1-14)T~~

f. “Taxing District/Unit.” Taxing district/unit means any governmental entity with authority to levy property taxes as defined in Section 63-201, Idaho Code, and those noncountywide governmental entities without authority to levy property taxes but on whose behalf such taxes are levied or allocated by an authorized entity such as the county or city for such entities as county road and bridge funds or urban renewal agencies, respectively. (4-6-05)

g. “New Taxing District.” For property tax budget and levy purposes, new taxing district means any taxing district for which no property tax revenue has previously been levied. See the Idaho Supreme Court case of Idaho County Property Owners Association, Inc. v. Syringa General Hospital District, 119 Idaho 309, 805 P.2d 1233 (1991). (4-2-08)

02. Budget Certification. The required budget certification shall be made to each Board of County Commissioners representing each county in which the district is located by submitting the completed and signed L-2 Form prescribed by the State Tax Commission. Unless otherwise provided for in Idaho Code, budget requests for the property tax funded portions of the budget shall not exceed the amount published in the notice of budget hearing if a budget hearing notice is required in Idaho Code for the district. The levy approved by the State Tax Commission shall not exceed the levy computed using the amount shown in the notice of budget hearing. (3-20-14)

03. Budget Certification Requested Documents. Using the completed L-2 Form, each board of county commissioners shall submit to the State Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the property tax funded portion of its annual budget. The board of county commissioners shall only submit documentation specifically requested by the State Tax Commission. (4-2-08)

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on or with this form. (3-20-04)

a. “Department or Fund.” Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. “Total Approved Budget.” List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. “Cash Forward Balance.” List any money brought forward from a prior year to help fund the approved budget. Cash forward balance (Column 3) is the difference between the total approved budget (Column 2) and the sum of amounts reported as other revenue not shown in Column 5 (Column 4), agricultural equipment property tax replacement (Column 5), and balance to be levied (Column 6). (3-15-02)

d. “Other Revenue not Shown in Column 5.” List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (3-15-02)

e. “Property Tax Replacement.” Report the following: (5-8-09)

- i. The amount of money received annually under Section 63-3638(10), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code; (4-2-08)
- ii. The amount of money received as recovery of property tax exemption under Section 63-602G(5), Idaho Code, and listed on the “Recovered/recaptured property tax substitute funds list”; (5-8-09)
- iii. The amount of money received as recapture of the property tax benefit under Section 63-3029B(4), Idaho Code, and listed on the “Recovered/recaptured property tax substitute funds list”; and (5-8-09)
- iv. The amount of money transferred from the interest-bearing trust to the county indigent fund under Section 31-808(11), Idaho Code. (5-8-09)
- v. The appropriate amount of money listed on the statement and distributed to the county and each appropriate city under Section 63-2603, Idaho Code, as county property tax relief and detention facility debt retirement; and ~~(4-6-05)~~(1-1-14)T
- vi. The amount of money received annually under Section 63-3638(13), Idaho Code, for the personal property exemption under Section 63-602KK(2), Idaho Code. (1-1-14)T
- f. “Balance to be Levied.” Report the amount of money included in the total approved budget to be derived from property tax. (3-15-02)
- g. Other Information. Provide the following additional information. (4-5-00)
 - i. The name of the taxing district or unit; (3-20-04)
 - ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)
 - iii. The signature, date signed, printed name, address, and phone number of an authorized representative of the taxing district; and (5-3-03)
 - iv. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)
- h. Attached Information. Other information submitted to the county auditor with the L-2 Form. (4-6-05)
 - i. For all taxing districts, L-2 worksheet. (3-20-04)
 - ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (3-20-04)
 - iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, and plant facility funds), notice of election and election results. (3-20-04)
 - iv. Voter approved fund tracker. (3-20-04)
 - v. For fire districts, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district. (3-20-04)
 - vi. For any city with city funded library operations and services at the time of consolidation with any library district, each such city must submit a certification to the Board of County Commissioners and the Board of the Library District reporting the dedicated portion of that city’s property tax funded library fund budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation with the library district. (3-20-04)

vii. For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, each such library district must submit to the Board of County Commissioners a copy of the certification from that city reporting the information provided for in Subparagraph 803.04.h.vi. of this rule. (4-6-05)

05. Special Provisions for Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district shall not be permitted further increases under this provision unless the following conditions are met: (3-30-01)

a. The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-30-01)

b. Said new agreement succeeds the original agreement; and (3-30-01)

c. In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. (3-30-01)

06. Special Provisions for Property Tax Replacement ~~other than Replacement Money Received for Property Subject to the Exemption Provided in Section 63-602KK, Idaho Code. With the exception of property tax replacement monies received for property subject to the exemption provided in Section 63-602KK, Idaho Code,~~ Property tax replacement monies must be reported on the L-2 Form and separately identified on accompanying worksheets. Except as provided in Paragraph 803.06.f. of this rule, for all taxing districts, these monies must be subtracted from the "balance to be levied". The reduced balance shall be used to compute levies, but the maximum amount permitted pursuant to Section 63-802, Idaho Code, shall be based on the sum of these property tax replacement monies, excluding monies received pursuant to Section 31-808(11), Idaho Code, and the amount actually levied. (5-8-09)(1-1-14)T

a. The State Tax Commission shall, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money, pursuant to Sections ~~63-3638(10)~~ and (13), Idaho Code, to be paid to a taxing district changes from the amount paid in the preceding year. By the first Monday of May, the State Tax Commission shall further notify each school district and each county clerk of any changes in the amount of property tax replacement money to be received by that school district pursuant to Section ~~63-3638(10)~~ and (13), Idaho Code. (5-8-09)(1-1-14)T

b. By no later than the first Monday of August of each year, each county clerk shall notify each appropriate taxing district or unit of the total amount of property tax replacement monies that will be received, and shall further identify the type of replacement money as described in Paragraph 803.04.e. of this rule. For charter school districts subject to the provisions of Paragraph 803.06.f. of this rule, the amount to be subtracted shall be reported. (4-2-08)(1-1-14)T

c. Except as provided in Paragraph 803.06.d. of this rule, the subtraction required in Subsection 803.06 of this rule may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code. For school districts this subtraction must be first from funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets. (5-8-09)

d. For counties receiving monies described in Section 31-808(11), Idaho Code, the amount of money transferred from the interest-bearing trust to the county indigent fund shall be subtracted from the maximum amount of property tax revenue permitted pursuant to Section 63-802, Idaho Code. (5-8-09)

e. Levy limits shall be tested against the amount actually levied. (3-15-02)

f. For charter school districts with a levy in 2013 for maintenance and operations, as provided in Section 33-802(6), Idaho Code, a portion of the property tax replacement money received for property subject to the exemption in Section 63-602KK, Idaho Code, is not required to be subtracted in determining the "balance to be

levied.” Said portion shall be the amount calculated by applying the 2013 levy rate for the maintenance and operations levy amount, as authorized in the district’s charter, to the 2013 exempt value of personal property used to compute replacement money provided to the school district. (1-1-14)T

~~07. Special Provisions for Property Tax Replacement Received for Property Subject to the Exemption Provided in Section 63-602KK, Idaho Code. The following procedure is to be used to calculate levy rates and maximum amounts of property tax revenue for taxing districts or units that receive property tax replacement money for property subject to the exemption in Section 63-602KK, Idaho Code. (5-8-09)~~

~~a. Such property tax replacement money is not to be subtracted from the “balance to be levied” amount certified on the L-2 Form. (5-8-09)~~

~~b. The otherwise taxable value of the property subject to the exemption provided in Section 63-602KK, Idaho Code, is to be included in the value of the taxing district or unit used to calculate the levy rate. (5-8-09)~~

~~e. The maximum amount permitted pursuant to Section 63-802, Idaho Code, shall be based on the amount actually levied plus other property tax replacement money as defined in Paragraph 803.04.e. of this rule, excluding any amount transferred as provided in Section 31-808(11), Idaho Code. (5-8-09)~~

087. Special Provisions for Library Districts Consolidating with Any City’s Existing Library Operations or Services. For any library district consolidating with any city’s existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subparagraph 803.04.h.vi., of this rule shall be added to that library district’s property tax funded budget in effect at the time of the election for consolidation. This total shall be used as this district’s property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

098. Special Provisions for Cities with Existing Library Operations or Services Consolidating with Any Library District. For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subparagraph 803.04.h.vi., of this rule shall be subtracted from that city’s total property tax funded budget in effect at the time of the election for the consolidation. This difference shall be used as this city’s property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

109. Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units with Multiple Funds. Whenever the “Calculated Levy Rate” column of the L-2 Form indicates that a levy rate has been calculated for more than one (1) fund for any taxing district or unit, the “Column Total” entry must be the sum of the levy rates calculated for each fund. Prior to this summation, the levy rates to be summed must be rounded or truncated at the ninth decimal place. No additional rounding is permitted for the column total. (4-6-05)

110. Special Provisions for School Districts’ Tort Funds - Hypothetical New Construction Levy. To calculate the new construction portion of the allowed annual increase in a school district’s tort fund under Section 63-802(1), Idaho Code, calculate a Hypothetical New Construction Levy. To calculate this levy, sum the school district’s tort fund for the prior year and the agricultural equipment replacement revenue subtracted from that tort fund, then divide this sum by the school district’s taxable value used to determine the tort fund’s levy for the prior year. For the current year, the allowed tort fund increase for new construction is this Hypothetical New Construction Levy times the current year’s new construction roll value for the school district. (4-2-08)

121. Special Provisions for Interim Abatement Districts. When an interim abatement district transitions into a formally defined abatement district under Section 39-2812, Idaho Code, the formally defined abatement district shall not be considered a new taxing district as defined in Paragraph 803.01.g. of this rule for the purposes of Section 63-802, Idaho Code. For the formally defined abatement district, the annual budget subject to the limitations of Section 63-802, Idaho Code, shall be the amount of property tax revenue approved for the interim abatement district. (4-2-08)

132. Special Provisions for Levies for Payment of Judgments by Order of Court. The levy permitted pursuant to Section 63-1305A, Idaho Code, requires that the taxing district first budgets the maximum amount of property tax permitted pursuant to Section 63-802, Idaho Code, including any foregone amount. This requirement shall be deemed to have been met if, despite additional budget allowed pursuant to Section 63-802, Idaho Code, every fund used by the taxing district levies at the maximum levy rate provided by law, or, if no maximum levy rate is provided, the fund levies the maximum permitted budget amount. To the extent necessary to enable all previously accrued foregone amounts to be levied, the taxing district may need to use additional funds within which it is permitted to levy property taxes before levying as permitted pursuant to Section 63-1305A, Idaho Code. (4-4-13)

143. Cross Reference for School Districts with Tuition Funds. For any school district certifying a tuition fund levy in 2006 or any year thereafter, see Section 33-1408, Idaho Code, as amended by the First Extraordinary Session of the Fifty-eighth Legislature, for clarification that the amount of property tax revenue for a tuition fund is not subject to the limitations of Section 63-802, Idaho Code. (4-2-08)

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-105 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Motor Fuels Tax Rule 001 is a rule required in order to follow the formatting standard outlined by the Office of Administrative Rules Coordinator. The rule is informational and gives the title and scope of the rules to follow.

Motor Fuels Tax Rule 004 is amended to adopt the formatting standard outlined by the Office of Administrative Rules Coordinator. Motor Fuels Tax Rule 330 is being moved to Rule 004 and amended to conform to different tax rules of a similar type promulgated by the State Tax Commission.

Motor Fuels Tax Rules 006 is a rule required in order to follow the formatting standard outlined by the Office of Administrative Rules Coordinator. Motor Fuels Rule 004 is being moved to Rule 006 and amended to conform to different tax rules of a similar type promulgated by the State Tax Commission.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Negotiated Rulemaking was not feasible because the rules were written to meet the formatting standard outlined by the Office of Administrative Rules Coordinator.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The International Fuel Tax Agreement is being incorporated by reference because it is adopted by Section 63-2442A(2), Idaho Code and Motor Fuels Rule 410.

The International Registration Plan is being incorporated by reference because it is adopted by Section 49-435(1), Idaho Code, and Motor Fuels Rule 421.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Williams at (208) 334-7855 or don.williams@tax.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 9th day of May, 2014.

Don Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7855
Don.williams@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1401
(Only those Sections being amended are shown.)

001. ~~(RESERVED)~~ **TITLE AND SCOPE (RULE 001).**

01. Title. These rules shall be cited as IDAPA 35.01.05, “Idaho Motor Fuels Tax Administrative Rules.” ()

02. Scope. These rules shall be construed to reach the full jurisdictional extent of the state of Idaho’s authority for: ()

a. Motor Fuels Tax. The imposition of a motor fuel tax on each gallon of motor fuel received and on the use or other consumption of motor fuel in this state. This shall also include the administration of the International Fuel Tax Agreement (IFTA). ()

b. Transfer Fee. The imposition of a transfer fee upon each gallon of petroleum or petroleum products received and subject to the transfer fee as authorized by Chapter 49, Title 41, Idaho Code. ()

c. Registration Records. The imposition of records requirements for Idaho International Registration Plan (IRP) and Full Fee registration audits authorized by Chapter 4, Title 49, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

[Codified Section 004 is being moved and renumbered to Section 006]

004. **INCORPORATION BY REFERENCE (RULE 004).**

Sections 63-2434, 63-2442A, and 49-439, Idaho Code. The following documents are incorporated by reference: ()

01. Income Tax Administration and Enforcement Rules. These rules incorporate the sections of IDAPA 35.02.01, “Tax Commission Administration and Enforcement Rules” relating to the statutes authorized by Section 63-2434, Idaho Code. ()

02. International Fuel Tax Agreement. These rules incorporate the International Fuel Tax Agreement (IFTA) governing documents: the IFTA Articles of Agreement (revised July 1, 2013), the IFTA Procedures Manual (revised January 1, 2013), and the IFTA Audit Manual (revised January 20, 2013). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws. These documents can be found on the IFTA website at <http://www.iftach.org>. ()

03. International Registration Plan. These rules incorporate the International Registration Plan (IRP)

governing documents: The IRP Plan (revised January 1, 2014) and IRP Audit Procedures Manual (revised July 1, 2013). IRP is an international registration reciprocity agreement. The documents are included to aid the Commission in complying with IRP registration application audits authorized in Chapter 4, Title 49, Idaho Code. These documents can be found on the IRP website at <http://www.irponline.org>. ()

(BREAK IN CONTINUITY OF SECTIONS)

[Codified Section 004 is being moved and renumbered to Section 006]

0046. PUBLIC RECORDS ACT COMPLIANCE (RULE 0046).

The records associated with ~~this chapter~~ these rules are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-2434, ~~41-4909~~, 63-3076, 63-3077, 41-4909, or 9-337 through 9-350, Idaho Code. ~~Nonconfidential records are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address.~~ (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

~~321. -- 329. (RESERVED)~~

~~**330. INCORPORATION BY REFERENCE OF RELEVANT INCOME TAX RULES (RULE 330).**~~

~~Section 63-2434, Idaho Code, incorporates by reference various provisions of the Idaho Income Tax Act to apply to administering and enforcing the taxes on motor fuels. For applying and construing those sections as they apply to taxes on motor fuels, the administration and enforcement rules previously promulgated or to be promulgated or amended by the Commission are hereby adopted as part of these rules as if set out in full. In addition, Administration and Enforcement Rule 110 (IDAPA 35.02.01.110) is hereby adopted as part of these rules as if set out in full.~~ (7-1-97)

~~331.—399. (RESERVED)~~

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1402

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 63-105 and 63-2427, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by June 25, 2014.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process,
2. Attend through a teleconference,
3. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting, and/or
4. Submit written recommendations and comments using the contact information 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:

Motor Fuels Tax Rule 110, Calculation of Tax on Gaseous Fuels, outlines conversion factors required by Section 63-2424(1), Idaho Code, to make it possible to assess the \$0.25/gallon gasoline tax on given volume of gaseous fuel based on the energy equivalent of a gallon of gasoline. The rule is being changed to align the current conversion factors to national and industry standards.

Motor Fuels Tax Rule 311, IFTA License Bond, outlines the procedure for International Fuel Tax Agreement (IFTA) license bonds according to Section 63-2442A(2), Idaho Code, and the IFTA Articles of Agreement R340, Bond Requirement. This new rule clarifies a timely filer and allows the IFTA licensee to request a waiver from the bond requirement. The rule also includes instructions for the bonding an IFTA licensee who has his license revoked then reapplies for an IFTA license.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Don Williams, (208) 334-7855. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the State Tax Commission web site at the following web address: <http://tax.idaho.gov/>.

All comments must be directed to the undersigned using any contact method listed below. Traditional written comments must be postmarked on or before June 25, 2014. Telephonic, email, and all other comments must be made on or before June 25, 2014. While comments made by the due date will be considered, comments made after the due date may be considered as circumstances allow.

DATED this 9th day of May, 2014.

Don Williams
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone (208) 334-7855
Fax (208) 334-7844
Don.williams@tax.idaho.gov

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.05.01 - RULES OF THE DIVISION OF PURCHASING

DOCKET NO. 38-0501-1401

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 67-5717(11) and 67-5732, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by July 3, 2014.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the Division's website at the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the Division's website.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

The Division of Purchasing will be posting rule drafts on its website at <http://purchasing.idaho.gov/>. For comments, please send all comments via email to the Division of Purchasing email purchasing@adm.idaho.gov. Please subject your emails with "Purchasing Rules."

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

The rules will be revised to clarify the processes of state agency purchasing. New rules will address processes for high dollar service contracts and for contract administration and management.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Bill Burns at (208) 332-1612 or Sarah Hilderbrand at (208) 332-1612. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Division of Purchasing's website at the following web address: <http://purchasing.idaho.gov/>.

All written comments must be directed to the undersigned and must be delivered on or before July 3, 2014 by submitting an email with those comments to purchasing@adm.idaho.gov. Please subject your emails with "Purchasing Rules."

DATED this 1st day of May, 2014.

Bill Burns
Administrator
Division of Purchasing
650 W. State St., Rm. B-15
P. O. Box 83720
Boise, ID 83720-0003
Phone: (208) 332-1610
Facsimile: (208) 327-7320

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.06.01 - RULES OF THE DEPARTMENT OF ADMINISTRATION GOVERNING BILLING PROCEDURES OF THE OFFICE OF THE CHIEF INFORMATION OFFICER

DOCKET NO. 38-0601-1401

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 67-5701 and 67-5747, Idaho Code, and HB 647 from the 2014 legislative session.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by July 31, 2014.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Interested persons may participate in the process through attendance at meetings or by sending comments by mail or email to the contact person and address identified below. Refer to the web site listed in the contact information section for information on the date, time, and location of any meetings that are scheduled.

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:

The purpose of this rulemaking is to document billing processes used by the Department of Administration to determine and allocate technology related overhead and service expenses billed to other organizations of State government. The final methods used to determine and allocate these expenses may differ from those currently used as a result of this negotiated rulemaking.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Erin Seaman, 332-1876 or Greg Zickau, 332-1875. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Department of Administration, Office of the Chief Information Officer web site at the following web address: <http://cio.idaho.gov/>.

All written comments must be directed to the undersigned and must be delivered on or before July 31st, 2014. Comments may be emailed to erin.seaman@cio.idaho.gov or mailed to attn: Erin Seaman; 650 W. State St. Suite 100; Boise, ID; 83702.

May 21, 2014

Greg Zickau, Chief Technology Officer
Office of the Chief Information Officer
Department of Administration
650 W. State Street, Room 100
P.O. Box 83720, Boise, Idaho 83720-0042
Phone: (208) 332-1875 / Fax: (208) 334-5315

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-1401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 1, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Sections 49-1004 and 49-1010, Idaho Code, adopted under Section 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule states the maximum sizes allowed by overlegal permit. It does not apply to the transport of oversize manufactured homes or office trailers (see IDPA 39.03.17, Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers). This rulemaking institutes a new permit to allow the transportation of kiln lumber stacks on a half mile section of State Highway 3 at a width in excess of 8 feet 6 inches. This will allow industry to haul, under an annual overlegal permit, kiln lumber stacks on the specified section of State Highway 3 that are in excess of the allowed 8 feet 6 inches but that cannot exceed 9 feet 3 inches under an annual overlegal permit.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) (c), Idaho Code, this rule provides a conferring benefit by allowing industry to haul kiln lumber stacks on a ½ mile of State Highway 3 in excess of the allowed 8 feet 6 inches and not to exceed 9 feet 3 inches under an annual overlegal permit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees being imposed or increased by this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact to the state general fund.

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to allow industry to haul kiln lumber stacks on State Highway 3 in excess of the allowed 8 feet 6 inches and not to exceed 9 feet 3 inches under and annual overlegal permit.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 15th day of May, 2014.

Lori Garza
Office of Governmental Affairs
Idaho Transportation Department
3311 W State St., Boise, ID
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-332-4107
lori.garza@itd.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 39-0316-1401
(Only those Sections being amended are shown.)**

200. PERMITS FOR MULTIPLE-WIDTH OR MULTIPLE-HEIGHT LOADING.

01. Cylindrical Hay Bales. Overlegal permits may be issued for overwidth transportation of cylindrical hay bales, produced by balers having bale chambers which may be five (5) feet or more in width. Such bales may be loaded two (2) bales wide and two (2) bales high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operation of such overwidth loads shall be subject to the same time of travel and other safety requirements as other overwidth loads having a similar width. This type of operation is intended as an option to the use of farm tractors hauling such loads on size-exempt implement of husbandry vehicles. Maximum width of such loads without tolerance may not exceed eleven (11) feet six (6) inches. (4-5-00)

02. Reducible Height Loads. Overlegal permits may be issued to allow the transportation of reducible loads in excess of fourteen (14) feet high but not in excess of fourteen (14) feet nine (9) inches high on designated highways. The vehicle height must not exceed fourteen (14) feet. A map listing the vertical clearances is available at the Idaho Transportation Department Permit Office and online at <http://www.itd.idaho.gov/dmv/poe/poe.htm>. (3-29-12)

03. Kiln Lumber Stacks. Overlegal permits may be issued to allow the transportation of specifically produced kiln lumber stacks in excess of eight (8) feet six (6) inches wide but not in excess of nine (9) feet three (3) inches wide on designated highways. Each kiln lumber stack shall be considered a single non-reducible unit and may be hauled two (2) stacks wide and two (2) stacks high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operations of such overwidth loads shall be subject to the same type of travel restrictions and other safety requirements as other overwidth loads having a similar width. (5-1-14)T

IDAPA 46 - BOARD OF VETERINARY MEDICINE

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-1401

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 Section 54-2105, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held at the office of the Idaho State Department of Agriculture as follows:

Monday, June 23, 2014, 8:30 a.m. (MDT)

**Idaho Board of Veterinary Medicine
ISDA Conf. Room Main A and B
2270 Old Penitentiary Road
Boise, Idaho 83707**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho Board of Veterinary Medicine. Individuals may also attend the public meeting to be conducted on the above date during which the Board will allow oral comments or presentations to be made.

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:

The Board of Veterinary Medicine issues certifications to qualified veterinary technician applicants. Current rule provides several ways a CVT applicant can demonstrate completion of the educational requirements for certification. Two of the existing methods for an applicant to satisfy these requirements are to submit evidence of graduation from a veterinary technology program equivalent to a program approved by the American Veterinary Medical Association or, if a foreign graduate, graduation from a program of veterinary medicine from a foreign school approved by the Board. The Board has determined that it lacks the expertise and means to adequately evaluate whether a non-accredited CVT program is equivalent to an accredited AVMA program or to approve foreign schools of veterinary medicine. To ensure uniformity in entry-level knowledge of certified veterinary technicians in Idaho, Board Rule 100 (IDAPA 46.01.01.100) is being amended to delete these provisions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Jodie Ellis, Executive Director, (208) 332-8588.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments, questions, recommendations, and ideas must be submitted to the Board of Veterinary Medicine by June 19, 2014.

DATED this 1st day of May, 2014.

Jodie Ellis
Executive Director
Board of Veterinary Medicine
2270 Old Penitentiary Road

P. O. Box 7249
Boise, ID 83712
Phone: (208) 332-8588
Fax: (208) 334-2170

IDAPA 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION

**55.01.04 - RULES GOVERNING AGRICULTURAL AND NATURAL RESOURCE
EDUCATION PROGRAMS**

DOCKET NO. 55-0104-1401 (NEW CHAPTER)

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 Section 33-1629, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Tuesday, June 17, 2014, 4:30 p.m. to 6:00 p.m. (MDT)

**Riverside Hotel, Juniper Room
2900 Chinden Boulevard, Boise, Idaho**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Individuals may participate in the process by providing comments in writing, by email, or by calling the phone number listed below. Additionally, meetings may be scheduled to collect feedback from individuals who have expressed an interest in participating in the process.

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:

Section 33-1629, Idaho Code, establishes two grant programs for high quality agricultural and natural resource education programs. Rules will be promulgated to establish the procedures for administering the secondary Agricultural and Natural Resource Program Incentive Grant and the Agricultural Education Program Start-Up Grants.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Kristi Enger, kristi.enger@pte.idaho.gov, (208)334-3216. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Division of Professional-Technical Education web site at the following web address: www.pte.idaho.gov.

All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

Dated this 19th day of May, 2014.

Tracie Bent
Chief Planning and Policy Officer
Idaho State Board of Education (State Board for Professional-Technical Education)
650 W State St
PO Box 83720-0037
Boise, ID 83634
(208)332-1582

IDAPA 57- SEXUAL OFFENDER MANAGEMENT BOARD

57.01.02 - RULES GOVERNING JUVENILE SEXUAL OFFENDER MANAGEMENT PRACTICES

DOCKET NO. 57-0102-1401

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 Section 18-8314, Idaho Code.

MEETING SCHEDULE: A public meeting(s) on the negotiated rulemaking will be held as follows: TBD

Information on date, time and location for public meeting(s) will be posted on the agency website: www.somb.idaho.gov.

METHOD OF PARTICIPATION: Persons interested in participating in the negotiated rulemaking process are encouraged to:

1. Participate in a public meeting on the proposed standards for juvenile psychosexual evaluations and evaluators; sexual offender treatment and treatment providers; and/or
2. Submit written comments and recommendations to the proposed standards which will be posted on the agency website. Comments may be submitted via mail to the undersigned, facsimile or via email to somb@idoc.idaho.gov. Responses must be received by August 1, 2014.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

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:

The Sexual Offender Management Board is responsible for developing, advancing and overseeing sound sexual offender management policies and practices statewide. This rulemaking applies to practitioners who provide services to juveniles who have been adjudicated for sexual offenses by establishing standards and qualifications for psychosexual evaluations and evaluators as well as sexual offender treatment and treatment providers. The agency is currently developing these standards and procedures for provider certification. The standards will be incorporated into the agency's administrative rules after finalization of the document. Associated administrative rule language will be drafted at that time. Negotiated rulemaking will encompass finalization of the standards document.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the proposed standards contact Kathy Baird at (208) 954-8511.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 1, 2014.

DATED this 6th day of May, 2014.

Kathy Baird, Management Assistant
Sexual Offender Management Board
IDOC Clinical Services Annex
3125 S. Shoshone St., Boise, Idaho 83705
Phone: (208) 954-8511
Fax: (208) 954-8519
www.somb.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1402

NOTICE OF INTENT TO PROMULGATE - 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 Sections 39-105 and 39-107, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone and web conferencing or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by June 19, 2014.

Thursday, June 26, 2014, 9:00 a.m. to 12:30 p.m. (MDT)

**Department of Environmental Quality
Conference Room A
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: By June 4, 2014, a preliminary draft of the rule can be obtained at www.deq.idaho.gov/58-0101-1402 or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: This rulemaking contains three main objectives. The first objective is to acknowledge feedback received from the U.S. Environmental Protection Agency regarding necessary changes to the Rules for the Control of Air Pollution in Idaho (Idaho's rules) for inclusion into Idaho's State Implementation Plan (SIP). Including Idaho's rules in the SIP will provide certainty to the regulated community that their permits fulfill all state and federal requirements. These changes include minor clarifications to the following rules: Facility Emission Cap, Sulfur Content in Fuels Alternative, and Nonmetallic Mineral Processing Plants.

Facility Emission Cap (FEC) rule: Two changes have to be made: 1) Language will be added to strengthen the prohibition against new major facilities from using the FEC rule and thus circumventing PSD/NSR review. 2) Language is being added to ensure that the air quality modelling parameters will be consistent throughout the 5 year term of the FEC permit. These changes are consistent with the original intent of the rule and will not change how it is currently being implemented.

Sulfur in Fuels: The original rule provides an option for facilities to use higher sulfur content fuel as long as there is no increase in air emissions. The rule does not explicitly state how DEQ will implement this option. The added language states that it will be implemented through an air permitting action from DEQ. This change is consistent with the original intent of this rule.

Nonmetallic mineral processing: Clarifying language that the Permit by Rule option is only available to non-major sources is being added. This change should have no effect on how the industry is using this rule and is consistent with the original intent of this rule.

The next objective is to add references to PM2.5 in order to capture updated federal requirements. Idaho DEQ is currently treating PM2.5 as a criteria pollutant but has not yet updated all references to PM2.5 in the rules. These changes are needed for clarification and consistency.

The last objective is to update a source test reporting deadline to more realistically reflect existing practices. Currently there is a deadline that facilities submit a source test to Idaho DEQ within 30 days in certain situations. This deadline has proven impractical and DEQ is proposing to increase the deadline to 60 days.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2014 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule in the fall of 2014. If adopted by the Board, the rule will be reviewed by the 2015 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Tiffany Floyd at tiffany.floyd@deq.idaho.gov or (208) 373-0440.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or email at the address below. Written comments on the preliminary draft rule must be received by July 3, 2014. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 9th day of May, 2014.

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1301

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY AND PENDING RULE

EFFECTIVE DATE: The temporary rule is effective June 4, 2014 and remains in effect until the adjournment of the 2015 legislative session unless rescinded by the agency. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2015 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixty-third Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Sections 67-5226 and 67-5224, Idaho Code, notice is hereby given that the Board has adopted a temporary and pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code. Section 39-3603(2)(c), Idaho Code, has been revised by the 2014 Idaho Legislature (House Bill 392). This legislation is consistent with the language in the pending rule.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, December 4, 2013, [Vol. 13-12, pages 119 through 128](#). After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov/58-0102-1301 or by contacting the undersigned.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to comply with deadlines in federal programs and, therefore, avoid federal promulgation of Idaho's water quality standards.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Dated this 9th day of May, 2014.

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

DOCKET NO. 58-0102-1301 - ADOPTION OF PENDING AND TEMPORARY RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 13-12, December 4, 2013, pages 119 through 128](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2015 Idaho State Legislature.

Additionally, this rule has been adopted as a temporary rule and is effective June 4, 2014.

Pursuant to Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin.

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 58-0102-1301
(Only those Sections being amended are shown.)**

052. ANTIDegradation Implementation.

The antidegradation policy shall be implemented as follows:

(3-18-11)

01. Waters Protected. All waters receive Tier I protection. Waters receiving Tier II protection will be identified using a water body by water body approach during the antidegradation review. Waters given Tier III protection are designated in law.

(3-18-11)

02. Restoration Projects. Changes in water quality may be allowed by the Department without an antidegradation review where determined necessary to secure long-term water quality improvement through restoration projects designed to trend toward natural characteristics and associated uses to a water body where those characteristics and uses have been lost or diminished. Restoration projects shall implement best management practices.

(3-18-11)

03. General Permits. For general permits issued on or after July 1, 2011, the Department will conduct an antidegradation review, including any required Tier II analysis, at the time at which general permits are certified. For general permits that the Department determines adequately address antidegradation, review of individual applications for coverage will not be required unless it is required by the general permit. For general permits that the Department determines do not adequately address antidegradation, the Department may conclude that other conditions, such as the submittal of additional information or individual certification at the time an application is submitted for coverage under a general permit, may be necessary in the general permit to provide reasonable assurance of compliance with the antidegradation policy. If supported by the permit record, the Department may also presume that discharges authorized under a general permit are insignificant or that the pollution controls required in the general permit are the least degrading alternative as specified in Subsection 052.08.c.

(3-29-12)

04. Initiation of Antidegradation Review. Review of degradation potential and application of the appropriate level of protection from degradation will be triggered by an application for a new or reissued permit or license.

(3-18-11)

05. Identification of Tier II Waters. The Department will utilize a water body by water body approach in determining where Tier II protection is appropriate in addition to Tier I protection. This approach shall be based on an assessment of the chemical, physical, biological and other information regarding the water body. The most recent federally approved Integrated Report and supporting data will be used to determine the appropriate level of protection as follows:

(3-29-12)

a. Water bodies identified in the Integrated Report as fully supporting assessed uses will be provided Tier II protection.

(3-29-12)

b. Water bodies identified in the Integrated Report as not assessed will be provided an appropriate level of protection on a case-by-case basis using information available at the time of a proposal for a new or reissued permit or license.

(3-29-12)

c. Water bodies identified in the Integrated Report as not fully supporting assessed uses will receive Tier I protection for the impaired aquatic life or recreational use, except as follows: (3-29-12)

i. For aquatic life uses identified as impaired for dissolved oxygen, pH or temperature, if biological or aquatic habitat parameters show a healthy, balanced biological community is present, as described in the "Water Body Assessment Guidance" published by the Idaho Department of Environmental Quality, then the water body shall receive Tier II protection for aquatic life uses. (3-29-12)

ii. For recreational uses, if water quality data show compliance with those levels of water quality criteria listed in Sections 200, 210, 251, and 275 (where applicable), then the water body shall receive Tier II protection for recreational uses. (3-29-12)

06. Evaluation of Effect of an Activity or Discharge on Water Quality. The Department will evaluate the effect on water quality for each pollutant. The Department will determine whether an activity or discharge results in an improvement, no change, or degradation of water quality. (3-18-11)

a. Effect on water quality will be based on the calculated change in concentration in the receiving water as a result of a new or reissued permit or license. With respect to a discharge, this calculation will take into account dilution using appropriate mixing of the receiving water under critical conditions coupled with the design flow of the discharge. For a reissued permit or license, the calculated change will be the difference in water quality that would result from the activity or discharge as authorized in the current permit or license and the water quality that would result from the activity or discharge as proposed in the reissued permit or license. For a new permit or license, the calculated change will be the difference between the existing receiving water quality and water quality that would result from the activity or discharge as proposed in the new permit or license. (3-18-11)

i. Current Discharge Quality. For pollutants that are currently limited, current discharge quality shall be based on limits in the current permit or license. For pollutants not currently limited, current discharge quality shall be based on available discharge quality data collected within five years of the application for a permit or license or other relevant information. (3-18-11)

ii. Proposed Quality for an Existing Discharge. Future discharge quality shall be based on proposed permit limits. For pollutants not limited in the proposed permit or license, future discharge quality will be estimated from available discharge quality data since the last permit or license was issued accounting for any changes in production, treatment or operation. For the proposed discharge of a new pollutant or a proposed increased discharge of a pollutant, future discharge quality will be estimated based on information provided by the applicant or other relevant information. (3-18-11)

iii. New Permit Limits for an Existing Discharge. When new permit limits are proposed for the first time for a pollutant in an existing discharge, then for purposes of calculating the change in water quality, any statistical procedures used to derive the proposed new limits will be applied to past discharge quality as well, where appropriate. (3-18-11)

iv. Proposed Quality for a New Discharge. Future discharge quality shall be based on proposed permit limits. For pollutants not limited in the proposed permit or license, future discharge quality will be based on information provided by the applicant or other relevant information. (3-18-11)

b. Receiving water quality will be the quality measured, or modeled as appropriate, immediately above the discharge for flowing waters and outside any Department authorized mixing zone for lakes and reservoirs. (3-18-11)

c. Offsets. In determining the effect of an activity or discharge on water quality of Tier II or Tier III waters, the Department may take into account reductions in pollution from other sources that are tied to the proposed activity or discharge. These offsets in pollution must be upstream of the degradation in water quality due to the proposed activity or discharge and occur before the activity or discharge is allowed to begin. The applicant seeking a permit or license for an activity or discharge based on offsets will be held responsible for assuring offsets are achieved and maintained as a condition of their permit or license. (3-18-11)

07. Tier I Review. Tier I review will be performed for all new or reissued permits or licenses. Existing uses and the water quality necessary to protect the existing uses must always be maintained and protected. No degradation or lowering of water quality may be allowed that would cause or contribute to violation of water quality criteria as calculated after authorized mixing of the discharge with the receiving water. Identification of existing uses and the water quality necessary for their protection will be based on all available information, including any water quality related data and information submitted during the public comment period for the permit or license. (3-18-11)

08. Tier II Analysis. A Tier II analysis will only be conducted for activities or discharges, subject to a permit or a license, that cause degradation. The Department may allow significant degradation of surface water quality that is better than assigned criteria only if it is determined to be necessary to accommodate important economic or social development in the area in which the waters are located. The process and standard for this determination are set forth below. (3-18-11)

a. Insignificant ~~Activity or Discharge~~ Degradation. ~~If the Department shall consider the size and character of~~ **determines** an activity or discharge ~~or the magnitude of its effect on the receiving stream and will cause degradation, then the Department~~ shall determine whether ~~the degradation~~ is insignificant. ~~If an activity or discharge is determined to be insignificant, then no further Tier II analysis for other source controls (Subsection 052.08.b.), alternatives analysis (Subsection 052.08.c.) or socioeconomic justification (Subsection 052.08.d.) is required.~~ (3-29-12)(6-4-14)T

i. ~~The Department shall determine insignificance when the proposed change in an activity or discharge, from conditions as of July 1, 2011, will not cumulatively decrease assimilative capacity by more than ten percent (10%). A cumulative decrease in assimilative capacity of more than ten percent (10%), from conditions as of July 1, 2011, shall constitute significant degradation. If the cumulative decrease in assimilative capacity from conditions as of July 1, 2011, is equal to or less than ten percent (10%), then, taking into consideration the size and character of the activity or discharge and the magnitude of its effect on the receiving stream, the Department may determine that the degradation is insignificant.~~ (3-29-12)(6-4-14)T

ii. The Department may request additional information from the applicant ~~in making a determination whether a proposed change in an activity or discharge is insignificant~~ **as needed to determine the significance of the degradation.** (3-29-12)(6-4-14)T

iii. ~~If degradation is determined to be insignificant, then no further Tier II analysis for other source controls (Subsection 052.08.b.), alternatives analysis (Subsection 052.08.c.), or socioeconomic justification (Subsection 052.08.d.) is required.~~ (6-4-14)T

b. Other Source Controls. In allowing any degradation of high water quality, the Department must assure that there shall be achieved in the watershed the highest statutory and regulatory requirements for all new and existing point sources and cost-effective and reasonable best management practices for all nonpoint source controls. In providing such assurance, the Department may enter together into an agreement with other State of Idaho or federal agencies in accordance with Sections 67-2326 through 67-2333, Idaho Code. (3-18-11)

c. Alternatives Analysis. Degradation will be deemed necessary only if there are no reasonable alternatives to discharging at the levels proposed. The applicant seeking authorization to degrade high water quality must provide an analysis of alternatives aimed at selecting the best combination of site, structural, managerial and treatment approaches that can be reasonably implemented to avoid or minimize the degradation of water quality. To identify the least degrading alternative that is reasonable, the following principles shall be followed: (3-18-11)

i. Controls to avoid or minimize degradation should be considered at the earliest possible stage of project design. (3-18-11)

ii. Alternatives that must be evaluated as appropriate, are: (3-18-11)

(1) Relocation or configuration of outfall or diffuser; (3-18-11)

(2) Process changes/improved efficiency that reduces pollutant discharge; (3-18-11)

- (3) Seasonal discharge to avoid critical time periods for water quality; (3-18-11)
- (4) Non-discharge alternatives such as land application; and (3-18-11)
- (5) Offsets to the activity or discharge's effect on water quality. (3-18-11)
- iii. The Department retains the discretion to require the applicant to examine specific alternatives or provide additional information to conduct the analysis. (3-18-11)
- iv. In selecting the preferred alternative the applicant shall: (3-18-11)
 - (1) Evaluate economic impacts (total cost effectiveness, incremental cost effectiveness) of all technologically feasible alternatives; (3-18-11)
 - (2) Rank all technologically feasible treatment alternatives by their cost effectiveness at pollutant reduction; (3-18-11)
 - (3) Consider the environmental costs and benefits across media and between pollutants; and (3-18-11)
 - (4) Select the least degrading option or show that a more degrading alternative is justified based on Subsections 052.08.c.iv.(1), 052.08.c.iv.(2), or 052.08.c.iv.(3) above. (3-29-12)
- d. Socioeconomic Justification. Degradation of water quality deemed necessary must also be determined by the Department to accommodate important economic or social development. Therefore, the applicant seeking authorization to degrade water quality must at a minimum identify the important economic or social development for which lowering water quality is necessary and should use the following steps to demonstrate this: (3-18-11)
 - i. Identify the affected community; (3-18-11)
 - ii. Describe the important social or economic development associated with the activity which can include cleanup/restoration of a closed facility; (3-18-11)
 - iii. Identify the relevant social, economic and environmental health benefits and costs associated with the proposed degradation in water quality for the preferred alternative. Benefits and costs that must be analyzed include, but are not limited to: (3-18-11)
 - (1) Economic benefits to the community such as changes in employment, household incomes and tax base; (3-18-11)
 - (2) Provision of necessary services to the community; (3-18-11)
 - (3) Potential health impacts related to the proposed activity; (3-18-11)
 - (4) Impacts to direct and indirect uses associated with high quality water, e.g., fishing, recreation, and tourism; and (3-18-11)
 - (5) Retention of assimilative capacity for future activities or discharges. (3-18-11)
 - iv. Factors identified in the socioeconomic justification should be quantified whenever possible but for those factors that cannot be quantified a qualitative description of the impacts may be accepted; and (3-18-11)
 - v. If the Department determines that more information is required, then the Department may require the applicant to provide further information or seek additional sources of information. (3-18-11)
- e. Process. (3-18-11)

i. Analysis. The Department in cooperation with State of Idaho designated management agencies and/or federal agencies will collect information regarding the other source controls specified in Subsection 052.08.b. The applicant for a new or reissued permit or license is responsible for providing information pertinent to determining significance/insignificance of proposed changes in water quality and completing an alternatives analysis and socioeconomic justification as appropriate and submitting them to the Department for review. (3-29-12)

ii. Departmental review. The Department shall review all pertinent information and, after intergovernmental coordination, public notice and input, make a determination as to whether there is assurance that the other source controls specified in Subsection 052.08.b. shall be achieved, and whether degradation of water quality is necessary to accommodate important economic or social development. (3-29-12)

iii. Public Involvement. The Department will satisfy the public participation provisions of Idaho's continuing planning process. Public notice and review of antidegradation will be coordinated with existing 401 certification notices for public review. (3-18-11)

09. Tier III - Outstanding Resource Waters (ORWs). ORWs are designated by the legislature. Subsection 052.09 describes the nomination, public notice and comment, public hearing, and board review process for directing the Department to develop legislation designating ORWs. Only the legislature may designate ORWs. Once designated by the legislature, the ORWs are listed in these rules. (3-18-11)

a. Nominations. Any person may request, in writing to the board, that a stream segment be considered for designation as an Outstanding Resource Water. To be considered for ORW designation, nominations must be received by the board by April 1 or ten (10) days after the adjournment sine die of that year's regular session of the legislature, whichever is later, for consideration during the next regular session of the legislature. All nominations shall be addressed to:

Idaho Board of Environmental Quality
Department of Environmental Quality
Outstanding Resource Water Nomination
1410 N. Hilton
Boise, Idaho 83706-1255

The nomination shall include the following information: (3-18-11)

- i. The name, description and location of the stream segment; (3-18-11)
- ii. The boundaries upstream and downstream of the stream segment; (3-18-11)
- iii. An explanation of what makes the segment a candidate for the designation; (3-18-11)
- iv. A description of the existing water quality and any technical data upon which the description is based as can be found in the most current basin status reports; (3-18-11)
- v. A discussion of the types of nonpoint source activities currently being conducted that may lower water quality, together with those activities that are anticipated during the next two (2) years, as described in the most current basin status reports; and (3-18-11)
- vi. Any additional evidence to substantiate such a designation. (3-18-11)

b. Public Notice and Public Comment. The board will give public notice that one (1) or more stream segments are being considered for recommendation to the legislature as outstanding resource waters. Public notice will also be given if a public hearing is being held. Public comments regarding possible designation will be accepted by the board for a period of at least forty-five (45) days. Public comments may include, but are not limited to, discussion of socioeconomic considerations; fish, wildlife or recreational values; and other beneficial uses. (3-18-11)

c. Public Hearing. A public hearing(s) may be held at the board's discretion on any stream segment

nominated for ORW designation. Public notice will be given if a hearing is held. The decision to hold a hearing may be based on the following criteria: (3-18-11)

- i. One (1) or more requests contain supporting documentation and valid reasons for designation; (3-18-11)
- ii. A stream segment is generally recognized as constituting an outstanding national resource, such as waters of national and state parks, and wildlife refuges; (3-18-11)
- iii. A stream segment is generally recognized as waters of exceptional recreational or ecological significance; (3-18-11)
- iv. The board shall give special consideration to holding a hearing and to recommending for designation by the legislature, waters which meet criteria found in Subsections 052.09.c.ii. and 052.09.c.iii.; (3-29-12)
- v. Requests for a hearing will be given due consideration by the board. Public hearings may be held at the board's discretion. (3-18-11)

d. Board Review. The board shall review the stream segments nominated for ORW designation and based on the hearing or other written record, determine the segments to recommend as ORWs to the legislature. The board shall submit a report for each stream segment it recommends for ORW designation. The report shall contain the information specified in Subsection 052.09.a. and information from the hearing record or other written record concerning the impacts the designation would have on socioeconomic conditions; fish, wildlife and recreational values; and other beneficial uses. The Department shall then prepare legislation for each segment that will be recommended to the legislature as an ORW. The legislation shall provide for the listing of designated segments in these rules without the need for formal rulemaking procedures, pursuant to Sections 67-5201, et seq., Idaho Code. (3-29-12)

e. Designated Waters. Those stream segments designated by the legislature as ORWs are listed in Sections 110 through 160. (3-18-11)

f. Restriction of Nonpoint Source Activities on ORWs. Nonpoint source activities on ORWs shall be restricted as follows: (3-18-11)

i. The water quality of ORWs shall be maintained and protected. After the legislature has designated a stream segment as an outstanding resource water, no person shall conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of that ORW, except for conducting short term or temporary nonpoint source activities which do not alter the essential character or special uses of a segment, allocation of water rights, or operation of water diversions or impoundments. Stream segments not designated as ORWs that discharge directly into an ORW shall not be subject to the same restrictions as an ORW, nor shall the ORW mixing zone be subject to the same restrictions as an ORW. A person may conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of a tributary or stream segment, which discharges directly into an ORW or an ORW mixing zone, provided that the water quality of that ORW below the mixing zone shall not be lowered. (3-18-11)

ii. After the legislature has designated a stream segment as an outstanding resource water as outlined in Subsection 052.09.e., existing nonpoint source activities may continue and shall be conducted in a manner that maintains and protects the current water quality of an ORW. The provisions of this section shall not affect short term or temporary activities that do not alter the essential character or special uses of a segment, allocation of water rights, or operations of water diversions or impoundments, provided that such activities shall be conducted in conformance with applicable laws and regulations. (3-29-12)

g. Restriction of Point Source Discharges to ORWs. The water quality of ORWs shall be maintained and protected. Point source discharges that may cause degradation to ORWs may be allowed only if they are offset by reductions in other discharges per Subsection 052.06.c. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

055. WATER QUALITY LIMITED WATERS AND TMDLS.

01. ~~After Determining That Reporting~~ Water Body ~~Does Not Support~~ Use Support Status. ~~After determining that a water body does not fully support designated or existing beneficial uses in accordance with Section 054, the Department, in consultation with the applicable basin and watershed advisory groups, shall evaluate whether the application of required pollution controls to sources of pollution affecting the impaired water body would restore the water body to full support status. This evaluation may include the following:~~ After using the provisions in Section 054, and after consultation with the appropriate basin and watershed advisory groups, the Department shall identify water bodies in the appropriate category in the Integrated Report. The Integrated Report shall be published periodically by the Department in accordance with the applicable provisions of the Clean Water Act and shall be subject to public review and comment prior to submission to EPA for approval. (3-18-11)(6-4-14)T

~~a- Identification of significant sources of pollution affecting the water body by past and present activities;~~ (3-20-97)

~~b- Determination of whether the application of required or cost effective interim pollution control strategies to the identified sources of pollution would restore the water body to full support status within a reasonable period of time;~~ (3-20-97)

~~c- Consultation with appropriate basin and watershed advisory groups, designated agencies and landowners to determine the feasibility of, and assurance that required or cost effective interim pollution control strategies can be effectively applied to the sources of pollution to achieve full support status within a reasonable period of time;~~ (3-20-97)

~~d- If pollution control strategies are applied as set forth in this Section, the Department shall subsequently monitor the water body to determine whether application of such pollution controls were successful in restoring the water body to full support status.~~ (3-20-97)

02. Water Bodies ~~Not Fully Supporting Beneficial Uses~~ Needing Development of a Total Maximum Daily Load (TMDL). (6-4-14)T

a. After following the process identified in Subsection 055.01, The Department shall develop TMDLs or other equivalent processes, as required under Section 303(d)(1) of the Clean Water Act, for those water bodies identified in the Integrated Report as not fully supporting designated or existing beneficial uses and not meeting applicable water quality standards despite the application of required pollution controls shall be identified by the Department as water quality limited water bodies, and shall require the development of TMDLs or other equivalent processes, as described under Section 303(d)(1) of the Clean Water Act. A list of water quality limited water bodies shall be published periodically by the Department in accordance with Section 303(d) of the Clean Water Act and be subject to public review prior to submission to EPA for approval. (6-4-14)T

b. Informational TMDLs may be developed for water bodies fully supporting beneficial uses as described under Section 303(d)(3) of the Clean Water Act, however, they will not be subject to the provisions of this Section. (3-18-11)

c. TMDLs do not need to be developed for water bodies where other pollutant control requirements are expected to achieve full support of uses and compliance with water quality standards in a reasonable period of time. Such water bodies shall be identified as Category 4(b) waters in the Integrated Report. (6-4-14)T

03. **Priority of TMDL Development.** The priority of TMDL development for water quality limited water bodies identified in ~~Subsection 055.02~~ the Integrated Report shall be determined by the Director ~~in consultation with the Basin Advisory Groups as described in Sections 39-3601, et seq., Idaho Code,~~ depending upon the severity of pollution and the uses of the water body, including those of unique ecological significance. In determining the severity of pollution and the effect on uses, the Director shall apply the factors set forth in Section 39-3609, Idaho

Code. Water bodies identified as a high priority through this process will be the first to be targeted for development of a TMDL or equivalent process. ~~(3-18-11)~~(6-4-14)T

04. ~~High Priority Provisions.~~ ~~Until a TMDL or equivalent process is completed for a high priority water quality limited water body, new or increased discharge of pollutants which have caused the water quality limited listing may be allowed if interim changes, such as pollutant trading, or some other approach for the pollutant(s) of concern are implemented and the total load remains constant or decreases within the watershed. Interim changes shall maximize the use of cost effective measures to cap or decrease controllable human caused discharges from point and nonpoint sources. Once the TMDL or equivalent process is completed, any new or increased discharge of causative pollutants will be allowed only if consistent with the approved TMDL.~~ **Protection of Uses Prior to Completion of TMDLs.** Prior to the completion of a TMDL or equivalent process for water quality limited water bodies, the Department shall take those actions required by the antidegradation policy (Section 051), the antidegradation implementation procedures (Section 052), and the provisions in Section 39-3610, Idaho Code. Nothing in this section shall be interpreted as requiring best management practices for agricultural operations which are not adopted on a voluntary basis. ~~(3-20-97)~~(6-4-14)T

05. ~~Medium and Low Priority Provisions.~~ ~~Until TMDLs or equivalent processes are developed for water quality limited water bodies identified as medium or low priority, the Department shall require interim changes in permitted discharges from point sources and best management practices for nonpoint sources deemed necessary to prohibit further impairment of the designated or existing beneficial uses.~~ **Consistency with TMDLs.** Once a TMDL or equivalent process is completed, discharges of causative pollutants shall be consistent with the allocations in the TMDL. Nothing in this section shall be interpreted as requiring best management practices for agricultural operations which are not adopted on a voluntary basis. ~~(3-20-97)~~(6-4-14)T

~~**a.** In determining the necessity for interim changes to existing activities and limitations upon proposed activities, the Department, in consultation with basin and watershed advisory groups, shall evaluate the water quality impacts caused by past regulated and unregulated activities in the affected watershed. (3-20-97)~~

~~**b.** Consideration of interim changes shall maximize the use of cost effective and timely measures to ensure no further impairment of designated or existing uses. (3-20-97)~~

06. Pollutant Trading. Development of TMDLs or equivalent processes or interim changes under these rules may include pollutant trading with the goal of restoring water quality limited water bodies to compliance with water quality standards. (3-20-97)

07. Idaho Agriculture Pollution Abatement Plan. Use of best management practices by agricultural activities is strongly encouraged in high, medium and low priority watersheds. The Idaho Agriculture Pollution Abatement Plan is the source for best management practices for the control of nonpoint sources of pollution for agriculture. (3-20-97)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.10 - RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

DOCKET NO. 58-0110-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Section 39-4405, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before June 18, 2014. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to implement Senate Bill 1260 (2014), wherein the Idaho Legislature revised the definition of "restricted hazardous waste" in Section 39-4403, Idaho Code. This amendment to the Idaho Hazardous Waste Management Act clarifies the definition of "restricted hazardous waste" found at Section 39-4403(17), Idaho Code. This portion of the Idaho Code outlines which waste types are prohibited from disposal in a commercial hazardous waste disposal facility located in Idaho, as well as providing exceptions to the definition for wastes not regulated under the federal Atomic Energy Act of 1954, as amended. The proposed clarification is designed to harmonize the Idaho Code with existing federal statutes and regulation while providing a more concise definition of "restricted hazardous waste." The clarification would also allow several federal agencies to utilize the Grand View facility.

After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality at the October 2014 Board meeting for adoption as a pending and temporary rule. If adopted by the Board, the temporary rule will become effective on November 5, 2014. The pending rule is expected to be final upon adjournment of the 2015 legislative session if approved by the Idaho Legislature. Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit. The State of Idaho would be conferred a benefit on the additional tipping fees to the General Fund of approximately \$100,000. A portion of these tipping fees allows for maintenance of roads leading to the facility and are directed to the Idaho Transportation Department and the County Highway District. Owyhee County also receives a portion of the tipping fee to supplement emergency services. This rulemaking would allow several additional federal agencies to utilize the existing Idaho DEQ permitted disposal capacity of the U.S. Ecology Idaho, Inc. Grand View facility for environmentally protective, secure disposal of these materials.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. Information for obtaining a copy of the federal regulations is included in the rule.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking was not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to implementing Idaho Code provisions. The purpose of this rulemaking is to make the rule consistent with recent changes to the definition of "restricted hazardous waste" in Section 39-4403, Idaho Code.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does regulate an activity not regulated by the federal government but is consistent with the legislative directive in Senate Bill 1260 (codified at Section 39-4403, Idaho Code).

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at john.brueck@deq.idaho.gov or (208)373-0458.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 2, 2014.

DATED this 9th day of May, 2014.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0110-1401
(Only those Sections being amended are shown.)

004. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 004.02 shall constitute the full adoption by reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (3-15-02)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (3-15-02)

- a. 10 CFR 30.14 through 30.15, revised as of January 1, 201~~4~~. ~~(3-29-12)~~()
- b. 10 CFR 30.18 through 30.21, revised as of January 1, 201~~4~~. ~~(3-29-12)~~()
- c. 10 CFR 32.11, revised as of January 1, 201~~4~~. ~~(3-29-12)~~()
- d. 10 CFR 32.18, revised as of January 1, 201~~4~~. ~~(3-29-12)~~()
- e. 10 CFR 40.13, revised as of January 1, 201~~4~~. (3-29-12)

03. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (3-15-02)

- a. Department of Environmental Quality, 1410 N. Hilton, Boise ID 83706-1255. (3-15-02)
- b. Idaho State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051. (3-15-02)
- c. U.S. Government Printing Office, www.ecfr.gov. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

- 01. Accelerator-Produced Radioactive Material.** Any material made radioactive by a particle accelerator. (3-29-12)
- 02. Board.** The Idaho Board of Environmental Quality. (3-15-02)
- 03. Byproduct Material.** Byproduct Material means: (3-15-02)
- a.** Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and (3-15-02)
- b.** The tailings or waste produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content. (3-15-02)
- c.** Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or any material that: (3-29-12)
- i.** Has been made radioactive by use of a particle accelerator; and (3-29-12)
- ii.** Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and (3-29-12)
- d.** Any discrete source of naturally occurring radioactive material, other than source material, that: (3-29-12)
- i.** The U.S. Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium- 226 to the public health and safety or the common defense and security; and (3-29-12)
- ii.** Before, on, or after August 8, 2005, is extracted for use in a commercial, medical, or research activity. (3-29-12)
- 04. Department.** The Idaho Department of Environmental Quality. (3-15-02)
- 05. Exempt Quantities and Concentrations of Byproduct Materials.** Radioactive materials defined as exempt byproduct materials by the U.S. Nuclear Regulatory Commission (10 CFR 30.14 through 30.15, 10 CFR 30.18 through 30.21, 10 CFR 32.11 and 10 CFR 32.18). (3-29-12)
- 06. Naturally Occurring Radioactive Material (NORM).** Any material containing natural radionuclides at natural background concentrations, where human intervention has not concentrated the naturally occurring radioactive material or altered its potential for causing human exposure. NORM does not include source, byproduct or special nuclear material licensed by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954. (3-15-02)
- 07. Operator.** Any person(s) currently responsible, or responsible at the time of disposal, for the overall operation of a hazardous waste treatment, storage or disposal facility or part of a hazardous waste treatment, storage or disposal site. (3-15-02)
- 08. Owner.** Any person(s) who currently owns, or owned at the time of disposal, a hazardous waste treatment, storage or disposal facility or part of a hazardous waste treatment, storage or disposal site. (3-15-02)
- 09. Person.** Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency, or instrumentality, municipality, industry, or any other legal entity which is recognized by law as the subject of rights and duties.

- (3-15-02)
- 10. Radioactive Material.** Radioactive Material includes: (3-15-02)
- a. Technologically Enhanced Naturally Occurring Radioactive Material; (3-15-02)
 - b. Byproduct material authorized for disposal pursuant to 10 CFR 20.2008(b); (3-29-12)
 - c. Exempt Quantities and Concentrations of Byproduct Materials; (4-2-08)
 - d. Unimportant Quantities of Source Material; and (4-2-08)
 - e. Any other byproduct, source material, or special nuclear material or devices or equipment utilizing such material, which has been *declared* exempt ~~ed or released~~ from ~~radiological control or~~ regulation under the Atomic Energy Act of 1954, as amended, ~~for the purposes of disposal pursuant to 10 CFR 30.11, 10 CFR 40.14, 10 CFR 70.17 to be disposed of in a commercial hazardous waste facility as regulated pursuant to the rules, permit requirements, and acceptance criteria provided for by Chapter 44, Title 39, Idaho Code.~~ (4-2-08)()
- 11. Reasonably Maximally Exposed Individual.** That individual or group of individuals who by reason of location has been determined, through the use of environmental transport modeling and dose calculation, to receive the highest total effective dose equivalent from radiation emitted from the site and/or radioactive material transported off-site. (3-15-02)
- 12. Source Material.** Source material means: (3-15-02)
- a. Uranium or thorium, or any combination thereof, in any physical or chemical form; or (3-15-02)
 - b. Ores which contain by weight one-twentieth of one percent (0.05%) or more of: (3-15-02)
 - i. Uranium; (3-15-02)
 - ii. Thorium; or (3-15-02)
 - iii. Any combination thereof. (3-15-02)
 - c. Source material does not include special nuclear material. (3-15-02)
- 13. Special Nuclear Material.** Special Nuclear Material means: (3-15-02)
- a. Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the U.S. Nuclear Regulatory Commission determines to be special nuclear material. (3-15-02)
 - b. Any material artificially enriched by any of the material listed in Subsection 010.12.a. (3-15-02)
- 14. Technologically Enhanced Naturally Occurring Radioactive Material (TENORM).** Any naturally occurring radioactive materials not subject to regulation under the Atomic Energy Act whose radionuclide concentrations or potential for human exposure have been increased above levels encountered in the natural state by human activities. TENORM does not include source, byproduct or special nuclear material licensed by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954. (3-15-02)
- 15. Unimportant Quantities of Source Material.** Radioactive materials defined as unimportant quantities of source materials by the U.S. Nuclear Regulatory Commission (10 CFR 40.13). (3-15-02)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM

59.01.03 - PERSI CONTRIBUTION RULES

DOCKET NO. 59-0103-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To delay scheduled increase in contribution rates for employers and employees.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, PERSI, 287-9271.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this 15th day of April, 2014.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230
Fax: 208- 334-3408

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

**This docket has been previously published as a temporary rule.
The temporary effective date is October 15, 2013.**

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
Volume 14-1, January 1, 2014, pages 170 through 172.

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 59-0103-1401
(Only those Sections being amended are shown.)**

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point thirty-two percent (11.32%) of payroll through June 30, 201~~4~~⁵. Beginning July 1, 201~~4~~⁵, the rate shall be twelve point twenty-four percent (12.24%) of payroll through June 30, 201~~5~~⁶. Beginning July 1, 201~~5~~⁶, the rate shall be thirteen point sixty-five percent (13.65%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(4-4-13)~~()

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I and II Firefighters. For option I and II firefighters hired before October 1, 1980, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 201 4 ⁵ . Beginning July 1, 201 4 ⁵ , the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 201 5 ⁶ . Beginning July 1, 201 5 ⁶ , the rate shall be thirteen point ninety-nine percent (13.99%) of payroll until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirty-seven point fifty-five percent (37.55%) of payroll through June 30, 201 4 ⁵ . Beginning July 1, 201 4 ⁵ , the rate shall be thirty-eight point forty-seven percent (38.47%) of payroll through June 30, 201 5 ⁶ . Beginning July 1, 201 5 ⁶ , the rate shall be thirty-nine point eighty-eight percent (39.88%) of payroll until next determined by the Board.

~~(4-4-13)~~()

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 201 4 ⁵ . Beginning July 1, 201 4 ⁵ , the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 201 5 ⁶ . Beginning July 1, 201 5 ⁶ , the rate shall be thirteen point ninety-nine percent (13.99%) of payroll until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twenty-eight point nine percent (28.9%) of payroll through June 30, 201 4 ⁵ . Beginning July 1, 201 4 ⁵ , the rate shall be twenty-nine point eighty-two percent (29.82%) of payroll through June 30, 201 5 ⁶ . Beginning July 1, 201 5 ⁶ , the rate shall be thirty one point twenty-three percent (31.23%) of payroll until next determined by the Board.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(4-4-13)~~()

03. Class E Members. For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. (3-20-04)

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).
The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 201~~4~~⁵. Beginning July 1, 201~~4~~⁵, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 201~~5~~⁶. Beginning July 1, 201~~5~~⁶, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(4-4-13)~~()

(BREAK IN CONTINUITY OF SECTIONS)

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).
The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be six point seventy-nine percent (6.79%) of salary through June 30, 201~~4~~⁵. Beginning July 1, 201~~4~~⁵, the rate shall be seven point thirty-four percent (7.34%) of salary through June 30, 201~~5~~⁶. Beginning July 1, 201~~5~~⁶, the rate shall be eight point nineteen percent (8.19%) of salary until next determined by the

Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(4-4-13)~~()

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be eight point thirty-two percent (8.32%) of salary through June 30, 201~~4~~⁵. Beginning July 1, 201~~4~~⁵, the rate shall be eight point ninety-nine percent (8.99%) of salary through June 30, 201~~5~~⁶. Beginning July 1, 201~~5~~⁶, the rate shall be ten percent (10%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(4-4-13)~~()

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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 latest publication of the state Administrative Bulletin.

*The written comment submission deadline is June 25, 2014 unless otherwise noted.
Public hearing request deadline is June 18, 2014 unless otherwise noted.
(Temp & Prop) indicates the rule is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701

02-0406-1401, Requirement of Licensed Dairy Plants. Changes chapter name and updates the incorporation by reference.

02-0414-1401, Rules Governing Dairy Waste. Conforms rule to SB 1376 by removing outdated definitions and adding new definitions and by revising the provisions regarding unauthorized discharges, compliance schedules and penalties.

02-0429-1401, Rules Governing Trichomoniasis. Conforms rule to SB 1268 by removing the Trichomoniasis testing exemption, currently in Subsection 02.04.29.100.05, for non-virgin breeding bulls located north of the Salmon River

02-0602-1401, Rules Pertaining to the Idaho Commercial Feed Law. Updates the incorporation by reference to the 2015 Official Publication of the Association of American Feed Control Officials (AAFCO).

02-0612-1401, Rules Pertaining to the Idaho Fertilizer Law. Updates the incorporation by reference to the 2015 Official Publication of the Association of American Plant Food Control Officials (AAPFCO).

02-0633-1401, Organic Food Products Rules. Removes the \$50 annual registration fee for organic producers and handlers with \$5,000 or less in annual gross sales, and other certifying agents operating in Idaho.

02-0641-1401, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001. Updates the incorporation by reference to the 2015 Official Publication of the Association of American Plant Food Control Officials (AAPFCO).

IDAPA 08 - STATE BOARD OF EDUCATION PO Box 83720, Boise, ID 83720-0037

08-0501-1401, Rules for Seed and Plant Certification by Idaho Crop Improvement Association, Inc. (Temp & Prop) Establishes rules and procedures for the certification of seeds, tubers, plants and plant parts in Idaho in accordance with the Idaho Crop Improvement Association standards.

IDAPA 15 - OFFICE OF THE GOVERNOR IDAHO STATE LIQUOR DIVISION PO Box 179001, Boise, ID 83717-9001

15-1001-1401, Rules of the Idaho State Liquor Division. (Temp & Prop) Allows manufacturers of distilled spirits to provide limited retail sales of manufactured distilled spirits products to consumers on the premises of the distillery/distributing station.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**PO Box 83720, Boise, ID 83720-0036**

**16-0317-1401, Medicare/Medicaid Coordinated Plan Benefits.* (Temp & Prop) (*PH) Complies with HB 260 (2011) to implement a managed care plan for eligible participants and updates the list of Medicaid-only services benefits to include Aged and Disabled Waiver services, prescribed drugs and home and community based services, self-directed community supports, and targeted service coordination for persons with developmental disabilities.

IDAPA 35 - IDAHO STATE TAX COMMISSION**PO Box 83720, Boise, ID 83720-0065**

35-0105-1401, Motor Fuels Tax Administrative Rules. Adds to and amends certain required rule sections regarding title and scope, incorporation by reference, and public records act compliance.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**PO Box 7129, Boise, ID 83707-1129**

39-0316-1401, Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. (Temp & Prop) Creates a new permit for transport of specifically produced kiln lumber stacks that exceed width allowances.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**1401 N. Hilton, Boise, ID 83706-1255**

58-0110-1401, Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, as Amended. Updates the incorporations by reference and implements SB 1260 (2014) that revised and clarified the definition of "restricted hazardous waste" which allows several additional federal agencies to utilize the existing Idaho DEQ permitted disposal capacity of the U.S. Ecology Idaho, Inc. Grand View facility for environmentally protective, secure disposal of these materials. Comment by: 7/2/14

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**PO Box 83720, Boise, ID 83720-0078**

59-0103-1401, PERSI Contribution Rules. Delays scheduled increase in contribution rates for employers and employees.

NOTICE OF PROCLAMATION OF RULEMAKING**IDAPA 06 - BOARD OF CORRECTION**

06-0102-1401, Rules of Correctional Industries. New chapter implements SB 1374 (2014) by establishing an agricultural inmate work program that provides for contracting with private agricultural employers, ensures non-inmate worker displacement, provides for inmate safety and security, and develops a system for deductions from inmate worker's wages.

NOTICES OF ADOPTION OF TEMPORARY RULE**IDAPA 35 - IDAHO STATE TAX COMMISSION**

35-0103-1402, Property Tax Administrative Rule

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58-0102-1301, Water Quality Standards (Temporary and Pending)

NOTICES OF INTENT TO PROMULGATE - NEGOTIATED RULEMAKINGS**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

02-0303-1401, Idaho Department of Agriculture Rules Governing Pesticide Use and Chemigation Use and Application

02-0405-1401, Rules of the Department of Agriculture Governing Manufacture Grade Milk

02-0419-1401, Rules Governing Domestic Cervidae

02-0421-1401, Rules Governing the Importation of Animals

*02-0605-1401, Rules Governing Diseases of Hops (*humulus lupulus*)*

*02-0627-1402, Rules Governing Bacterial Ring Rot Caused by (*clavibacter michiganensis* subsp. *sepedonicus*) of Potato*

IDAPA 07 - DIVISION OF BUILDING SAFETY
07-0301-1401, Rules of Building Safety

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16-0227-1401, Idaho Radiation Control Rules

IDAPA 20 - IDAHO DEPARTMENT OF LANDS
20-0702-1401, Rules Governing Conservation of Crude Oil and Natural Gas in the State of Idaho

IDAPA 23 - IDAHO STATE BOARD OF NURSING
23-0101-1401 and *23-0101-1402*, Rules of the State Board of Nursing

IDAPA 35 - STATE TAX COMMISSION
35-0101-1401, Income Tax Administrative Rules
35-0105-1402, Motor Fuels Tax Administrative Rules

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38-0501-1401, Rules of the Division of Purchasing
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IDAPA 46 - BOARD OF VETERINARY MEDICINE
46-0101-1401, Rules of the State of Idaho Board of Veterinary Medicine

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55-0104-1401, Rules Governing Agricultural and Natural Resource Education Programs (new chapter)

IDAPA 57 - SEXUAL OFFENDER MANAGEMENT BOARD
57-0102-1401, Rules Governing Juvenile Sexual Offender Management Practices

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58-0101-1402, Rules for the Control of Air Pollution in Idaho

Please refer to the Idaho Administrative Bulletin, [June 4, 2014, Volume 14-6](#), for the notices and text of all rulemakings, public hearings schedules, information on negotiated rulemakings, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at adminrules.idaho.gov.

Office of the Administrative Rules Coordinator, Dept. of Administration, PO Box 83720, Boise, ID 83720-0306
Phone: 208-332-1820; Fax: 332-1896; Email: rulescoordinator@adm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

July 1, 1993 -- Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

March 20, 2014 -- June 4, 2014

*(eff. *PLR) - Final Rule Adoption Date Pending Legislative Review And Approval*

(eff. date)L - Denotes Adoption by Legislative Action

(eff. date)T - Temporary Rule Effective Date

SCR # - denotes the number of a Senate Concurrent Resolution (Legislative Action)

HCR # - denotes the number of a House Concurrent Resolution (Legislative Action)

*(This Abridged Index includes rules promulgated before March 20, 2014 that are still in process
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