

# 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.

*Deadline for submission of written comments is October 23, 2013, unless otherwise noted.  
Deadline for public hearing requests is October 16, 2013, unless otherwise noted.  
(Temp & Prop) indicates the rule is both Temporary and Proposed.  
(\*PH) indicates that a public hearing has been scheduled.*

#### **DEPARTMENT OF AGRICULTURE PO Box 790 Boise, ID 83701**

**02-0625-1301, Rules Governing the Planting of Beans Other Than Phaseolus Species in Idaho.** Requires all lots of soybean seed and seed from other related plant species for planting in Idaho to be tested for bean diseases of concern and nematodes that do not occur in Idaho.

#### **IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS PO Box 83720, Boise, ID 83720-0285**

**05-0102-1301, Rules and Standards for Secure Juvenile Detention Centers.** Clarifies the Prison Rape Elimination Act (PREA) standards and how detention standards and PREA standards relate.

#### **IDAPA 07 - DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Ste. 150, Meridian, ID 83642**

**07-0106-1301, Rules Governing the Use of National Electrical Code.** Incorporates by reference the 2014 NEC with amendments related to circuits and receptacles located near sinks, in laundry rooms and kitchens, and on decks and porches, and retains previous amendment requiring the use of AFCI circuit breakers in bedrooms.

**07-0110-1301, Rules Governing Certification and Approval of Electrical Products and Materials.** Provides that all electrical products and materials for installation in Idaho may be approved either through certification and listing by a nationally recognized testing laboratory or through a field evaluation process performed using recognized practice and procedures.

**07-0501-1301, Rules of the Public Works Contractors License Board.** Allows for submission of applications for licensure to be done electronically other than by facsimile; clarifies acceptable formats for communication with the Division; provides for time extension when renewing a license.

**07-0701-1301, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems.** Incorporates by reference the 2012 editions of the International Mechanical Code, the International Fuel Gas Code, and Parts V and VI of the International Residential Code related to HVAC installations with amendments.

#### **IDAPA 08 - STATE BOARD OF EDUCATION AND DEPARTMENT OF EDUCATION PO Box 83720, Boise, ID 83720-0037**

**08-0201-1302, Rules Governing Administration.** Changes to the GED testing divides the section on GED testing from the high school equivalency section more clearly and specifies that state set's the fee paid by each individual for GED exam; clarifies that the passing minimum score is set by the GED Testing Service; removes requirement that test takers must be Idaho residents; requires test takers to show proof of identification using government issued identification.

**08.02.02 - Rules Governing Uniformity**

**\*08-0202-1306**, (\*PH) Updates incorporation by reference of the Idaho Standards for Initial Certification of Professional School Personnel manual and the Idaho Procedures for Idaho Public Driver Education Programs manual.

**\*08-0202-1307**, (\*PH) (Temp & Prop) Clarifies requirements for out-of-state applicants taking the Idaho Comprehensive Literacy Course and allows for Department-approved courses to be taught as part of the recertification process.

**\*08-0202-1308**, (\*PH) Updates several endorsement to reflect best practices and qualifications for Idaho educators and eliminates the Driver Education endorsement which is no longer offered.

**08.02.03 - Rules Governing Thoroughness**

**08-0203-1301**, Sets out the requirements for the State Board to recognize Distinguished Schools, as well as grant Additional Yearly Growth Awards.

**\*08-0203-1306**, (\*PH) Sets out minimum requirements for physical education at all levels and adds CPR as graduation requirement; allows students to take dual credit engineering or dual credit computer science or AP computer science as a math or science credit rather than as electives.

**\*08-0203-1307**, (\*PH) Implements cursive writing as a core standard in elementary schools in the 2013-14 school year.

**IDAPA 11 - IDAHO STATE POLICE  
700 S. Stratford Dr., Meridian, ID 83642**

**11-1001-1301**, *Rules Governing Idaho Public Safety and Security Information System*. Increases fees for ILETS system users.

**11-1002-1301**, *Rules Establishing Fees for Services - Idaho Criminal Justice Information System*. Adds terms and references terms as defined in Idaho Code; provides procedures to: expunge of a person's criminal history record; transmit criminal history arrest fingerprints; and challenge the accuracy and completeness of a criminal history record in the BCI database.

**IDAPA 13 - FISH AND GAME COMMISSION  
PO Box 25, Boise, ID 83707****13.01.08 - Rules Governing the Taking of Big Game Animals in Idaho**

**13-0108-1302**, (Temp & Prop) An adult accompanying a Nonresident Junior Mentored Tag holder is no longer required to have a tag valid in the same area.

**13-0108-1303**, (Temp & Prop) Clarifies rule for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

**13-0109-1301**, *Rules Governing the Taking of Game Birds in Idaho*. (Temp & Prop) Clarifies rule for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

**13.01.11 - Rules Governing Fish**

**13-0111-1301**, (Temp & Prop) Defines the terms "single-point hook" and "watercraft" as used in fish season proclamations.

**13-0111-1302**, (Temp & Prop) Clarifies that sturgeon angling is "catch-and-release" only and they may not be removed from the water. This language was inadvertently removed from rule during a chapter restructure, but the rule was never rescinded by the Commission.

**IDAPA 14 - BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS  
PO Box 83720, Boise, ID 83720-0078**

**14-0101-1301**, *Rules of Procedure of the Board of Registration for Professional Geologists*. Defines term 'responsible charge' and clarifies when a geologist may seal work prepared by someone else.

**IDAPA 15 - OFFICE OF THE GOVERNOR  
MILITARY DIVISION - BUREAU OF HOMELAND SECURITY  
700 S. Stratford Dr., Bldg. 600, Meridian, ID 83642**

**15-0603-1301**, *Public Safety Communications Rules*. Changes chapter name to more accurately reflect scope of

rule; corrects citations, provides internal consistency in terminology, and eliminates redundant and unnecessary language.

**15-0604-1301, Rules Governing Idaho Youth Challenge Program.** New chapter administers the Idaho Youth Challenge Program; establishes student acceptance and selection criteria and funding and accounting processes; creates an admissions board and establishes its duties; and creates a governing board and a board of trustees.

**15-1301-1301, Rules of the Idaho Emergency Response Commission.** Chapter is repealed because Commission was dissolved.

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
PO Box 83720, Boise, ID 83720-0036**

**16.03.01 - Eligibility for Health Care Assistance for Families and Children**

**16-0301-1301,** Chapter is being repealed and rewritten.

**16-0301-1302,** Chapter rewrite conforms to federal law changes by revising eligibility criteria, application requirements, definitions, financial and non-financial requirements, health coverage for children and adults and access to other health plans; addresses annual eligibility renewal and reporting requirements.

**16-0304-1301, Rules Governing the Food Stamp Program in Idaho.** Exempts federal income tax refunds from resource limits for up to 12 months from the time of receipt as a liquid resource; allows a standard medical expense deduction for qualifying individuals; allows the Department flexibility to select options allowed under federal regulation when calculating expense changes used for food stamp benefits.

**16-0305-1301, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD).** Simplifies verification requirements for proof of citizenship and lawful alien status; updates residency requirements to reflect federal law; removes child support requirements that do not meet federal requirements while retaining policies to cooperate with obtaining medical support.

**16-0306-1301, Refugee Medical Assistance.** Amends definitions and eligibility determination requirements to comply with federal law.

**16.03.09 - Medicaid Basic Plan Benefits**

**\*16-0309-1302, (\*PH)** Aligns rule to federal regulations and complies with CMS requirements related to missed appointments; re-validates provider enrollment information no less frequently than every 5 years; ensures providers prescribing drugs or ordering services for Medicaid participants are enrolled with the agency; ensures providers complete a screening process involving site visits and fee payments for certain types of providers either through the Medicaid agency itself or Medicare; and aligns appeals process for providers denied enrollment with federal requirements.

**\*16-0309-1303, (\*PH)** Adds the federally required tobacco cessation counseling for all non-pregnant Medicaid eligible adults over the age of 21.

**16-0504-1301, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding.** Incorporates by reference the "Service Standards for ICDVVA-Funded Programs," Edition 2014-1.

**16-0507-1301, The Investigation and Enforcement of Fraud, Abuse, and Misconduct.** Aligns rule to Idaho statute to include all public assistance providers and programs that would be subject to investigation and enforcement actions to increase accountability for all programs to help prevent fraud and abuse of public funds.

**16-0612-1301, Rules Governing the Idaho Child Care Program (ICCP).** Exempts in-home child care providers from health and safety inspections, but each in-home provider must complete health and safety training.

**16-0730-1301, Behavioral Health Community Crisis Centers.** (\*PH) Establishes the benefit and eligibility process for behavioral health community crisis centers for programs providing behavioral health crisis services to persons residing in Idaho.

**IDAPA 17 - INDUSTRIAL COMMISSION  
PO Box 83720, Boise, ID 83720-0041**

**17-0209-1301, Medical Fees.** Adjusts the dispensing fees for pharmacies allowed under the pharmaceutical fee schedule.

**17-0210-1301, Security For Compensation -- Insurance Carriers.** Changes the deductible policy reporting period from February 1st to March 3rd to coincide with the premium tax due date and the mandatory data elements in the proof of coverage reports; removes the Appendices B and C reporting forms from rule.

**17-0211-1301, Security For Compensation - Self-Insured Employers.** Allows the Industrial Commission to presume that the most recent proof of coverage information contained in the Industrial Commission's database is correct for determining coverage by a self-insured employer.

**IDAPA 18 - DEPARTMENT OF INSURANCE  
700 W. State St., 3RD Floor, Boise, ID 83720**

**18-0123-1301, Rules Pertaining to the Idaho Insurance Holding Company System Regulatory Act.** Conforms rule to HB 197 by setting forth the elements of the new filing requirements for a new Form F - Enterprise Risk Report.

**18-0150-1301, Adoption of the International Fire Code.** Incorporates by reference the 2012 International Fire Code, with amendments.

**IDAPA 19 - IDAHO STATE BOARD OF DENTISTRY  
PO Box 83720, Boise, ID 83720-0021**

**19-0101-1301, Rules of the Idaho State Board of Dentistry.** Updates incorporation by reference; clarifies practice standards for hygienist and assistants; reduces application by credential fee for dentists; revises advertising rules; reduces number of continuing education hours for specific license endorsements; requires dentists to maintain certain certifications to maintain specific sedation permits.

**IDAPA 21 - DIVISION OF VETERANS SERVICES  
PO Box 83720, Boise, ID 83720-0092**

**21-0102-1301, Rules Governing Emergency Relief for Veterans.** Allows Native American tribal veterans' representatives to apply for reimbursement from the Division for travel expenses for attending one regional training conference each year in support of the statewide service officer program.

**21-0108-1301, Rules Governing Veterans Recognition Fund Grant Program.** New chapter provides procedures for the application, review and award of grant moneys for veteran support programs.

**IDAPA 22 - IDAHO BOARD OF MEDICINE  
PO Box 83720, Boise, ID 83720-0058**

**22-0103-1301, Rules for the Licensure of Physician Assistants.** (Temp & Prop) Conforms rule regarding physician assistant prescriptive authority to statutory changes and rules governing prescriber drug outlets of the Board of Pharmacy.

**22-0113-1301, Rules for the Licensure of Dietitians.** Corrects name of the accrediting agency for dietetic educational programs from the "American Dietetic Association" to the "Academy of Nutrition and Dietetics"; corrects statutory citations.

**IDAPA 23 - BOARD OF NURSING  
PO Box 83720, Boise, ID 83720-0061**

**23-0101-1302, Rules of the State Board of Nursing.** (Temp & Prop) Allows a nurse moving to Idaho to practice for 90 days using an existing license from another Compact state while a new residency application is processed.

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES  
PO Box 83720, Boise, ID 83720-0063**

**24-0201-1301, Rules of the Board of Barber Examiners.** Removes the 20-hour continued education requirement for barber instructor and barber styling instructor licensure renewal; removes obsolete grandfather rights provision.

**24-0401-1301, Rules of the Idaho Board of Cosmetology.** Defines 'clinical services'; reduces original and renewal fees for establishment, retail dealer, glamour photography, personal, instructor, and school licenses and for

endorsement fees; clarifies new school inspection process, when a student can provide clinical services, and that schools and establishments must post the sanitary rules.

**24-0501-1302, Rules of the Board of Drinking Water and Wastewater Professionals.** Reduces application and licensure fees and equalizes fees for on-line and written exams; amends education requirement for operators qualifying for a very small water system license or a very small wastewater system license.

**24-1101-1301, Rules of the State Board of Podiatry.** Updates incorporation by reference; updates examination rules and application process; amends exam fee section; increases continuing education to 15 hours after 1/1/2015; allows but limits a carryover of CE hours; provides a special exemption for hardship cases.

**24-1801-1301, Rules of the Real Estate Appraiser Board.** Conforms rule to changes to Appraiser Qualification Board in federal law and regulations regarding state licensed or certified appraisers; addresses appraisers' duties when appraisals are in litigation.

**24-2601-1301, Rules of the Idaho Board of Midwifery.** Increases application and initial and renewal license fees.

#### **IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD**

**1365 N. Orchard, Suite 172, Boise, ID 83706**

**25-0101-1201, Rules of the Outfitters and Guides Licensing Board.** Clarifies that hunting organizations and clubs offering outfitted facilities and services, including acquiring access to private land for hunting and for commercial gain, are subject to the rules governing licensed commercial outfitters.

#### **IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION**

**PO Box 700, Boise, ID 83720-0065**

**26.01.20 - Rules Governing the Administration of Park and Recreation Areas and Facilities**

**26-0120-1301, (\*PH)** Increases state park campsite fee caps by \$10 per night and by \$50 per night for Idaho state park camper cabins and yurts.

**26-0120-1302, (\*PH)** Increase fee caps for the Winter Access Program passes offered by Harriman and Ponderosa State Parks and adds two new pass types to program.

#### **IDAPA 27 - IDAHO BOARD OF PHARMACY**

**PO Box 700, Boise, ID 83720-0067**

**27.01.01 - Rules of the Idaho State Board of Pharmacy**

**27-0101-1207,** Amends the Board approved continuing pharmacy education requirements; mandates 1 hour of CPE for all pharmacists doing sterile compounding; clarifies the maximum allowable quantity of a CV scheduled controlled substance that can be dispensed by a pharmacist without prescription is 4 ounces; addresses drug storage and removal from a secured area adjacent to a pharmacy; clarifies that pharmacy structural security rules pertain to all pharmacies.

**27-0101-1301,** Establishes standards for the compounding of drugs, including general compounding standards controls that regulate equipment, practices, policies and procedures, compounding accuracy, certain records, and labeling; expands sterile product preparation rules.

**27-0101-1302,** Extends the acceptable forms of positive identification to obtain controlled substance prescriptions to include Enhanced Drivers Licenses (EDLs), Nexus Cards, and PASS Cards.

#### **IDAPA 28 - DEPARTMENT OF COMMERCE**

**700 W. State St., Boise, ID 83720**

**28-0207-1301, Rules Governing the Administration of the IGEM Grant Program.** New chapter establishes procedures for the administration of the IGEM grant program.

#### **IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION**

**PO Box 700, Boise, ID 83720-0067**

**31-0101-1301, Rules of Procedure of the Idaho Public Utilities Commission.** Allows PUC to update its list of current utilities and railroads subject to the annual regulatory assessments; increases public involvement by making RSS feeds more user-friendly; recognizes utilities formed as limited liability companies; clarifies rules regarding customer notices.

**31-7103-1301, Railroad Safety and Accident Reporting Rules.** Adopts the 2013 edition of the federal safety regulations pertaining to the transportation of hazardous materials by railroads that are incorporated by reference.

**IDAPA 35 - STATE TAX COMMISSION  
PO Box 36, Boise, ID 83722-0410**

**35.01.01 - Income Tax Administrative Rules**

**35-0101-1301,** Revises time period relating to a net operating loss (NOL) carryback; removes language relating to NOL subtracted from income; establishes provisions relating to a NOL for a taxable year commencing on or after 1/1/2013; establishes provisions relating to the subtraction of a portion of a NOL; revises provisions on claims for credit or refund for overpayments attributable to a NOL carryback and provides that certain claims for NOLs shall be made pursuant to law; provides that certain loss recoveries are deductible; provides for a sourcing formula to Idaho for partnership income with exceptions; revises reporting and paying periods for Idaho income tax withheld by certain employers.

**35-0101-1302,** Clarifies term “place of abode” for federal foreign income exclusion; addresses pension income; adds tax brackets for 2013; amends income adjustment addition of credit for taxes paid to other states; adds deduction for certain loss recoveries; limits deduction for donation of technological equipment to the lesser of cost, fair market value, or taxpayer's Idaho taxable income; revises provisions relating to a NOL carryback; clarifies qualifying for the energy efficiency upgrade deduction; conforms to federal law for medical expense itemization minimums; clarifies that total income is federal total income; clarifies certain deductions for part-year or nonresidents; provides for a sourcing formula to Idaho for partnership income with exceptions; addresses bonus depreciation tax credit; clarifies the requirements for claiming investment tax credit carryovers; clarifies that the permanent building fund is paid by pass-through entities paying Idaho income tax for individuals on a composite return but not when the entity pays backup withholding for individuals; amends credit and refund rules.

**35-0102-1302, Sales Tax Administrative Rules.** Clarifies that signs such as traffic and street signs become real property after installation while others, such as business signs, do not; defines 'primary' and 'primarily' regarding use of tangible personal property; clarifies that events where participants pay to participate in a tasting, the charges are still taxable; clarifies that all coatings (paint, powder coating, etc.) are the same for sales tax purposes; clarifies that sales and use of equipment primarily used to improve and install real property are taxable even if the real property is used in production; conforms rule with federal program for food stamp exemption; clarifies promoter's responsibility in regards to documentation that must be obtained from participants at the event.

**35-0103-1302, Property Tax Administrative Rules.** Updates documents incorporated by reference used to determine values of certain property and to measure assessment level and uniformity; updates method used to value recreational vehicle living quarters; clarifies that certain properties are improvements (buildings and structures) and real property and should not be eligible for the personal property exemption; provides methodologies for valuing public rate regulated electric utility operating property; amends process for property tax valuation appeal hearings; provides guidance to the Commission and companies on how to report exempt personal property for operating property; defines oil and gas wells and the land that is eligible for exemption; clarifies that Commission will not approve a property tax levy computed on a property tax budget amount that exceeds the amount stated in the budget hearing notice; deletes requirement to issue tax notices for accounts that have zero balances due to the personal property exemption.

**35-0109-1301, Wine Tax Administrative Rules.** Clarifies when the exemption applies to wine sold by Idaho wine direct shippers to customers outside Idaho.

**35-0110-1301, Idaho Cigarette and Tobacco Products Tax Administrative Rules.** Redefines “wholesale sales price” to include “any person” selling tobacco products; addresses when separately stated charges are part of the wholesale sales price subject to tax and when they should be excluded; provides examples of how the wholesale sales price should be applied to sales made by out-of-state distributors who voluntarily hold an Idaho tobacco tax permit.

**35-0114-1301, Prepaid Wireless E911 Fee Administrative Rules.** New chapter administers the fees collected by retailers on the sale of prepaid wireless telecommunications service and clarifies that fee applies to sale of prepaid wireless service, not a device using such service and who must collect fee; clarifies when a sale is out-of-state and that it is exempt from the fee.

**35.02.01, Administration and Enforcement Rules**

**35-0201-1301**, Clarifies procedures for making a valid request for obtaining the name and address of the user of a stolen tax ID number.

**35-0201-1302**, Adds the interest rate for 2014 and the Revenue Ruling where the federal rate for the calculation can be found.

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT****PO Box 7129, Boise ID 83707-1129**

**39-0260-1301, Rules Governing License Plate Provisions.** (Temp & Prop) Establishes restrictions and guidelines for the introduction and approval of new special plates.

**39-0350-1301, Rules Governing Safety Rest Areas.** Removes prohibition against discharging firearms at Safety Rest Areas because department has no authority to regulate firearms; restricts panhandling and donation seeking or soliciting; clarifies other provisions.

**39-0402-1301, Rules Governing Marking of Hazards to Air Flight.** (Temp & Prop) Clarifies which entities are exempt from the requirements for lighting and marking guyed towers.

**39-0404-1301, Rules Governing Idaho Airport Aid Program.** New procedures establish a uniform project prioritization methodology and a uniform annual grant program funding allocation methodology for the Idaho Airport Aid Program.

**IDAPA 52 - IDAHO STATE LOTTERY COMMISSION****PO Box 6537, Boise, ID 83707-6537**

**52-0102-1301, Gaming Rules of the Idaho State Lottery Commission.** Conforms rules to amendments to Idaho Code regarding record retention requirements and removal of Holiday Christmas Tree Fundraising.

**IDAPA 57 - SEXUAL OFFENDER MANAGEMENT BOARD****1299 N Orchard St Ste 110, Boise 83706****57.01.01 - Rules Governing the Sexual Offender Management Board**

**57-0101-1201**, (Temp & Prop) Chapter is being repealed and rewritten.

**57-0101-1202**, (Temp & Prop) Chapter rewrite amends existing standards and procedures for psychosexual evaluations and certification of psychosexual evaluators; establishes new standards and procedures for sexual offender treatment programs, sexual offender treatment providers and post-conviction sexual offender polygraph examiners; implements certification procedures for sexual offender treatment providers and post-conviction sexual offender polygraph examiners; establishes quality assurance process for adherence to standards and procedures; adds a hearing process for disciplinary action against a certificate holder.

**NOTICE OF ADOPTION OF TEMPORARY RULE****IDAPA 08 - BOARD OF EDUCATION/DEPT OF EDUCATION**

**08-0203-1305**, Rules Governing Thoroughness.

**NOTICE OF PUBLIC HEARING****IDAPA 02 - DEPT OF AGRICULTURE**

**02-0609-1301**, Rules Governing Invasive Species

Please refer to the Idaho Administrative Bulletin, **October 2, 2013, Volume 13-10**, 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](http://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](mailto:rulescoordinator@adm.idaho.gov)