

# IDAHO ADMINISTRATIVE BULLETIN

June 5, 2013 -- Volume 13-6

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# IDAHO ADMINISTRATIVE BULLETIN

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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 proposed rulemaking actions and must invite public input once formal rulemaking procedures have been initiated. The public receives notice that an agency has initiated formal rulemaking procedures through the Idaho Administrative Bulletin and a Public Notice of Intent (legal notice) that publishes in specific 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” 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 **11-1** refers to the first Bulletin issued in calendar year **2011**; Bulletin **12-1** refers to the first Bulletin issued in calendar year **2012**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **12-1** refers to January 2012; Volume No. **12-2** refers to February 2012; and so forth. Example: The Bulletin published in January 2011 is cited as Volume **11-1**. The December 2011 Bulletin is cited as Volume **11-12**.

## 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.

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](http://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 often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

## **NEGOTIATED RULEMAKING**

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a “Notice of Intent to Promulgate - Negotiated Rulemaking” in the Administrative Bulletin by the agency is optional. This process normally results in the formulation of a proposed rule and the initiation of formal rulemaking procedures. One result, however, may also be that formal rulemaking is not initiated and no further action is taken by the agency. The rulemaking effectively stops before it gets started.

## **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 or requirement for the rulemaking;
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;
- c) 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) the text of the proposed rule prepared in legislative format;
- e) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- f) 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;
- g) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- h) 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 website or post this information on its own website, or both. This link can be placed into the rule and activated once it is posted on the Coordinator’s website.

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 an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is 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 yet 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 wholly or 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](http://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](http://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 “-”, (**38-0501-1201**). 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. 38-0501-1201”**

“**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**).

“**1201**” 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 2012**. A subsequent rulemaking on this same rule chapter in calendar year 2012 would be designated as “**1202**”. The docket number in this scenario would be 38-0501-**1202**.

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 2013**

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
13-1	January 2013	<b>*November 30, 2012</b>	January 2, 2013	January 23, 2013
13-2	February 2013	January 11, 2013	February 6, 2013	February 27, 2013
13-3	March 2013	February 8, 2013	March 6, 2013	March 27, 2013
13-4	April 2013	March 8, 2013	April 3, 2013	April 24, 2013
13-5	May 2013	April 5, 2013	May 1, 2013	May 22, 2013
13-6	June 2013	May 10, 2013	June 5, 2013	June 26, 2013
13-7	July 2013	June 7, 2013	July 3, 2013	July 24, 2013
13-8	August 2013	July 5, 2013	August 7, 2013	August 28, 2013
13-9	September 2013	August 9, 2013	September 4, 2013	September 25, 2013
13-10	October 2013	<b>**August 30, 2013</b>	October 2, 2013	October 23, 2013
13-11	November 2013	October 4, 2013	November 6, 2013	November 27, 2013
13-12	December 2013	November 8, 2013	December 4, 2013	December 25, 2013

**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	<b>*November 29, 2013</b>	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	<b>**August 29, 2014</b>	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

***\*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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<b>IDAPA 39</b>	<b>Transportation Department, Idaho</b>
<b>IDAPA 54</b>	<b>Treasurer, Office of the State</b>
<b>IDAPA 21</b>	<b>Veterans Services, Division of</b>
<b>IDAPA 46</b>	<b>Veterinary Medical Examiners, Board of</b>
<b>IDAPA 47</b>	<b>Vocational Rehabilitation, Division of</b>
<b>IDAPA 37</b>	<b>Water Resources, Department of</b>
<b>IDAPA 42</b>	<b>Wheat Commission</b>

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-1301

#### 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 71-121, Idaho Code.

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

**Wednesday -- June 19, 2013 -- 1:00 to 2:00 p.m.**

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

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

1. All written comments must be directed to Kevin Merritt, Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701-0790, and must be delivered on or before July 15, 2013; or
2. Attend the negotiated rulemaking meeting on June 19.

A draft of the proposed rule change will be available on June 12, 2013, on the ISDA website [http://www.agri.idaho.gov/Categories/LawsRules/sub\\_rules/Rulemaking.php](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). Comments must be received by ISDA by July 15, 2013.

**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 proposed rule change will expand the scope of devices included in Table 1-A to include all categories of devices inspected by the ISDA. The changes will establish a uniform fee for all devices inspected and also create new categories for devices emerging in the marketplace, e.g., compressed natural gas meters and fuel additive meters. The following is a list of proposed changes:

1. Establish an annual uniform minimum license fee of \$12.00.
2. Add liquid natural gas meters and compressed natural gas meters with a fee of \$60.00.
3. Add fuel additive meters with a fee of \$10.00.
4. Add a minimum fee for Device Code A, Scales < 50 lb. of \$12.00.
5. Add a minimum fee for Device Code G, Motor Fuel Devices < 20 gpm of \$12.00.
6. Add a minimum fee for Device Code M, Cordage meter of \$10.00.
7. Combine cordage meters and fabric meters under device code M.
8. Remove "petroleum" from the KEY Device Code H and I.
9. Increase license fee for Device Code D to \$75.00.
10. Increase license fee for Device Codes E & F to \$100.00.

The proposed fee increases will not take effect until after February 2015.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact Kevin Merritt, Section Manager, Weights and Measures at (208) 332-8690. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Department of Agriculture's rulemaking web site at the following web address: <http://www.agri.idaho.gov/>

[Categories/LawsRules/sub\\_rules/Rulemaking.php](#).

Anyone may submit comments regarding this negotiated rulemaking. All written comments must be directed to Kevin Merritt and must be delivered on or before July 15, 2013.

DATED this 10th day of May, 2013.

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

## IDAPA 02- DEPARTMENT OF AGRICULTURE

### 02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-1301

#### 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 -- July 10, 2013 -- 2:30 to 3:30 p.m.**

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

A draft of the proposed rule change, as recommended by the Pesticide Licensing Advisory Committee, is available on the ISDA web site at [http://www.agri.idaho.gov/Categories/LawsRules/sub\\_rules/Rulemaking.php](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). Comments must be received by ISDA on or before July 25, 2013.

**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 July 25, 2013. Comments can be sent via email to [ben.miller@agri.idaho.gov](mailto: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 July 10, 2013.

**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: It has been ISDA's policy that pesticide licensing exam scores and recertification credits are valid for one (1) year. This policy has never been included in rule and the Pesticide Advisory Committee has recommended that it be added. Changes to Sections 02.03.03.100.02 and 02.03.03.100.03 will allow for a one (1) year time period for new or renewing licensees to obtain an applicator license without penalty. The rule revisions will also provide a cut-off time for inactive licensees to renew their licenses before they would be required to retest.

**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](mailto: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](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). All written comments must be delivered on or before July 25, 2013.

DATED this 17th day of May, 2013.

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**

**02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION**

**DOCKET NO. 02-0303-1302**

**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 -- July 10, 2013 -- 1:30 to 2:30 p.m.**

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

A draft of the proposed rule change, as recommended by the Pesticide Licensing Advisory Committee, is available on the ISDA web site at [http://www.agri.idaho.gov/Categories/LawsRules/sub\\_rules/Rulemaking.php](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). Comments must be received by ISDA by July 25, 2013.

**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 July 25, 2013. Comments can be sent via email to [ben.miller@agri.idaho.gov](mailto: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 July 10, 2013.

**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 02.03.03.800 will be amended to allow pesticide use on certain new seed crops, including: endive, parsnip, sugar and garden beets, Swiss chard, collards, lettuce, dill, kohlrabi, and mustard, without the need of an established residue tolerance. This will allow our state's seed crop list to be essentially the same as the State of Washington's list.

**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](mailto: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](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). All written comments must be delivered on or before July 25, 2013.

DATED this 17th day of May, 2013.

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**

**02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS**

**DOCKET NO. 02-0421-1301**

**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 25-203, Idaho Code.

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

**Tuesday -- June 18, 2013 -- 10:00 a.m.**

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

To amend Section 600's Domestic Cervidae import requirements to establish consistency with the new National Chronic Wasting Disease ("CWD") Herd Certification Program ("HCP"). The changes to the import requirements will require compliance with the National CWD HCP prior to domestic cervidae importation into Idaho.

To amend Subsections 300.03 and 300.04 to more specifically define equine infectious anemia ("EIA") import testing requirements for horses destined for slaughter. The new rule will establish a time limit for imported horses to be destined for slaughter that have entered Idaho without a valid Coggins test. The current rule allows slaughter horse imports without a Coggins test, but does not specify when the animals must go to slaughter.

**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 rulemaking web site at [http://www.agri.idaho.gov/Categories/LawsRules/sub\\_rules/Rulemaking.php](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). All written comments must be delivered on or before July 15, 2013.

DATED this 10th day of May, 2013.

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

### 02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-1301

#### 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 19, 2013.

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 2014 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: 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:

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 the proposed rulemaking. All written comments must be delivered on or before June 26, 2013.

DATED this 17th day of May, 2013.

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

**THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0602-1301**

**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 “201~~3~~<sup>4</sup> 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](http://www.aafco.org). (~~3-27-13~~ ) ( )

**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**

**02.06.09 - RULES GOVERNING INVASIVE SPECIES**

**DOCKET NO. 02-0609-1301**

**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 22-1907, Idaho Code.

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

<b>Thursday, June 13, 2013 9:00 a.m. - 1:00 p.m.</b>	<b>Thursday, June 27, 2013 9:00 a.m. - 1:00 p.m.</b>
<b>Idaho State Department of Agriculture 2270 Old Penitentiary Road Boise, ID, 83712</b>	

**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 Matt Voile - Section Manager Invasive Species and Noxious Weeds. Individuals may also attend the public meetings to be conducted on the above dates 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 proposed rule amendments will add two additional Invasive Species Lists - "Invasive Plants - Biofuels" and "Invasive Plants - Trap Crops." The proposed amendments will also create two new related sections addressing research and possession permitting of "Biofuels" and "Trap Crops."

Technical changes to the rule will be made to update, add, or delete certain insects, snails, and pathogens from the current invasive species list. Changes will also be made to possession permit requirements for the New Zealand Mud Snail.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact Matt Voile - Section Manager Invasive Species and Noxious Weeds, (208) 332-8620. 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](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). All written comments must be delivered on or before June 28, 2013.

DATED this 10th day of May, 2013.

Brian J. Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 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. 02-0612-1301**  
**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 19, 2013.

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 2014 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: 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 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 26, 2013.

DATED this 17th day of May, 2013.

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 TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0612-1301**

**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 “201~~3~~<sup>4</sup> 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](http://www.aapfco.org/pdf/publication_order_form.pdf).  
(~~4-4-13~~)(    )

**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](http://www.EOMA.AOAC.org). A copy may be purchased online from AOAC International. (3-29-12)

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

**02.06.22 - NOXIOUS WEED RULES**

**DOCKET NO. 02-0622-1301**

**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 22-2403, Idaho Code.

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

<b>Wednesday, June 12, 2013 1:00 p.m. - 5:00 p.m.</b>	<b>Wednesday, June 26, 2013 1:00 p.m. - 5:00 p.m.</b>
<b>Idaho State Department of Agriculture 2270 Old Penitentiary Road Boise, ID, 83712</b>	

**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 Matt Voile, Section Manager - Invasive Species and Noxious Weeds. Individuals may also attend the public meetings to be conducted on the above dates 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 proposed rule changes will add one species, Water Hyacinth, to the Early Detection Rapid Response (“EDRR”) Noxious Weed List. Additionally, opportunity will be given for recommended changes/alteration to existing noxious weed list(s) by interested parties.

The proposed changes will also remove Section 100.04, “Statewide Monitor List,” from the Rules Governing Noxious Weeds.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact Matt Voile, Section Manager - Invasive Species and Noxious Weeds, (208) 332-8620. 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](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). All written comments must be delivered on or before June 28, 2013.

DATED this 10th day of May, 2013.

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**

**02.06.23 - NOXIOUS WEED FREE GRAVEL AND ROCK PRODUCTS RULES**

**DOCKET NO. 02-0623-1301 (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 22-2403, Idaho Code.

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

<b>Wednesday, June 12, 2013 9:00 a.m. - 12:00 p.m.</b>	<b>Wednesday, June 26, 2013 9:00 a.m. - 12:00 p.m.</b>
<b>Idaho State Department of Agriculture 2270 Old Penitentiary Road Boise, ID, 83712</b>	

**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 Matt Voile, Section Manager - Invasive Species and Noxious Weeds. Individuals may also attend the public meetings to be conducted on the above dates 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 negotiated rulemaking will address the addition of the “Noxious Weed Free Gravel and Rock Products Rules.” The purpose of the new rule will be to provide for inspection and certification of gravel as noxious weed free.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact Matt Voile, Section Manager - Invasive Species and Noxious Weeds, (208) 332-8620. 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](http://www.agri.idaho.gov/Categories/LawsRules/sub_rules/Rulemaking.php). All written comments must be delivered on or before June 28, 2013.

DATED this 10th day of May, 2013.

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

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

#### DOCKET NO. 02-0641-1301

#### 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 19, 2013.

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 2014 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: 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 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 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 26, 2013.

DATED this 17th day of May, 2013.

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 TEXT OF THE PROPOSED RULE FOR DOCKET NO. 02-0641-1301**

**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 “201~~3~~<sup>4</sup> 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](http://www.aapfco.org/pdf/publication_order_form.pdf).  
(4-4-13)( )

**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](http://www.EOMA.AOAC.org). A copy may be purchased online from AOAC International. (3-29-12)

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.01 - RULES GOVERNING ADMINISTRATION**

**DOCKET NO. 08-0201-1301**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1511(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the January 2, 2013, Idaho Administrative Bulletin, [Vol. 13-1, pages 35 and 36](#).

**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:

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact: Luci Willits at [lbwillits@sde.idaho.gov](mailto:lbwillits@sde.idaho.gov), or 208-332-6814.

DATED this 18th day of April, 2013.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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**DOCKET NO. 08-0201-1301 - ADOPTION OF PENDING 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 13-1, January 2, 2013, pages 35 and 36](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2014 Idaho State Legislature for final adoption.**

# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1301

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is April 18, 2013.

**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 33-105, 33-107, 33-1612, and 33-118, 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 19, 2013.

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 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:

On February 21, 2012 the State Department of Education (SDE) submitted an Elementary and Secondary Education Act (ESEA) waiver to gain relief from the mandates of No Child Left Behind (NCLB). There were two application periods for waivers: November 2011 and February 2012. Idaho chose to apply in the second round so that the SDE was able to offer additional time for feedback and evaluation. Principle 3 of the ESEA waiver clearly outlined required elements of teacher and principal evaluation models. As a result, Idaho needed to make adjustments to our teacher evaluation model and adopt a principal evaluation model for the state. The excerpt below is from the cover page that accompanied the waiver which was presented and approved at the State Board Meeting on February 16, 2012 and again on October 18, 2012:

***Supporting Effective Instruction and Leadership:***

*Idaho developed a statewide framework for teacher evaluation. Schools also receive financial rewards for effective instruction as measured by student achievement. The State Department is currently creating a statewide framework for principal evaluation which should be completed by May 2012. The state will use their frameworks to then make necessary changes with teacher and administrator preparation programs.*

As a result of the work of both the Administrator Evaluation Focus Group and the Evaluation Capacity Task Force, both of which are referenced throughout the ESEA Waiver, that State Department of Education brought forth recommended rule changes for increased rigor and utility of teacher evaluations as well as a new section specific to administrator evaluation at the August 16, 2012 State Board meeting.

The State Board of Education approved these revisions during that meeting. On November 6, 2012, Idaho voters repealed the Students Come First laws that formed the foundation of Idaho's teacher and principal evaluation systems. Because of this, Idaho was no longer in compliance with the ESEA Waiver requirements which required student achievement and multiple measures to be a part of both teacher and principal evaluations. As a result, Idaho needed to work with stakeholders to extensively redraft the rules to bring Idaho's teacher and principal evaluation standards back in to compliance with the ESEA Waiver requirements. Because of this, the Idaho State Department of Education vacated the rule making process to allow an Educator Evaluation Task Force to be convened to analyze the gaps between Idaho's current evaluation systems and what was needed to bring Idaho's evaluation system back in to compliance with the ESEA Waiver requirements.

In December 2012, the Idaho State Department of Education submitted the following timeline and plan to the US Department of Education outlining how we would ensure that Idaho was in compliance with the ESEA Waiver requirements.

**January - March:**

- Convene Educator Evaluation Task Force with the specific goal of making recommendations on the following items to the State Board of Education:
  - The percentage of the evaluation that will be based on Student Achievement?
  - What multiple measures will be used in the evaluation, i.e. Parental Input, Student Input, Work Place Survey, etc.?
  - The inclusion of an Individualized Professional Learning Plan that will be created for each teacher based upon evaluation findings, and shall be used in subsequent years as the baseline measurement for professional development and growth?
  - How many observations are required annually and who must perform the observations?
  - Will administrators be required to complete a proficiency assessment prior to performing any evaluation or as part of their ongoing professional development for recertification?
  - Will we require a proficiency assessment for initial administrator licensure?

**April - May:**

- Take evaluation rule revisions for IDAPA 08.02.02.120 (Teacher Evaluation) and the addition of IDAPA 08.02.02.121 (Principal Evaluation) to the State Board of Education as Temporary and Proposed Rule.
- Receive State Board of Education approval of revisions to rule.
- Put rule revisions out for public comment.
- Receive final approval from the State Board of Education on Temporary and Proposed Rule.

**2013 - 2014 School Year:**

- Districts pilot revised evaluation models.

**2014 - 2015 School Year:**

- Full implementation of revised evaluation models in accordance with ESEA Waiver requirements.

**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:

This rule is being brought forth as temporary and proposed to ensure that Idaho is able to meet the demands of the timeline outlined above.

**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: No Fiscal Impact.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary 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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this temporary and proposed rule, contact: Nick Smith, State Department of Education, [nwsmith@sde.idaho.gov](mailto:nwsmith@sde.idaho.gov), 208-332-6954.

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 26, 2013.

DATED this 18th Day of April, 2013.

Tom Luna  
Superintendent of Public Instruction  
State Department of Education  
650 West State Street, 2nd Floor  
P.O. Box 83720  
Boise, ID 83720-0027  
(208) 332-6812; fax (208) 334-2228

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 08-0202-1301**

**120. LOCAL DISTRICT EVALUATION POLICY.**

Each school district board of trustees will develop and adopt policies for teacher performance evaluation in which criteria and procedures for the evaluation of certificated personnel are research based and aligned to Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. The process of developing criteria and procedures for certificated personnel evaluation will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators and teachers. The evaluation policy will be a matter of public record and communicated to the certificated personnel for whom it is written. (3-29-10)

**01. Standards.** Each district evaluation model shall be aligned to state minimum standards that are based on Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. Those domains and components include: (3-29-10)

- a.** Domain 1 - Planning and Preparation: (3-29-10)
  - i. Demonstrating Knowledge of Content and Pedagogy; (3-29-10)
  - ii. Demonstrating Knowledge of Students; (3-29-10)
  - iii. Setting Instructional Goals Outcomes; (3-29-12)
  - iv. Demonstrating Knowledge of Resources; (3-29-10)
  - v. Designing Coherent Instruction; and (3-29-10)
  - vi. Designing Student Assessments. (3-29-12)
- b.** Domain 2 - The Classroom Environment: (3-29-12)
  - i. Creating an Environment of Respect and Rapport; (3-29-10)
  - ii. Establishing a Culture for Learning; (3-29-10)
  - iii. Managing Classroom Procedures; (3-29-10)
  - iv. Managing Student Behavior; and (3-29-10)
  - v. Organizing Physical Space. (3-29-10)

- c. Domain 3 - Instruction and Use of Assessment: (3-29-10)
  - i. Communicating with Students; (3-29-12)
  - ii. Using Questioning and Discussion Techniques; (3-29-10)
  - iii. Engaging Students in Learning; (3-29-10)
  - iv. Using Assessment in Instruction; and (3-29-12)
  - v. Demonstrating Flexibility and Responsiveness. (3-29-12)
- d. Domain 4 - Professional Responsibilities: (3-29-10)
  - i. Reflecting on Teaching; (3-29-10)
  - ii. Maintaining Accurate Records; (3-29-10)
  - iii. Communicating with Families; (3-29-10)
  - iv. Participating in a Professional Community; (3-29-12)
  - v. Growing and Developing Professionally; and (3-29-10)
  - vi. Showing Professionalism. (3-29-10)

~~**02. Parent Input.** Input from the parents and guardians of students shall be considered as a factor in the evaluation of any school-based certificated employees. For such certificated employees on a Category A, B or grandfathered renewable contract, this input shall be part of the first portion of the evaluation (as stipulated in 33-514(4), Idaho Code,) that must be completed before February 1 of each year (Section 33-513 and 33-514, Idaho Code). (3-29-12)~~

~~**03. Student Achievement.** For evaluations conducted on or after July 1, 2012, all certificated employees must receive an evaluation in which at least fifty percent (50%) of the evaluation results are based on objective measures of growth in student achievement as determined by the board of trustees. This student achievement portion of the evaluation shall be completed by the end of the school year in which the evaluation takes place (Section 33-513 and 33-514, Idaho Code). (3-29-12)~~

**042. Participants.** Each district evaluation policy will include provisions for evaluating all certificated employees identified in Section 33-1001, Idaho Code, Subsection 16, and each school nurse and librarian. Policies for evaluating certificated employees should identify the differences, if any, in the conduct of evaluations for nonrenewable contract personnel and renewable contract personnel. (3-29-12)

**053. Evaluation Policy - Content.** Local school district policies will include, at a minimum, the following information: (4-1-97)

- a. Purpose -- statements that identify the purpose or purposes for which the evaluation is being conducted; e.g., individual instructional improvement, personnel decisions. (4-1-97)
- b. Evaluation criteria -- statements of the general criteria upon which certificated personnel will be evaluated. (4-1-97)
- c. Evaluator -- identification of the individuals responsible for appraising or evaluating certificated personnel performance. The individuals assigned this responsibility should have received training in evaluation. (4-1-97)
- d. Sources of data -- description of the sources of data used in conducting certificated personnel

evaluations. For classroom teaching personnel, classroom observation should be included as one (1) source of data.  
(4-1-97)

- e.** Procedure -- description of the procedure used in the conduct of certificated personnel evaluations.  
(4-1-97)
- f.** Communication of results -- the method by which certificated personnel are informed of the results of evaluation.  
(4-1-97)
- g.** Personnel actions -- the action, if any, available to the school district as a result of the evaluation and the procedures for implementing these actions; e.g., job status change. Note: in the event the action taken as a result of evaluation is to not renew an individual's contract or to renew an individual's contract at a reduced rate, school districts should take proper steps to follow the procedures outlined in Sections 33-513 through 33-515, Idaho Code in order to assure the due process rights of all personnel.  
(4-1-97)
- h.** Appeal -- the procedure available to the individual for appeal or rebuttal when disagreement exists regarding the results of certificated personnel evaluations.  
(4-1-97)
- i.** Remediation -- the procedure available to provide remediation in those instances where remediation is determined to be an appropriate course of action.  
(4-1-97)
- j.** Monitoring and evaluation. -- A description of the method used to monitor and evaluate the district's personnel evaluation system.  
(4-1-97)
- k.** Professional development and training -- a plan for ongoing training for evaluators/administrators and teachers on the districts evaluation standards, tool and process.  
(3-29-10)
- l.** Funding -- a plan for funding ongoing training and professional development for administrators in evaluation.  
(3-29-10)
- m.** Collecting and using data -- a plan for collecting and using data gathered from the evaluation tool that will be used to inform professional development.  
(3-29-10)
- n.** A plan for how evaluations will be used to identify proficiency and define a process that identifies and assists teachers in need of improvement.  
(3-29-10)
- o.** A plan for including all stakeholders including, but not limited to, teachers, board members, and administrators in the development and ongoing review of their teacher evaluation plan.  
(3-29-10)

**064. Evaluation Policy - Frequency of Evaluation.** The evaluation policy shall include a provision for evaluating all certificated personnel on a fair and consistent basis. ~~All contract personnel shall be evaluated at least once annually.~~ ~~(3-29-12)~~**(4-18-13)T**

**075. Evaluation Policy - Personnel Records.** Permanent records of each certificated personnel evaluation will be maintained in the employee's personnel file. All evaluation records will be kept confidential within the parameters identified in federal and state regulations regarding the right to privacy (Section 33-518, Idaho Code).  
(4-1-97)

**IDAPA 15 - OFFICE OF THE GOVERNOR  
DIVISION OF HUMAN RESOURCES**

**15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**DOCKET NO. 15-0401-1301**

**NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2013.

**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 67-5309, Idaho Code.

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

The changes to IDAPA 15.04.01 Sections 013 and 020 bring DHR rules in compliance with Title 65-502(17), Idaho Code, which was amended in the 2013 Legislature by SB1045a. This revision altered the definition of "veteran" by removing the requirement of service in active duty during a war or in a combat zone. The addition of "disabled veteran" to the definition section in IDAPA 15.04.01 Section 010 is needed to clarify language in related rules. The changes to IDAPA 15.04.01 Sections 102 and 141 clarify existing rules so that they conform to the new definitions.

**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:

To comply with deadlines in amendments to governing law or federal programs. This rulemaking aligns administrative rule with the statute changes adopted by the 2013 Legislature and clarifies related sections.

**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: Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Melody Rose, HR Specialist, Sr. at 208-854-3068.

DATED this May 10th, 2013.

Vicki Tokita, Administrator  
Division of Human Resources  
304 N. 8th Street  
P.O. Box 83720  
Boise, ID 83720-0066  
Phone: 208-334-2263  
Fax: 208-854-3088

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 15-0401-1301**

**010. DEFINITIONS -- A THROUGH E.**

Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

- 01. Administrator.** The Administrator of the Division of Human Resources in the Office of the Governor or delegate for those responsibilities assigned by the administrator to a specific appointing authority. (5-8-09)
- 02. Agency Classification.** A classification of positions unique to an agency. (5-8-09)
- 03. Allocation.** The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)
- 04. Appeal.** Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)
- 05. Appellant.** An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)
- 06. Appointing Authority.** The officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any agency. (Ref. Section 67-5302(3), Idaho Code) (5-8-09)
- 07. Appointment, Limited.** The appointment of a person to a classified, position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)
- 08. Appointment, Nonclassified.** The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)
- 09. Appointment, Permanent.** The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)
- 10. Appointment, Probationary.** The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)
- 11. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)
- 12. Appointment, Provisional.** The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. (3-16-04)
- 13. Appointment, Seasonal.** An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) (3-16-04)
- 14. Appointment, Temporary.** The appointment of a person to a nonclassified position which is of a limited duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) agency. Temporary appointments may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (5-8-09)
- 15. Base Pay.** The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (5-8-09)
- 16. Certifiable Range.** An examination score and a rank on an eligibility register sufficiently high to be among the top twenty-five (25) available names, plus names of all individuals with scores identical to the twenty-fifth ranking eligible, for certification to fill a position in the classification for which the register was established.

(4-7-11)

**17. Classified Service.** That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (5-8-09)

**18. Commission.** As utilized in these rules, refers to the Idaho Personnel Commission as established in Section 67-5307, Idaho Code. (5-8-09)

**19. Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division of Human Resources and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (5-8-09)

**20. Compensation Schedule.** The pay grades established by the Division of Human Resources and associated rates of pay. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

**21. Consultant.** An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule Section 050) (5-8-09)

**22. Disabled Veteran.** Those veterans separated under honorable conditions who: (7-1-13)T

**a. Have served on active duty in the armed forces and have a current service-connected disability rating of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or** (7-1-13)T

**b. Are Purple Heart recipients. (Ref. Section 65-502(4), Idaho Code)** (7-1-13)T

**~~23.~~ Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Section 190 of these rules. (5-8-09)

**~~24.~~ Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-16-04)

**~~25.~~ Employment History.** The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (5-8-09)

**~~26.~~ Examination.** The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)

**(BREAK IN CONTINUITY OF SECTIONS)**

**013. DEFINITIONS -- P THROUGH Z.**

Each of the terms defined in these rules will have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (5-8-09)

**01. Pay Line Exception.** A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (5-8-09)

**02. Permanent Employee.** An employee in the classified service who has successfully completed

entrance probation. Permanent employees remain subject to separation as set forth in these rules and Section 67-5309(n), Idaho Code. (5-8-09)

**03. Promotion.** The advancement through the competitive process of an employee with permanent status from a position which he occupies in one (1) classification to a position in another classification having a higher paygrade. (5-8-09)

**04. Reduction in Pay.** A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-16-04)

**05. Register.** A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (3-16-04)

**06. Resignation.** The voluntary quitting or abandonment of state employment, excluding retirement. (5-8-09)

**07. Respondent.** The party whose interests are adverse to those of the appellant. (7-1-93)

**08. Suspension.** An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Section 190 of these rules. (5-8-09)

**09. Termination.** The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Section 152 of these rules. (5-8-09)

**10. Transfer.** A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-16-04)

**11. Underfill.** The filling of a classification of position with an employee in a classification of lower pay grade to accommodate a training period as approved by the administrator. (3-16-04)

**12. USERRA.** Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Sections 4301 through 4333. Prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. (5-8-09)

**13. Veteran.** Any person who has been discharged or released from active duty in the armed forces under honorable conditions provided they have served on active duty for a minimum of one hundred eighty (180) consecutive days. "Active duty" means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the secretary of the military department concerned. (Ref. Section 65-502(17), Idaho Code) (7-1-13)T

**134. Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Section 073) (12-10-90)

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. VETERANS PREFERENCE.**

Except for key employee positions, preference must be given to qualified veterans ~~in~~ as defined by Section 65-502, Idaho Code who meet the minimum qualifications for a position at initial employment and for retention. (5-8-09)(7-1-13)T

- ~~01. **Qualified Veteran.** To receive the preference, the person must have: (5-8-09)~~
- ~~a. Served on active duty in the armed forces during a war, in a campaign, or expedition for which a campaign badge has been authorized, or served on active duty during the period beginning April 28, 1952 and ending July 1, 1955; (5-8-09)~~
  - ~~b. Served on active duty as defined in 38 U.S.C. Section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred after January 31, 1955 and before October 15, 1976; (5-8-09)~~
  - ~~c. Served on active duty as defined in 38 U.S.C. Section 101(21) in the armed forces during the period beginning on August 2, 1990 and ending on January 2, 1992; (5-8-09)~~
  - ~~d. Served on active duty as defined in 38 U.S.C. Section 101(21) at any time in the armed forces for a period of more than one hundred eighty (180) consecutive days, any part of which occurred during the period beginning on September 11, 2001 and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom. (Ref. Section 67-502(14), Idaho Code, and 5 U.S.C. Section 2108); or (5-8-09)~~
  - ~~e. Served as may be further defined in 38 U.S.C. Section 101(11). (5-8-09)~~
- ~~021. **Disabled Veteran Defined (for Preference Points on Competitive Exam) Initial Appointment.** Veterans, Disabled veterans, Purple Heart recipients, and their spouses, unmarried widows, or unmarried widowers, or spouses, when qualified under state law will have additional points added to a passing score and placed on the register in accordance with the provisions set forth in Section 102 of these rules. (Ref. Rule Subsection 093.03, and Sections 65-502(2), 503, and 504(3), and 67-5309(f), Idaho Code) (5-8-09)(7-1-13)T~~

~~032. **Retention.** Veterans (as defined in Title 65, Chapter 5, Idaho Code) will receive the equivalent of three (3) years of satisfactory service in additional points awarded towards the total calculation of retention points in a reduction of work force determination. (Ref. Rule Section 141 and Section 65-501, Idaho Code) (5-8-09)(7-1-13)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**102. PLACEMENT ON REGISTER.**

- 01. Score Order.** Eligible candidates will be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. (5-8-09)
- 02. Veterans' Preference.** Eligible veterans or surviving spouses entitled to five (5) point preference will be placed on the open competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule Subsection 093.03 and Section 65-504, Idaho Code) (5-8-09)
- 03. Disabled Veterans' Preference.** Preference will be awarded to disabled veterans as follows: (7-1-13)T
- ~~a. Eligible ten percent (10%) or more d~~Disabled veterans, Purple Heart recipients, ~~or surviving spouses~~ of any eligible disabled veterans who cannot qualify for any public employment because of a service-connected disability, and unmarried widows or widowers of disabled veterans entitled to ten (10) point preference will be placed on the open-competitive register in order of their final score on the examination augmented by preference points. (Ref. Rule Subsection 093.03 and Sections 65-503 and 65-504, Idaho Code) (7-1-13)T
  - ~~b. Disabled~~ Veterans who have a current service-connected disability of thirty percent (30%) or more will be offered an interview when their final score on the hiring list places them within the top twenty-five (25) qualified candidates. If more than ten (10) disabled veterans with a disability rating of thirty percent (30%) or greater

~~disabled veterans~~ more place in the top twenty-five (25) qualified scores of a hiring list, at least ten (10) will be offered an interview. (Ref. Rule Subsection 093.03 and Section 65-504, Idaho Code) ~~(3-29-12)~~(7-1-13)T

**04. Veterans' Preference Points for Initial Appointment Only.** The additional points added by reason of veterans' preference will be used the first time a qualified veteran is hired by a state agency and not for the purpose of promotions. (Ref. Section 65-504, Idaho Code) Initial appointments do not include: (5-8-09)

- a. Jobs held by patients, inmates, or students employed at a state institution; (5-8-09)
- b. Temporary or casual employment; or (5-8-09)
- c. An office filled by election. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**141. CALCULATION OF RETENTION POINTS.**

There will be an evaluation of all employees in the classification in the agency or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations, ~~and~~ classified credited state service, and veterans preference as described in Subsection 141.03. Qualified veterans are given preference through additional retention points. (Ref. Subsection 141.03). The appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

Exemplary Performance	-	.100 points
Solid Sustained Performance	-	.075 points
Achieves Performance Standards	-	.050 points
Does Not Achieve Performance Standards	-	.0 points

~~(5-8-09)~~(7-1-13)T

**01. No Performance Evaluation on File for a Twelve-Month Period.** All credited state service for which there is no performance evaluation will receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (5-8-09)

a. Grace period. Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. (3-16-04)

b. Changes in prior periods not allowed. Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. (3-16-04)

**02. Calculation of Retention Points Since Last Evaluation.** The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points are calculated in conformance with Subsection 141.01 of these rules. (5-8-09)

**03. Qualified Veterans Preference.** Veterans as defined in Title 65, Chapter 5, Idaho Code, will receive preference by the addition of retention points equivalent to three (3) years of service at a level that achieves performance standards. (Ref. Section 65-501, Idaho Code) ~~(5-8-09)~~(7-1-13)T

**04. Calculation Date Cutoff.** No points will be calculated for the sixty (60) days prior to the effective date of the layoff. (3-16-04)

**05. Audit of Retention Points.** Each employee is entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor is binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. (5-8-09)

**IDAPA 15 - OFFICE OF THE GOVERNOR  
DIVISION OF HUMAN RESOURCES**

**15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**DOCKET NO. 15-0401-1302**

**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 67-5309, 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 19, 2013.

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 determine 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 Human Resources (DHR) invites interested parties to participate in the rule-making process. Please submit your comments in writing to DHR either by email to [idhr@dhr.idaho.gov](mailto:idhr@dhr.idaho.gov) or by U.S. mail to 304 N. 8th Street, PO Box 83720, Boise, ID 83720-0066. Please submit with the subject line- "DHR Rulemaking Comment Submission."

**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 Division of Human Resources (DHR) is adding definitions and clarifying rules so consistency is achieved across agencies. Two definitions were added- 'Administrative Leave' and 'Salary Equity Increase' - as the terms were already addressed in Executive Policy or 2006 Agency Guidance Memorandum, but the purpose was not consistently understood and applied. The definitions of 'Merit Increase' and 'Underfill' were revised. Other rule sections were updated to add or clarify verbiage. In addition, two definitions regarding Veterans- 'Disabled Veteran' and 'Veteran'- were added to comply with the amendment to Section 67-502(17), Idaho Code- signed into law during the 2013 legislative session (SB 1045a).

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact Melody Rose, HR Specialist, Sr. at (208)854-3068. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Division of Human Resources web site at the following web address: [www.dhr.idaho.gov](http://www.dhr.idaho.gov). All written comments must be directed to the undersigned and must be delivered on or before June 19, 2013.

DATED: May 31, 2013.

Vicki Tokita, Administrator  
Division of Human Resources  
304 N. 8th Street  
PO Box 83720

Boise, ID 83720-0066  
Email: [idhr@dhr.idaho.gov](mailto:idhr@dhr.idaho.gov)  
Phone: (208)334-2263 or (800)554-5627  
Facsimile: (208)854-3088

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.15 - RULES AND MINIMUM STANDARDS FOR SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITIES FOR THE DEVELOPMENTALLY DISABLED OR MENTALLY ILL

#### DOCKET NO. 16-0315-1301 (CHAPTER REPEAL)

#### 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 39-4605, 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 19, 2013.

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 Department needs to repeal this chapter of rules because the chapter is obsolete. The Department stopped certifying Semi-Independent Group Residential Facilities for the Developmentally Disabled or Mentally Ill several years ago because these are private residential facilities and provide no Medicaid-reimbursed services, and the Department has limited resources in terms of survey staff.

**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 fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact due to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible. The Department has notified the eight facilities impacted by this change of the fact that we will be repealing this rule chapter. The Department has not surveyed or certified these private facilities for several years due to limited resources in terms of survey staff. Negotiating with the providers or stakeholders would not change that outcome.

**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 proposed rule, contact Tamara Prisock at (208) 364-1971.

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 26, 2013.

DATED this 14th day of May, 2013.

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](mailto:dhwrules@dhw.idaho.gov)

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**IDAPA 16.03.15 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.06.01 - CHILD AND FAMILY SERVICES**

**DOCKET NO. 16-0601-1301**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2013.

**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 Sections 56-202(b) and 56-204A, Idaho Code, and Department appropriations under House Bill 283 adopted by the 2013 Legislature.

**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 19, 2013.

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:

The 2013 Legislature adopted the Department appropriations budget under House Bill 283. The legislative intent language specifically increased the foster family stipend rate in those appropriations. These rules are being amended to reflect this increase in the monthly reimbursement for a child in foster care based on the child's age.

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

This rule is being implemented as a temporary rule to reflect an increase in foster care rates for state fiscal year (SFY) 2014 that begins on July 1, 2013.

**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: N/A

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

DHW appropriations in House Bill 283 added an ongoing increase of \$148,600 in state general funds for foster care reimbursements for SFY 2014. This funding increase is the only fiscal impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is a temporary rule, and the determination was made that it was not feasible to negotiate this rulemaking.

**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 Erika Wainaina at (208) 334-6618.

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 26, 2013.

DATED this 14th day of May, 2013.

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](mailto:dhwrules@dhw.idaho.gov)

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 16-0601-1301**

**483. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.**  
Monthly payments for care provided by family alternate care providers are:

Family Alternate Care Payments - Table 483			
Ages	0-5	6-12	13-18
Monthly Room and Board	\$ <del>304</del> <u>29</u>	\$ <del>339</del> <u>66</u>	\$ <del>453</del> <u>87</u>

~~(4-4-13)~~(7-1-13)T

- 01. Gifts.** An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts will be paid in the appropriate months. (5-8-09)
- 02. Clothing.** Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (5-8-09)
- 03. School Fees.** School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs. (5-8-09)

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-1301

#### 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 58-104(6), 58-105 and 38-1304, Idaho Code.

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

<b>Friday, June 7, 2013, 12:00 p.m. - 3:00 p.m.</b>
<b>Idaho Department of Lands Sundance Conference Rooms 3284 West Industrial Loop Coeur d'Alene, Idaho</b>

<b>Wednesday, June 12, 2013, 12:00 p.m. - 3:00 p.m.</b>
<b>Idaho Department of Lands Garnet Conference Rooms 300 North 6th St., Suite 103 Boise, Idaho</b>

Additional meetings may be scheduled as needed through June 25, 2013.

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

Please contact Ara Andrea at (208) 769-1525 or [aandrea@idl.idaho.gov](mailto:aandrea@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.

**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 Idaho Forest Practices Act Advisory Committee (FPAAC) is comprised of 9 voting members across the state of Idaho representing family forest owners, industrial forest owners, fisheries biologists, citizens at large, and logging operators. This committee is statutorily charged with advising the Idaho State Board of Land Commissioners, in cooperation with the Idaho Department of Lands (IDL), in rulemaking matters associated with the Idaho Forest Practices Act. As a result of quadrennial water-quality audits conducted by the Idaho Department of Environmental Quality (IDEQ) in 2000 and 2004, FPAAC has been working over the last 10 years to develop a science-based streamside tree-retention rule (shade rule) that is based on Idaho forest riparian data. The proposed shade rule will allow forest landowners to select from two options which are meant to address both shade and large wood recruitment in streams. The proposed changes include:

- Amend one (1) subparagraph, 20.02.01.030.07.e.ii., defining the new minimum standing tree requirements for both sides of all Class I streams and inserting one (1) new subparagraph, 20.02.01.030.e.iii., defining the new minimum standing tree requirements for both sides of all Class II streams in Idaho forestlands.

- Removal of three (3) existing rule subparagraphs, 20.02.01.030.07.e.vi., 20.02.01.030.07.e.vii., and 20.02.01.030.07.e.ix. which would become obsolete under these proposed rule changes.

**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 Ara Andrea at (208) 769-1525 or [aandrea@idl.idaho.gov](mailto:aandrea@idl.idaho.gov).

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 June 26, 2013.

DATED this 30th day of April, 2013.

Ara Andrea  
Service & Regulatory Program Manager  
Idaho Department of Lands  
3284 West Industrial Loop  
Coeur d'Alene, Idaho 83815  
(208) 769-1525/Fax (208) 769-1524  
[aandrea@idl.idaho.gov](mailto:aandrea@idl.idaho.gov)

## IDAPA 46 - BOARD OF VETERINARY MEDICINE

### 46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-1301

#### 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 as follows:

<b>Monday -- June 17, 2013 -- 9:00 a.m.</b>
<b>Idaho Board of Veterinary Medicine Idaho State Dept. of Agriculture Building Conference Rooms Main A and B 2270 Old Penitentiary Road Boise, ID, 83712</b>

**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 Idaho Board of Veterinary Medicine 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:

This rulemaking is intended to make revisions in four (4) areas of Board rules. First, Rule 102 is being amended to correct a misstatement regarding the time period for completing continuing education by certified veterinary technicians. Second, Rule 103 is being revised to authorize a certified veterinary technician to dispense and deliver certain previously prescribed antibiotics and medications, under the indirect supervision of a veterinarian. Third, Rule 154.05 is being amended to provide a more realistic and meaningful time period for veterinarians to respond to a request for records from an animal owner or another treating veterinarian. Finally, at the recommendation of the Certified Euthanasia Task Force, certain provisions in Rule 205 concerning the training and examination of certified euthanasia technicians are being modified to specify procedures, passing grades and clarification on certification processes.

**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 Carol Youtz, Acting Executive Director, (208) 332-8588.

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 Veterinary Medicine by June 14, 2013. Written comments may also be submitted via email to [Carol.Youtz@agri.idaho.gov](mailto:Carol.Youtz@agri.idaho.gov).

DATED this 14th day of May, 2013.

Carol P. Youtz  
Acting Executive Director  
Board of Veterinary Medicine  
2270 Old Penitentiary Rd.

P. O. Box 7249  
Boise, ID 83707  
Phone: (208) 332-8588  
Fax: (208) 334-2170

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**BLACKFOOT RIVER SUBBASIN TMDL 2013 ADDENDUM (HUC 17040207)**  
**DOCKET NO. 58-0000-1302**  
**NOTICE OF FINAL DECISION**

**AUTHORITY:** In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Blackfoot River Subbasin Total Maximum Daily Load (TMDL) 2013 Addendum.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Blackfoot River Subbasin TMDL 2013 Addendum. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Blackfoot River Subbasin TMDL (Hydrologic Unit Code 17040207) addresses fifty-three (53) assessment units within the Blackfoot River Subbasin on Idaho's 2010 Section 303(d) list and contains thirty-five (35) TMDLs. One informational TMDL was completed, but DEQ is not seeking approval of the informational TMDL. DEQ has submitted the Blackfoot River Subbasin TMDL 2013 Addendum to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

**AVAILABILITY OF THE TMDL:** Electronic copy of the TMDL can be obtained at <http://www.deq.idaho.gov/blackfoot-river-subbasin> or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, [marti.bridges@deq.idaho.gov](mailto:marti.bridges@deq.idaho.gov).

Dated this 6th day of May, 2013.

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](mailto:paula.wilson@deq.idaho.gov)

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**LOWER NORTH FORK CLEARWATER RIVER SUBBASIN FIVE YEAR REVIEW**  
**AND TMDL ADDENDUM (HUC 17060308)**

**DOCKET NO. 58-0000-1303**

**NOTICE OF FINAL DECISION**

**AUTHORITY:** In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Lower North Fork Clearwater River Subbasin Five Year Review and Total Maximum Daily Load (TMDL) Addendum.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Lower North Fork Clearwater River Subbasin Five Year Review and TMDL Addendum. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Lower North Fork Clearwater River Subbasin TMDL Addendum (Hydrologic Unit Code 17060308) addresses twenty-five (25) assessment units on Idaho's 2010 Section 303(d) list that are impaired for temperature exceedances. DEQ has submitted the Lower North Fork Clearwater River Subbasin Five Year Review and TMDL Addendum to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

**AVAILABILITY OF THE TMDL:** Electronic copy of the TMDL can be obtained at <http://www.deq.idaho.gov/water-quality/surface-water/tmdls/table-of-sbas-tmdls/clearwater-river-north-fork-lower-subbasin.aspx> or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, [marti.bridges@deq.idaho.gov](mailto:marti.bridges@deq.idaho.gov).

Dated this 15th day of May, 2013.

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](mailto:paula.wilson@deq.idaho.gov)

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### **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.

#### **IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790 Boise, ID 83701**

*02-0602-1301, Rules Pertaining to the Idaho Commercial Feed Law.* Incorporates by reference the 2014 Official Publication of the Association of American Feed Control Officials.

*02-0612-1301, Rules Pertaining to the Idaho Fertilizer Law.* Incorporates by reference the 2014 Official Publication of the Association of American Plant Food Control Officials.

*02-0641-1301, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001.* Incorporates by reference the 2014 Official Publication of the Association of American Plant Food Control Officials.

#### **IDAPA 08 - STATE BOARD OF EDUCATION / DEPARTMENT OF EDUCATION PO Box 83720, Boise, ID 83720-0027**

*08-0202-1301, Rules Governing Uniformity.* (Temp & Prop) Makes adjustments to the teacher evaluation model and adopts an administrator evaluation model for the state as required by the ESEA waiver from the US Dept of Education.

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

*16-0315-1301, Rules and Minimum Standards for Semi-Independent Group Residential Facilities for the Developmentally Disabled or Mentally Ill.* Repeals obsolete chapter.

*16-0601-1301, Child and Family Services.* (Temp & Prop) Conforms to HB 283 (2013) by increasing the monthly reimbursement for a child in foster care based on the child's age.

#### **NOTICE OF ADOPTION OF TEMPORARY RULE**

##### **IDAPA 15 - Office of the Governor - Division of Human Resources**

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Please refer to the Idaho Administrative Bulletin, **June 5, 2013, Volume 13-6**, 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](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)

# **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.*

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# **ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

*Idaho Department of Administration  
Office of the Administrative Rules Coordinator*

*April 4, 2013 -- June 5, 2013*

*(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 April 4, 2013 that have not been  
adopted as final rules and all rulemakings being promulgated after April 4, 2013 - Sine Die.)*

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***02.03.03, Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application***

**02-0303-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

**02-0303-1302** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

***02.04.21, Rules Governing the Importation of Animals***

**02-0421-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

***02.06.02, Rules Pertaining to the Idaho Commercial Feed Law***

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***02.06.09, Rules Governing Invasive Species***

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**08-0201-1301** Adoption of Pending Rule, Bulletin Vol. 13-6 (eff. \*PLR 2014)

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