

# IDAHO ADMINISTRATIVE BULLETIN

November 6, 2013 -- Volume 13-11

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# IDAHO ADMINISTRATIVE BULLETIN

## Table of Contents

November 6, 2013 -- Volume 13-11

<b>PREFACE</b> .....	5
<b>IDAPA 02 - DEPARTMENT OF AGRICULTURE</b>	
02.02.14 - Rules for Weights and Measures	
Docket No. <b>02-0214-1301</b>	
Notice of Rulemaking - Adoption of Pending Fee Rule .....	15
02.03.03 - Rules Governing Pesticide and Chemigation Use and Application	
Docket No. <b>02-0303-1301</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	16
Docket No. <b>02-0303-1302</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	17
02.04.20 - Rules Governing Brucellosis	
Docket No. <b>02-0420-1301</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	18
02.04.21 - Rules Governing Importation of Animals	
Docket No. <b>02-0421-1301</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	19
02.06.13 - Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho	
Docket No. <b>02-0613-1301</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	20
<b>IDAPA 07 - DIVISION OF BUILDING SAFETY</b>	
07.03.01 - Rules of Building Safety	
Docket No. <b>07-0301-1301</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	21
Docket No. <b>07-0301-1302</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	22
Docket No. <b>07-0301-1303</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	23
Docket No. <b>07-0301-1304</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	24
07.03.11 - Rules Governing Manufactured/Mobile Home Industry Licensing	
Docket No. <b>07-0311-1301</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	25
<b>IDAPA 09 - DEPARTMENT OF LABOR</b>	
09.01.30 - Unemployment Insurance Benefit Administration Rules	
Docket No. <b>09-0130-1301</b>	
Notice of Rulemaking - Adoption of Pending Rule .....	26

09.01.35 - <i>Unemployment Insurance Tax Administration Rules</i> Docket No. <b>09-0135-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	27
<b>IDAPA 11 - IDAHO STATE POLICE</b>	
11.11.01 - <i>Rules of the Idaho Peace Officer Standards and Training Council</i> Docket No. <b>11-1101-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	28
<b>IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE</b>	
16.03.09 - <i>Medicaid Basic Plan Benefits</i> Docket No. <b>16-0309-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	29
16.03.10 - <i>Medicaid Enhanced Plan Benefits</i> Docket No. <b>16-0310-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	30
16.04.02 - <i>Idaho Telecommunication Service Assistance Program Rules</i> Docket No. <b>16-0402-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	31
16.05.06 - <i>Criminal History and Background Checks</i> Docket No. <b>16-0506-1301</b> Notice of Rulemaking - Adoption of Pending Fee Rule .....	32
16.06.01 - <i>Child and Family Services</i> Docket No. <b>16-0601-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	33
16.06.12 - <i>Rules Governing the Idaho Child Care Program (ICCP)</i> Docket No. <b>16-0612-1302</b> Notice of Rulemaking - Temporary and Proposed Rule .....	34
<b>IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE</b>	
18.01.04 - <i>Rules Pertaining to Bail Agents</i> Docket No. <b>18-0104-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	36
<b>IDAPA 23 - BOARD OF NURSING</b>	
23.01.01 - <i>Rules of the Idaho Board of Nursing</i> Docket No. <b>23-0101-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	37
<b>IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD</b>	
25.01.01 - <i>Rules of the Outfitters and Guides Licensing Board</i> Docket No. <b>25-0101-1201</b> Notice of Public Hearing .....	38
<b>IDAPA 35 - IDAHO STATE TAX COMMISSION</b>	
35.01.01 - <i>Income Tax Administrative Rules</i> Docket No. <b>35-0101-1303</b> Notice of Rulemaking - Temporary and Proposed Rule .....	40

35.01.05 - <i>Motor Fuels Tax Administrative Rules</i> Docket No. <b>35-0105-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	43
35.02.01 - <i>Administration and Enforcement Rules</i> Docket No. <b>35-0201-1303</b> Notice of Rulemaking - Temporary and Proposed Rule .....	44
<b>IDAPA 46 - BOARD OF VETERINARY MEDICINE</b>	
46.01.01 - <i>Rules of the State of Idaho Board of Veterinary Medicine</i> Docket No. <b>46-0101-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	47
Docket No. <b>46-0101-1302</b> Notice of Rulemaking - Adoption of Pending Rule .....	48
<b>IDAPA 53 - IDAHO BARLEY COMMISSION</b>	
53.01.01 - <i>Rules of the Idaho Barley Commission</i> Docket No. <b>53-0101-1301</b> Notice of Rulemaking - Proposed Rule .....	49
<b>IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY</b>	
<i>The Mid Snake River/Succor Creek Tributaries Sediment TMDL 2013 Addendum (HUC 17050103)</i> Docket No. <b>58-0000-1306</b> Notice of Final Decision.....	52
<i>The Lower Payette River TMDL 2013 Addendum (HUC 17050122)</i> Docket No. <b>58-0000-1307</b> Notice of Final Decision.....	53
<i>The Big Wood River Tributaries Temperature TMDL 2013 Addendum (HUC 17040219)</i> Docket No. <b>58-0000-1308</b> Notice of Final Decision.....	54
58.01.01 - <i>Rules for the Control of Air Pollution In Idaho</i> Docket No. <b>58-0101-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	55
<b>IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO</b>	
59.01.06 - <i>Retirement Rules for the Public Employee Retirement System of Idaho (PERSI)</i> Docket No. <b>59-0106-1301</b> Notice of Rulemaking - Adoption of Pending Rule .....	56
<b>SECTIONS AFFECTED INDEX</b> .....	57
<b>LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS</b> .....	58
<b>CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES</b> .....	59
<b>SUBJECT INDEX</b> .....	74

# 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 proposed rulemaking procedures have been initiated. The public receives notice that an agency has initiated proposed 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 - Proposed Rule” for each proposed rule that is published in the Bulletin.

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

## CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **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.***

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 01</b>	<b>Accountancy</b> , Board of
<b>IDAPA 38</b>	<b>Administration</b> , Department of
<b>IDAPA 44</b>	<b>Administrative Rules Coordinator</b> , Office of the
<b>IDAPA 02</b>	<b>Agriculture</b> , Idaho Department of
<b>IDAPA 40</b>	<b>Arts</b> , Idaho Commission on the
<b>IDAPA 03</b>	<b>Athletic Commission</b>
<b>IDAPA 04</b>	<b>Attorney General</b> , Office of the
<b>IDAPA 53</b>	<b>Barley Commission</b> , Idaho
<b>IDAPA 51</b>	<b>Beef Council</b> , Idaho
<b>IDAPA 07</b>	<b>Building Safety</b> , Division of Electrical Board (07.01) Plumbing Board (07.02) Building Codes & Manufactured Homes (07.03) Building Code Advisory Board (07.03.01) Public Works Contractors License Board (07.05) Uniform School Building Safety (07.06) HVAC Board (07.07)
<b>IDAPA 43</b>	<b>Canola and Rapeseed Commission</b> , Idaho
<b>IDAPA 28</b>	<b>Commerce</b> , Idaho Department of
<b>IDAPA 06</b>	<b>Correction</b> , Board of
<b>IDAPA 19</b>	<b>Dentistry</b> , Board of
<b>IDAPA 08</b>	<b>Education</b> , State Board of and State Department of
<b>IDAPA 10</b>	<b>Engineers and Land Surveyors</b> , Board of Professional
<b>IDAPA 58</b>	<b>Environmental Quality</b> , Department of
<b>IDAPA 12</b>	<b>Finance</b> , Department of
<b>IDAPA 13</b>	<b>Fish and Game</b> , Department of
<b>IDAPA 14</b>	<b>Geologists</b> , Board of Registration for Professional

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 15</b>	<b>Governor, Office of the</b> Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission (15.04) Idaho Liquor Division (15.10) Idaho Emergency Communications Commission (15.06) Emergency Response Commission (15.13)
<b>IDAPA 48</b>	<b>Grape Growers and Wine Producers Commission, Idaho</b>
<b>IDAPA 16</b>	<b>Health and Welfare, Department of</b>
<b>IDAPA 41</b>	<b>Health Districts, Public</b>
<b>IDAPA 45</b>	<b>Human Rights Commission</b>
<b>IDAPA 17</b>	<b>Industrial Commission</b>
<b>IDAPA 18</b>	<b>Insurance, Department of</b>
<b>IDAPA 05</b>	<b>Juvenile Corrections, Department of</b>
<b>IDAPA 09</b>	<b>Labor, Idaho Department of</b>
<b>IDAPA 20</b>	<b>Lands, Department of</b>
<b>IDAPA 30</b>	<b>Libraries, Commission for</b>
<b>IDAPA 52</b>	<b>Lottery Commission, Idaho State</b>
<b>IDAPA 22</b>	<b>Medicine, Board of</b>
<b>IDAPA 23</b>	<b>Nursing, Board of</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 24</b>	<b>Occupational Licenses, Board of (24.20)</b> Acupuncture, Board of (24.17) Architectural Examiners, Board of (24.01) Barber Examiners, Board of (24.02) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho (24.21) Cosmetology, Board of (24.04) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Dentistry, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board, Idaho State (24.22) Midwifery, Idaho Board of (24.26) Morticians, State Board of (24.08) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, State Board of (24.10) Physical Therapy Licensure Board (24.13) Podiatry, State Board of (24.11) Psychologist Examiners, Idaho State Board of (24.12) Real Estate Appraiser Board (24.18) Residential Care Facility Administrators, Board of Examiners of (24.19) Social Work Examiners, State Board of (24.14) Speech and Hearing Services Licensure Board (24.23)
<b>IDAPA 25</b>	<b>Outfitters and Guides Licensing Board</b>
<b>IDAPA 50</b>	<b>Pardons and Parole, Commission for</b>
<b>IDAPA 26</b>	<b>Parks and Recreation, Department of</b>
<b>IDAPA 27</b>	<b>Pharmacy, Board of</b>
<b>IDAPA 11</b>	<b>Police, Idaho State</b>
<b>IDAPA 29</b>	<b>Potato Commission, Idaho</b>
<b>IDAPA 55</b>	<b>Professional-Technical Education, Division of</b>
<b>IDAPA 59</b>	<b>Public Employee Retirement System of Idaho (PERSI)</b>
<b>IDAPA 31</b>	<b>Public Utilities Commission</b>
<b>IDAPA 56</b>	<b>Rangeland Resources Commission, Idaho</b>
<b>IDAPA 33</b>	<b>Real Estate Commission, Idaho</b>
<b>IDAPA 34</b>	<b>Secretary of State, Office of the</b>
<b>IDAPA 57</b>	<b>Sexual Offender Management Board</b>
<b>IDAPA 49</b>	<b>Shorthand Reporters Board, Idaho Certified</b>
<b>IDAPA 60</b>	<b>Soil and Water Conservation Commission, Idaho State</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 36</b>	<b>Tax Appeals, Board of</b>
<b>IDAPA 35</b>	<b>Tax Commission, State</b>
<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 RULEMAKING - ADOPTION OF PENDING FEE 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. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. 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 fee rule. The action is authorized pursuant to Section 71-111, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013, Idaho Administrative Bulletin, [Vol. 13-9, pages 17 and 18](#).

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

Section 71-121, Idaho Code, provides authority to establish fees. Impose a minimum license fee of \$12. Update device codes in Table 1-A to reflect new device types and establish a license fee. Increase the device license fee in Table 1-A for Device Codes D, E and F.

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate device license fees.

**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:

The fee increase will impact 1,597 owners of commercial scales rated over 7,500 pounds by \$37,790. The minimum license fee of \$12 will impact approximately 473 owners of commercial devices by \$2,838. As a result, the weights and measures dedicated fund could see an increase of \$40,628. The general fund would not be impacted.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Kevin Merritt, Section Manager at (208) 332-8692.

DATED this 4th day of October, 2013.

Brian J. Oakey  
Deputy Director  
Idaho State Dept. 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

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

DOCKET NO. 02-0303-1301

#### 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 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3421, 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:

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 will be required to retest.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 20 through 27](#).

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than the federal regulations.

**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: None.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ben Miller, Bureau Chief at (208) 332-8593.

DATED this 4th day of October, 2013.

Brian J. Oakey  
Deputy Director  
Idaho State Dept. 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

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

DOCKET NO. 02-0303-1302

#### 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 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3421, 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:

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 the State of Idaho's seed crop list to be essentially the same as the State of Washington's list.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, page 28 through 30](#).

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than the federal regulations.

**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: None.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ben Miller, Bureau Chief at (208) 332-8593.

DATED this 4th day of October, 2013.

Brian J. Oakey  
Deputy Director  
Idaho State Dept. 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

### 02.04.20 - RULES GOVERNING BRUCELLOSIS

DOCKET NO. 02-0420-1301

#### 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 Sections 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 Section 25-203 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:

Tracking the movement of cattle out of the Designated Surveillance Area (DSA) is an additional tool that will allow ISDA to provide better surveillance of the cattle that are at the greatest risk of exposure to brucellosis-infected wildlife residing in the Greater Yellowstone Area. This permit will allow for more precise monitoring of livestock movement out of the DSA and will further minimize the possibility that those cattle are sold without proper disease testing prior to sale.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, page 32 and 33](#).

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than the federal regulations.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: ISDA does not anticipate any fiscal impact from the changes to be made to the Rule during the rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator - Division of Animal Industries at (208) 332-8540.

DATED this 4th day of October, 2013.

Brian J. Oakey  
Deputy Director  
Idaho State Dept. 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**  
**02.04.21 - RULES GOVERNING IMPORTATION OF ANIMALS**  
**DOCKET NO. 02-0421-1301**  
**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 Sections 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 Section 25-203 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:

Section 600 is being amended to establish consistency with the new National Chronic Wasting Disease (CWD) Herd Certification Program (HCP) that went into effect in December 2012. The requirements mandate full participation in the HCP to qualify a cervidae herd for importation.

Subsection 300 is being amended to more specifically define equine infectious anemia (EIA) import testing requirements for horses destined for slaughter. The existing rule allows slaughter horse imports without an EIA test, but does not specify when the animals must go to slaughter. The new rule requires that a horse imported into Idaho for slaughter purposes be sent to slaughter within sixty (60) days.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 34 through 38](#).

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does not regulate an activity not already regulated by the federal government, nor is it broader in scope or more stringent than the federal regulations.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Deputy Administrator - Division of Animal Industries at (208) 332-8540.

DATED this 4th day of October, 2013.

Brian J. Oakey  
Deputy Director  
Idaho State Dept. 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**  
**02.06.13 - RULES RELATING TO RAPESEED PRODUCTION**  
**AND ESTABLISHMENT OF RAPESEED DISTRICTS IN THE STATE OF IDAHO**

**DOCKET NO. 02-0613-1301**

**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. This negotiated rulemaking action is authorized pursuant to Section 22-108, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 41 through 43](#).

**IDAHO CODE SECTION 22-101A STATEMENT:** This rule does regulate an activity not already regulated by the federal government, because the federal government does not regulate Idaho based rapeseed growing districts or the growing and production of edible and industrial rapeseed in Idaho.

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 4th day October, 2013.

Brian J. Oakey  
Deputy Director  
Idaho State Dept. of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
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## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.03.01 - RULES OF BUILDING SAFETY**

**DOCKET NO. 07-0301-1301**

#### **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 acted on 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 39-4107 and 39-4109, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 45 through 52](#).

**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 impact to the General Fund; some increased short-term costs to jurisdictions enforcing the codes for obtaining code materials and training of inspectors. Amendments to the new code result in decreases in costs to builders that offset minor cost increases associated with new provisions contained in the code. However, no significant additional costs of conformance with the new versions of the codes were brought forward in discussions before the Board.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83720-0048  
Phone: (208) 332-8986  
Fax: 1-877-810-2840

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.03.01 - RULES OF BUILDING SAFETY**

**DOCKET NO. 07-0301-1302**

#### **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 acted on 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 39-4107 and 39-4109, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 53 through 57](#).

**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 to the General Fund or to the Agency, but may in certain situations, result in savings to the owner or builder.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83720-0048  
Phone: (208) 332-8986  
Fax: 1-877-810-2840

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.03.01 - RULES OF BUILDING SAFETY**

**DOCKET NO. 07-0301-1303**

#### **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 acted on 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 39-4107 and 39-4109, 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 58 through 62](#).

**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 impact to the General Fund. Amendment to the International Residential Code would result in decreases in costs to operators of owner-occupied lodging houses (bed and breakfast property) as a result of the elimination of fire sprinkler requirements in those with three or fewer guestrooms. No significant additional costs of conformance with the newer edition of the code were brought forward in discussions before the Board.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
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## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.03.01 - RULES OF BUILDING SAFETY**

**DOCKET NO. 07-0301-1304**

#### **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 acted on 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 39-4107 and 39-4109, 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 63 through 67](#).

**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 impact to the General Fund or the jurisdictions enforcing building codes, including the Division. Construction savings to builders and property owners was identified by proponents of the amendment.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83720-0048  
Phone: (208) 332-8986  
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## IDAPA 07 - DIVISION OF BUILDING SAFETY

### 07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

DOCKET NO. 07-0311-1301

#### 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 acted on 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 Section 44-2104, 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 68 through 78](#).

**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 impact on the General Fund, and a \$2K reduction in revenue to the Manufactured Housing account. Favorable impact on individuals who service manufactured or mobile homes and will not be required to obtain a license.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 26th day of September, 2013.

Steve Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83720-0048  
Phone: (208) 332-8986  
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## IDAPA 09 - DEPARTMENT OF LABOR

### 09.01.30 - UNEMPLOYMENT INSURANCE BENEFIT ADMINISTRATION RULES

DOCKET NO. 09-0130-1301

#### 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 Section 72-1333, 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:

A new rule is being promulgated to repeal the tel-a-claim reporting method for unemployment insurance benefit claimants. The current tel-a-claim system cannot accommodate enhanced work search reporting requirements the Department is requiring to reduce benefit fraud and lower employer taxes. Replacing it with a new call-in system would be costly. Because of reduced federal funding, the Department does not have the money to build a new tel-a-claim system. Instead, enhanced work search reporting requirements will be added to the Department's existing internet-based reporting system. This internet-based system can be accessed from personal computers or computers with public access such as those in public libraries or in the Department's 25 local offices.

A new rule is being promulgated to amend the current "reasonable length of time" job attached classification standard with a maximum 12 week standard. This rule change will require benefit claimants to look for work and hopefully find new employment sooner than waiting for their former employers to rehire them if their temporary layoff period will exceed 12 weeks. Of the surrounding states, Montana is the only one without a limit on the rehire period. The other surrounding states range from 4 weeks in Oregon to 12 weeks in Wyoming.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 79 through 82](#).

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There will be no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joshua McKenna 332-3570 ext. 3919.

DATED this 1st of October, 2013.

Joshua McKenna  
Benefits Bureau Chief  
Idaho Department of Labor  
317 West Main Street  
Boise, Idaho 83735  
Phone 332-3570 ext. 3919  
Fax 334-6125

## IDAPA 09 - DEPARTMENT OF LABOR

### 09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

DOCKET NO. 09-0135-1301

#### 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 Section 72-1333, 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:

A new rule is being promulgated to require employers to report contributions online unless a waiver is granted by the Department. Waivers will be granted to employers if the online filing requirement poses a significant burden. The Department currently allows the reporting of contributions by either paper or online filing. The online reporting of employer contributions will allow the Department to process quarterly reports from nearly 50,000 employers more quickly with fewer resources and at a lower cost. The online reporting system corrects errors hundreds of employers typically make in paper reports. This will help employers avoid thousands of dollars in fines for reporting less quarterly taxes by the reporting deadline than the employer legally owes.

A new rule is being promulgated to revise the current "independently established" prong of the independent contractor test for unemployment insurance tax purposes with a more straight forward, common sense economic reality test. The current test has 15 factors and is too complicated to enforce and gives employers poor guidance as to which workers may or may not be independent contractors. The economic reality test is currently used by the U.S. Department of Labor and the Social Security Administration and focuses on whether workers are economically dependent upon the business to which they render services.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 83 through 89](#).

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There will be no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael Johnson 332-3570 ext. 3082.

DATED this 1st of October, 2013.

Michael Johnson  
Bureau Chief  
Idaho Department of Labor  
317 West Main Street  
Boise, Idaho 83735  
Phone 332-3570 ext. 3082  
Fax 334-6125

## IDAPA 11 - IDAHO STATE POLICE

### 11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-1301

#### 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 Section 19-5107, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 95 through 103](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact William Flink at (208) 884-7251.

DATED this 26th day of September, 2013.

William L. Flink  
Division Administrator  
Idaho State Police/Peace Officer Standards & Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7251  
Fax: (208) 884-7295

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1301

#### 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 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, 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:

Section 56-261, Idaho Code, directs the Department to implement managed care tools to develop an accountable care system to improve health outcomes. In order to comply, the State has implemented a federal 1915(b) Managed Care Waiver that requires Medicaid participants to enroll in the **Idaho Behavioral Health Plan (IBHP)**. This plan is structured as a statewide prepaid ambulatory health plan (PAHP) under 42 CFR 438.2. This allows the Department to make a prepaid capitated payment for each participant enrolled with the behavioral health managed care entity. These rule changes align this chapter with the managed care waiver.

These rule changes integrate mental health clinic services, psychosocial rehabilitative services, service coordination for adults with serious and persistent mental illness (SPMI), service coordination for children with serious emotional disturbance (SED), and substance use disorder services into behavioral health services.

All rules related to behavioral health services have been removed from IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and moved into these rules. In addition, specific service limitations have been removed from the rules to allow for behavioral health services to be delivered individualized and evidence-based under a managed care structure, and requirements have been added to describe the responsibilities of the Department and the Department's designee **Optum Idaho**, a managed care contractor, to administer the behavioral health managed care delivery system.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the August 7, 2013, Idaho Administrative Bulletin, **Vol. 13-8, pages 193 through 242**.

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

There is no anticipated fiscal impact to the state general fund. The consolidation of mental health clinic services, psychosocial rehabilitative services, mental health service coordination, and substance use disorder service benefits into one program of behavioral health services provided through a managed care delivery system will be cost-neutral.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Carolyn Burt at (208) 364-1844.

DATED this 3rd day of October, 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)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1301

#### 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 56-202, 56-203, 56-250 through 56-257, and 56-260 through 56-266, 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:

Section 56-261, Idaho Code, directs the Department to implement managed care tools to develop an accountable care system to improve health outcomes. In order to comply, the State has implemented a federal 1915(b) Managed Care Waiver that requires Medicaid participants to enroll in the **Idaho Behavioral Health Plan (IBHP)**. This plan is structured as a statewide prepaid ambulatory health plan (PAHP) under 42 CFR 438.2. This allows the Department to make a prepaid capitated payment for each participant enrolled with the behavioral health managed care entity. These rule changes align this chapter with the managed care waiver.

All rules related to behavioral health services have been removed from these rules and moved into IDAPA 16.03.09, "Medicaid Basic Plan Benefits."

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the August 7, 2013, Idaho Administrative Bulletin, **Vol. 13-8, pages 243 through 283**.

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

There is no anticipated fiscal impact to the state general fund. The consolidation of mental health clinic services, psychosocial rehabilitative services, mental health service coordination, and substance use disorder service benefits into one program of behavioral health services provided through a managed care delivery system will be cost-neutral.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Carolyn Burt at (208) 364-1844.

DATED this 3rd day of October, 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)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.02 - IDAHO TELECOMMUNICATION SERVICE ASSISTANCE PROGRAM RULES

DOCKET NO. 16-0402-1301

#### 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 56-901 and 56-902, Idaho Code, as amended in Senate Bill 1013, and 47 CFR 54.405.

**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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 3, 2013, Idaho Administrative Bulletin, [Vol. 13-7, pages 57 through 59](#). The changes made in this rulemaking aligned rules with statutory changes made by the 2013 Legislature.

**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 to state general funds for this rulemaking. Benefit funds are allocated through telephone companies and their customers.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule, contact Sara Herring at (208) 334-5752.

DATED this 3rd day of October, 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)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE 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. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. 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 fee rule. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, Idaho Code, and 2013 Legislation in House Bill 125.

**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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2013, Idaho Administrative Bulletin, [Vol. 13-8, pages 284 through 287](#). The changes in this rule docket added a new class of individuals required or ordered by the courts to have a Department criminal history and background check.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code.

The fee amount for a Department fingerprint-based criminal history and background check is \$65 based on the actual cost. The 2013 Legislature added new individuals that are required to have a criminal history and background check prior to being appointed by the court as a guardian or conservator, or any individual who will reside in the incapacitated person's residence.

**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 are no additional costs to be paid for by the Department or the state general fund due to this rulemaking. It is anticipated that 700 individuals will request these criminal history and background checks at \$65 per check for a total of \$45,500 in total receipts.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Fernando Castro, at (208) 332-7999.

DATED this 3rd day of October, 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)

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1301

### 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 56-202(b) and 56-204A, Idaho Code, and Department appropriations for state fiscal year 2014.

**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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 5, 2013, Idaho Administrative Bulletin, [Vol. 13-6, pages 43 and 44](#). The changes made to this rule increased the foster family stipend rates.

**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:

The 2013 Legislature added an ongoing increase of \$148,600 in state general funds to DHW appropriations for foster care reimbursements beginning in SFY 2014. There is no fiscal impact to any other funds due to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Erika Wainaina at (208) 334-6618.

DATED this 3rd day of October, 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)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)**  
**DOCKET NO. 16-0612-1302**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is October 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 Section 56-202, 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 November 20, 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:

These rules are being aligned with other Department rules for determining benefits for a child who lives in a joint custody situation. Currently, the first parent to apply for ICCP benefits is the one who receives the benefits for the child. This rule change will provide a more equitable way in determining ICCP benefits when both parents apply for benefits for the same child, by giving the parent who has primary custody of the child the benefit.

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

This rule change confers a benefit to a parent who has primary custody of an eligible child in a joint custody situation when both parents apply for child care benefits for the same child.

**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 anticipated fiscal impact to the state general fund or any other funds due to this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is of a simple nature to align with other Department rules for a child that is in a joint custody situation.

**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 Genie Sue Weppner at (208) 364-5656.

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 November 27, 2013.

DATED this 3rd day of October, 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 PROPOSED TEXT OF DOCKET 16-0612-1302**

**105. ELIGIBLE CHILD.**

A family can only receive child care benefits for eligible children. A child is eligible for child care benefits under the following conditions: (4-2-08)

**01. Immunizations Requirements.** A child must be immunized in accordance with IDAPA 16.02.11, "Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho." Child care benefits can continue during a reasonable period necessary for the child to be immunized. Parents must provide evidence that the child has been immunized unless the child is attending school. (4-2-08)

**02. Citizenship or Alien Status Requirement.** A child must be one (1) of the following: (4-2-08)

**a.** A citizen; (4-2-08)

**b.** Living lawfully in the United States. (4-2-08)

**03. Child's Age Requirement.** A child must be under thirteen (13) years of age, with the following exceptions: (4-2-08)

**a.** A child thirteen (13) years of age or older may be eligible for child care benefits if he meets one (1) or more of the following criteria: (4-2-08)

**i.** A child is eligible for child care benefits until the month of his eighteenth birthday if he is physically or mentally incapable of self-care, as verified by a licensed mental health professional or licensed practitioner of the healing arts. (4-2-08)

**ii.** A child may be eligible for child care benefits until the month of his eighteenth birthday if a court order, probation order, child protection, or mental health case plan requires constant supervision. (4-2-08)

**b.** A child who is eligible under Subsection 105.03.a. of this rule may receive child care benefits until the month of his nineteenth birthday if he is a full-time student and is expected to complete secondary school no later than the month of his nineteenth birthday. (5-1-11)

**04. ~~Joint~~ Child Custody.** A child may move from one (1) parent's home to the other parent's home on a regular basis. The child may be a member of either household, but not both households. If the parents cannot agree on the child's household for the child care ~~ease~~ benefit, the child is included in the household ~~of the first parent to apply who is both income and activity eligible~~ with primary custody. Primary custody is determined by where the child is expected to spend fifty-one percent (51%) or more of the nights during a benefit period. When only one (1) parent applies for ICCP benefits, the child may be included in that parent's household even though they do not have primary physical custody of the child. ~~(5-1-11)~~(10-1-13)T

## IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

### 18.01.04 - RULES PERTAINING TO BAIL AGENTS

#### DOCKET NO. 18-0104-1301

#### 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 acted on 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 Section 41-211, 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:

This rulemaking will delete Section 016 from Rule 18.01.04 to conform the rule to the interpretation of Section 41-1042, Idaho Code, consistent with the Idaho Supreme Court's holding in *Two Jim v. Idaho Department of Insurance*, 154 Idaho 1, 293 P.3d 150 (2013.)

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 157 and 158](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tom Donovan, at 208-334-4214 or [tom.donovan@doi.idaho.gov](mailto:tom.donovan@doi.idaho.gov) or Dale Freeman at 208-334-4321, [dale.freeman@doi.idaho.gov](mailto:dale.freeman@doi.idaho.gov).

DATED this 25th day of September, 2013.

William W. Deal  
Director  
Idaho Department of Insurance  
700 W. State St - 3rd floor  
Boise ID 83720  
208-334-4250  
208-334-4398 (fax)

## IDAPA 23 - BOARD OF NURSING

### 23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

#### DOCKET NO. 23-0101-1301

#### 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 acted on 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 Section 54-1404, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 171 through 175](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sandra Evans, M.A. Ed., R.N., Executive Director, (208) 334-3110 ext. 2476.

DATED this 2nd day of October, 2013.

Sandra Evans, M.A. Ed., R.N.  
Executive Director  
Board of Nursing  
280 N. 8th St. (8th & Bannock)  
Suite 210  
P. O. Box 83720  
Boise, ID 83720-0061  
Phone: 334-3110 ext. 2476  
Fax: (208) 334-3536

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

## **25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD**

**DOCKET NO. 25-0101-1201**

### **NOTICE OF PUBLIC HEARING**

**AUTHORITY:** In compliance with Section 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing in response to requests from the interested persons. The action is authorized pursuant to Sections 36-2107(b) and (d), Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**Wednesday, November 13, 2013, 3 p.m. to 5 p.m.**

**CSC Building at Orchard Place  
Conference Room  
1301 N. Orchard Street  
Boise, Idaho**

Please access the CSC Building at Orchard Place Conference Room from the west side of the building via Kendall or Irving streets. You are asked to park in the parking lot on the west side of the building.

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.

All written comments received and oral presentations given at this public hearing must address the subject matter under consideration in the proposed rule published under docket 25-0101-1201 in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 357 through 359](#). Time allowed for individual oral presentations may be limited.

**DESCRIPTIVE SUMMARY:** The summary of this action is as follows:

Idaho law states that an outfitter is “any individual, firm, partnership, corporation or other organization or any combination thereof, who, while engaging in any of the acts enumerated herein in any manner: (1) advertises or otherwise holds himself out to the public for hire; (2) provides facilities and services for consideration; and (3) maintains, leases, or otherwise uses equipment or accommodations for compensation for the conduct of outdoor recreational activities limited to the following: hunting animals or birds; float or power boating on Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or mountain excursions.” Section 36-2102, Idaho Code. This includes private landowners.

In 1992, the Idaho Supreme Court (*State v. Koller*, 112 Idaho 409) held that the outfitting and guides act regulates commercial outfitting whether it’s occurring on public or private lands and that the State of Idaho has jurisdiction. As the result, private land owners have been licensed as outfitters themselves, have designated agents (including existing outfitters) as employees to provide facilities and services and have leased lands to others for outfitting purposes.

These proposed rules recognize a land owner's right to control use of their lands. They are intended clarify and enhance a private land owners ability to allow public access to their private lands and in doing so, they also are intended to clarify outfitted use and license requirements when outfitted facilities and services are provided by the landowner or by someone authorized by the land owner to do so.

The proposed rule also is intended clarify existing rules to address a concern over the loss of access due to the proliferation of organizations/clubs operating commercially due to ambiguity in existing rules. In doing so, organizations/clubs offering outfitted facilities and services including acquiring access to private or public land for hunting, fishing or hazardous excursions and for commercial gain will be governed by the same limits/restrictions set forth in these rules and governing licensed commercial outfitters.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rulemaking or the hearing schedule, contact Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382.

Written comments regarding this proposed rulemaking will be accepted at the public hearing. All written comments submitted at the public hearing carry the same weight as an oral presentation and receive equal consideration.

DATED this October 16, 2013.

Jake Howard  
Executive Director  
Outfitters and Guides Licensing Board  
1365 North Orchard, Suite 172  
Boise, ID 83706  
(208) 327-7380  
FAX (208) 327-7382

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.01 - INCOME TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0101-1303**

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

**EFFECTIVE DATE:** The effective date of the temporary rules is January 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 63-105 and 63-3039, 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 November 20, 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:

A recent Revenue Ruling addressing the U. S. Supreme Court ruling in *Windsor* regarding joint filing makes it necessary to amend Income Tax Administrative Rules 010 and 805 to give specific guidance on the definition of marriage. Because the filing deadlines for both federal and state income tax returns is April 15, 2014, for most taxpayers, the rules need to be amended immediately to provide guidance to taxpayers and tax preparers so that they know how to prepare their tax returns during the impending filing season.

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

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

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because 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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cynthia Adrian at (208) 334-7670.

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 November 27, 2013.

DATED this 2nd day of October, 2013.

Cynthia Adrian  
Tax Policy Specialist  
Idaho State Tax Commission

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

**THE FOLLOWING IS THE TEMPORARY RULE AND PROPOSED TEXT OF DOCKET 35-0101-1303**

**010. DEFINITIONS (RULE 010).**

Section 63-3003, Idaho Code. (3-20-97)

**01. Administration and Enforcement Rules.** The term Administration and Enforcement Rules refers to IDAPA 35.02.01, relating to the administration and enforcement of Idaho taxes. (3-20-97)

**02. Due Date.** As used in these rules, due date means the date prescribed for filing without regard to extensions. (3-20-97)

**03. Employee.** An employee is an individual who performs services for another individual or organization that controls what services are performed and how they are performed. (3-20-97)

**04. Employer.** An employer is any person or organization for whom an individual performs services as an employee. (3-20-97)

**05. Mathematical Error.** A mathematical error includes arithmetical errors, incorrect computations, omissions, defects in a return, and entries on the wrong line. (3-20-97)

**06. Sale.** A sale is defined as a transaction in which title passes from the seller to the buyer, or when possession and the burdens and benefits of ownership are transferred to the buyer. A sale may have occurred even if the buyer does not have the right to possession until he partially or fully satisfies the terms of the contract. (3-20-97)

**07. Tax Home.** For income tax purposes, the term tax home refers to the taxpayer's principal place of business, employment, station, or post of duty regardless of where he maintains his personal or family residence. Thus, a taxpayer domiciled or residing in Idaho with a permanent post of duty in another state is an Idaho resident for Idaho income tax purposes. However, he is not entitled to a deduction for travel expenses incurred in the other state since that is his tax home. (3-20-97)

**08. Terms.** Terms not otherwise defined in the Idaho Income Tax Act or these rules shall have the same meaning as is assigned to them by the Internal Revenue Code including Section 7701 relating to definitions of terms. (3-20-97)

**09. These Rules.** The term these rules refers to IDAPA 35.01.01, relating to Idaho income tax. (3-20-97)

**10. Wages.** The term wages relates to all compensation for services performed for an employer regardless of the form of payment. (3-20-97)

**11. Marriage.** For purposes of computing taxable income, including the computation of Idaho taxable income, any reference to marriage in federal or state law, including terms such as marriage, married, spouse, husband, wife, widow, or widower, shall be interpreted as referring to a marriage relationship defined in Section 32-201, Idaho Code, or recognized by Section 32-209, Idaho Code. For all purposes of the Idaho Income Tax Act, the marriage must be one which is considered valid or recognized under Article III, Section 28 of the Idaho Constitution. (1-1-13)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**805. JOINT RETURNS (RULE 805).**

Sections 63-3031, 32-201, and 32-209, Idaho Code.

~~(3-20-97)~~(1-1-13)T

**01. Effect of Filing Status Used on Federal Returns.** A ~~taxpayer~~ married couple, as defined in Section 32-201, Idaho Code, or recognized by Section 32-209, Idaho Code, shall use the same filing status with Idaho as used when filing returns with the Internal Revenue Service. ~~(3-20-97)~~(1-1-13)T

**02. In General.** (3-20-97)

**a.** A Only a married couple, as defined in Section 32-201, Idaho Code, or recognized by Section 32-209, Idaho Code, may file a joint return. Section 63-3024, Idaho Code, provides for joint return tax rates for individuals filing joint returns and for an individual qualifying as a surviving spouse or head of household. ~~(3-20-97)~~(1-1-13)T

**b.** If a married couple files a joint return and the due date for filing a separate return has expired for either spouse, separate returns may not be filed thereafter. For example, a married couple files a joint return before April 15 in the year due and desires to change their federal and state election to file separately. They may do so only if they file the separate returns on or before April 15. (3-20-97)

**03. Resident Aliens or United States Citizens Married to Nonresident Aliens.** A United States citizen or resident married to a nonresident alien may elect to treat the spouse as a resident alien allowing them to file a joint return. In this case they are taxed on their worldwide income. The individuals must be able to provide all records and information necessary to determine their tax liability. A statement declaring the election shall be attached to the return for the first taxable year for which the election is to apply. In addition, the statement shall include the name, address, and taxpayer identification number of each spouse, and shall be signed by both individuals making the election. (3-20-97)

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-1301**  
**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 Section(s) 63-105A, 63-2427, and 67-5221(1), 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 200 through 210](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Don Williams (208) 334-7855.

DATED this 3rd day of October, 2013.

Don Williams  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Blvd., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7855

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES**

**DOCKET NO. 35-0201-1303**

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

**EFFECTIVE DATE:** The effective date of the temporary rule is January 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 63-105 and 63-3039, 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 November 20, 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:

A recent Revenue Ruling addressing the U. S. Supreme Court ruling in *Windsor* regarding joint filing makes it necessary to amend Administration and Enforcement Rule 010 to give specific guidance on the definition of marriage. Because the filing deadlines for both federal and state income tax returns is April 15, 2014, for most taxpayers, the rule needs to be amended immediately to provide guidance to taxpayers and tax preparers so that they know how to prepare their tax returns during the impending filing season.

**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:

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

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because 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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cynthia Adrian at (208) 334-7670.

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 November 27, 2013.

DATED this 2nd day of October, 2013.

Cynthia Adrian  
Tax Policy Specialist  
Idaho State Tax Commission

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

**THE FOLLOWING IS THE TEMPORARY RULE AND PROPOSED TEXT OF DOCKET 35-0201-1303**

**010. DEFINITIONS (RULE 010).**

Section 63-3003, Idaho Code. (3-20-97)

**01. Date of Filing or Payment.** (4-6-05)

**a.** When returns or other documents or payments are delivered to the Tax Commission by United States mail, the date of filing or payment means the date shown by the post office cancellation mark. If a cancellation mark is omitted, illegible or erroneous, the document will be deemed filed on the date the taxpayer establishes by competent evidence that the material was deposited with the United States Postal Service. A postage meter cancellation shall not be deemed a post office cancellation mark. Refer to Section 63-217, Idaho Code. (4-6-05)

**b.** When returns or other documents or payments are delivered to the Tax Commission by a private delivery service designated as qualifying under Section 7502, Internal Revenue Code, the date of filing or payment means the date treated as the postmark date for purposes of Section 7502, Internal Revenue Code, as provided by the special rules in Notice 97-26, 1997-1 C.B. 413 and subsequent Notices. (4-6-05)

**c.** Materials not mailed with the United States Postal Service or a private delivery service designated as qualifying under Section 7502, Internal Revenue Code, are filed when physically received by the Tax Commission. (4-6-05)

**d.** Returns or other documents or payments transmitted electronically are deemed received or paid on the date provided in Section 63-115, Idaho Code. (4-6-05)

**02. Pay, Paid, Payable or Payment.** When used in reference to an amount of tax, penalty, interest, fee or other amount of money due to the Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Tax Commission of lawful money of the United States. (4-11-06)

**a.** As used herein, lawful money of the United States means; (4-11-06)

**i.** Currency or coin of the United States at face value; and (4-11-06)

**ii.** Negotiable checks drawn on a United States bank or other financial institution that are payable in full in money of the United States. (4-11-06)

**b.** The words pay, paid, payable, or payment do not include: (4-11-06)

**i.** Submission to the Tax Commission of a check or draft that is subsequently dishonored by the institution on which it is drawn. (4-11-06)

**ii.** Submission to the Tax Commission of a check or draft drawn on a foreign bank or other financial institution in regard to which any processing fees may be incurred by the state of Idaho. (4-11-06)

**03. Return or Tax Return.** Return and tax return mean a form or other document that an individual, corporation or other legal entity reports information, including information necessary to calculate taxes due to the Tax Commission or another governmental agency that requires a return be filed. See Rule 150 of these rules for the requirements of a valid tax return. (3-20-97)

**04. Tax Commission.** Tax Commission means the Idaho State Tax Commission established by Article VII, Section 12 of the Idaho Constitution and referred to in Sections 63-101 and 63-3038, Idaho Code. (3-20-97)

**05. These Rules.** The term these rules refers to IDAPA 35.02.01, relating to the administration and enforcement of taxes. (3-20-97)

06. **Marriage.** For purposes of any tax imposed or benefit granted under Title 63, Idaho Code, any reference to marriage in federal or state law, including terms such as marriage, married, spouse, husband, wife, widow, or widower, shall be interpreted as referring to a marriage relationship defined in Section 32-201, Idaho Code, or recognized by Section 32-209, Idaho Code. For all purposes of Title 63, Idaho Code, the marriage must be one which is considered valid or recognized under Article III, Section 28 of the Idaho Constitution. (1-1-13)T

## **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 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 acted on 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 Section 54-2105, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 220 through 229](#).

**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:

The rulemaking should have no fiscal impact on either the General Fund or the Board's dedicated fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jodie Ellis, Executive Director, at (208) 332-8588.

DATED this 26th day of September, 2013.

Jodie Ellis  
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 46 - BOARD OF VETERINARY MEDICINE**

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

**DOCKET NO. 46-0101-1302**

#### **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 acted on 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 Section 54-2105, 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:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 230 through 232](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jodie Ellis, Executive Director, at (208) 332-8588.

DATED this 26th day of September, 2013.

Jodie Ellis  
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 53 - IDAHO BARLEY COMMISSION**  
**53.01.01 - RULES OF THE IDAHO BARLEY COMMISSION**  
**DOCKET NO. 53-0101-1301**  
**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 22-4009, 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 November 20, 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:

Pursuant to Senate Bill 1304 (2012 Session - Chap. 363, 2012 Session Laws) the fixed barley tax rate is being removed from this rule. SB 1304 raised the taxable rate up to \$.04 per hundredweight on all barley grown in Idaho. Removing the tax rate from rule gives the Commission the flexibility to adjust the barley assessment tax upon a vote of the commission as provided for in state law. The Idaho Barley Commission voted on July 1, 2013 to make a change in its barley assessment tax rate, and the rules need to reflect this change. Required sections have also been added to the rule and statutory references corrected.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking implements the changes made to the authorizing Idaho statute.

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

There are no documents incorporated by reference in this rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Kelly Olson, Administrator, 208-334-2090.

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 November 27, 2013.

DATED this 16th day of October, 2013.

Kelly Olson  
Idaho Barley Commission Administrator  
821 W. State Street  
Boise, ID 83702  
Phone: 208-334-2090  
Fax: 208-334-2335

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 53-0101-1301**

**000. LEGAL AUTHORITY.**

In accordance with Section ~~67-5206(1)~~ 22-4009, Idaho Code, the Idaho Barley Commission ~~shall~~ has promulgated rules implementing the provisions of ~~Sections 67-5203, 67-5204, and 67-5205~~ Chapter 40, Title 22, Idaho Code. (7-1-93)( )

**001. TITLE AND SCOPE.**

These rules shall be cited as IDAPA 53.01.01, "Rules of the Idaho Barley Commission," IDAPA 53, Title 01, Chapter 01. These rules ~~constitute the minimum style, format and numbering requirements for administrative rules in Idaho~~ provide the means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho barley. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**003. ADMINISTRATIVE APPEALS.**

Administrative appeals before the Idaho Barley Commission are provided for in Chapter 52, Title 67, Idaho Code. ( )

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into this rule. ( )

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

**01. Address.** The Idaho Barley Commission is located at 821 W. State Street, Boise, ID 83702. ( )

**02. Office Hours.** The office hours of the Idaho Barley Commission are between the hours of 8:00 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. ( )

**03. Telephone and Fax.** The telephone number of the office is (208) 334-2090, Fax: 208-334-2335. ( )

**04. Website.** The Commission's official website is <http://barley.idaho.gov/>. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules have been promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and are a public record. ( )

**~~007.~~ -- 009. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. FIRST PURCHASER RULES.**

In accordance with Section 22-4015(1), Idaho Code, the Commission shall designate the quarters (three (3) month periods) for the purpose of collecting the tax imposed (~~two cents (\$.02) per hundredweight~~) on all barley grown, delivered into, or stored within the state of Idaho and sold or contracted in the state. (7-1-98)( )

**01. Designated Quarters.** The quarters designated by the Commission for payment of tax, as required in Section 22-4015 (1), Idaho Code are: (7-1-93)

**a.** The Commission's first quarter will begin on the first day of July and end the thirtieth day of September. The first quarter barley tax shall be due on or before the fifteenth day of October. (7-1-93)

**b.** The Commission's second quarter will begin on the first day of October and end the thirty-first day of December. The second quarter barley tax shall be due on or before the fifteenth day of January. (7-1-93)

**c.** The Commission's third quarter will begin on the first day of January and end the thirty-first day of March. The third quarter barley tax shall be due on or before the fifteenth day of April. (7-1-93)

**d.** The Commission's fourth quarter will begin on the first day of April and end the thirtieth day of June. The fourth quarter barley tax shall be due on or before the fifteenth day of July. (7-1-93)

**02. Barley Tax Return (Form Number 1).** The first purchaser of barley shall be required to complete and send the Barley Tax Return (Form Number 1) to the commission office each and every quarter on or before the dates specified in IDAPA 53.01.01, Subsection 100.01. The Barley Tax Return (Form Number 1) shall be provided to the first purchaser by the Commission. The Barley Tax Return (Form Number 1) shall, at a minimum, require the following legible information: (7-1-93)

**a.** The tax reporting period. (7-1-93)

**b.** The name and address of the barley purchaser. (7-1-93)

**c.** The net weight of the barley purchased (if any) in pounds or hundredweights. (7-1-93)

**d.** The total amount of tax deducted (if any) from sellers by the purchaser. (7-1-98)

**e.** The tax withheld by Commodity Credit Corporation loans. (7-1-93)

**f.** The total amount of tax due the Commission (if any). (7-1-93)

**03. Delivery of Documents to Commission (Form Number 2).** The first purchaser of barley shall complete and return the Report of Tax on Barley (Form Number 2), or equivalent, to the commission office each and every quarter on or before the dates specified in IDAPA 53.01.01, Subsection 100.01. The Commission shall provide blank copies of Form Number 2 to the first purchaser. Form Number 2, or equivalent, shall, at a minimum, require the following legible information: (7-1-93)

**a.** The name and address of the purchaser. (7-1-93)

**b.** The quarter the barley was purchased. (7-1-93)

**c.** The name or names and address or addresses of the grower and seller. (7-1-93)

**d.** The number of pounds of barley purchased. (7-1-93)

**e.** The total barley tax withheld from each purchase. (7-1-93)

**04. Deduction of Tax on Net Weight of Barley.** The first purchaser shall deduct the barley tax on the NET weight of the barley after deduction of dockage. (7-1-93)

**05. Late Payment Penalty** (As specified in Section 22-4018 (2), Idaho Code). Any person or firm who makes payment to the Commission at a date later than prescribed in Section 22-4015, Idaho Code, shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. (7-1-93)

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**THE MID SNAKE RIVER/SUCCOR CREEK TRIBUTARIES SEDIMENT**  
**TMDL 2013 ADDENDUM (HUC 17050103)**

**DOCKET NO. 58-0000-1306**

**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 Mid Snake River/Succor Creek Tributaries Sediment Total Maximum Daily Load (TMDL) 2013 Addendum.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Mid Snake River/Succor Creek Tributaries Sediment 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 Mid Snake River/Succor Creek Tributaries Sediment TMDL 2013 Addendum (Hydrologic Unit Code 17050103) addresses seven (7) assessment units on Idaho's 2010 Section 303(d) list that are impaired for sediment. DEQ has submitted the Mid Snake River/Succor Creek Tributaries Sediment 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/middle-snake-river-succor-creek-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 11th day of October, 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  
THE LOWER PAYETTE RIVER TMDL 2013 ADDENDUM (HUC 17050122)**

**DOCKET NO. 58-0000-1307**

**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 Payette River Total Maximum Daily Load (TMDL) 2013 Addendum.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Lower Payette River 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 Lower Payette River TMDL 2013 Addendum (Hydrologic Unit Code 17050122) addresses two (2) assessment units (AUs). One AU is listed on Idaho's 2010 Section 303(d) list. One AU is not listed but is impaired for sediment, bacteria, and temperature. DEQ has submitted the Lower Payette River 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/lower-payette-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 21st day of October, 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

### THE BIG WOOD RIVER TRIBUTARIES TEMPERATURE TMDL 2013 ADDENDUM (HUC 17040219)

DOCKET NO. 58-0000-1308

### 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 Big Wood River Tributaries Temperature Total Maximum Daily Load (TMDL) 2013 Addendum.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Big Wood River Tributaries Temperature 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 Big Wood River Tributaries Temperature TMDL 2013 Addendum (Hydrologic Unit Code 17040219) addresses four (4) assessment units on Idaho's 2010 Section 303(d) list that are water quality impaired. DEQ has submitted the Big Wood River Tributaries Temperature 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/big-wood-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 21st day of October, 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

## 58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1301

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Sixty-second Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act programs.

**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:

A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2013, **Vol. 13-8, pages 320 through 333**. DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at [www.deq.idaho.gov/58-0101-1301](http://www.deq.idaho.gov/58-0101-1301) or by contacting the undersigned.

**IDAHO CODE SECTION 39-107D STATEMENT:** This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rulemaking, contact Tiffany Floyd at [tiffany.floyd@deq.idaho.gov](mailto:tiffany.floyd@deq.idaho.gov) or (208) 373-0440.

Dated this 21st day of October, 2013.

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

## IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

### 59.01.06 - RETIREMENT RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0106-1301

#### 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 **December 6, 2011**, 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 59-1314(1) and 72-1405, 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 proposed rule adds new Rule 174. As a qualified governmental plan under the Internal Revenue Code, PERSI is not subject to ERISA but is subject to the pre-ERISA (as of September 1, 1974) vesting requirements (26 IRC Section 411(e)(2)). This rule sets out PERSI's good faith interpretation of those requirements.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013, Idaho Administrative Bulletin, [Vol. 13-9, pages 234 and 235](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 1st day of October, 2013.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
P.O. Box 83720  
Boise, ID 83720-0078  
Phone: 208-287-9230  
Fax: 208-334-3408

# Sections Affected Index

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

### *16.06.12 - Rules Governing the Idaho Child Care Program (ICCP)*

#### Docket No. **16-0612-1302**

105. Eligible Child. ....	35
---------------------------	----

## **IDAPA 35 - IDAHO STATE TAX COMMISSION**

### *35.01.01 - Income Tax Administrative Rules*

#### Docket No. **35-0101-1303**

010. Definitions (Rule 010).....	41
805. Joint Returns (Rule 805). ....	41

### *35.02.01 - Administration and Enforcement Rules*

#### Docket No. **35-0201-1303**

010. Definitions (Rule 010).....	45
----------------------------------	----

## **IDAPA 53 - IDAHO BARLEY COMMISSION**

### *53.01.01 - Rules of the Idaho Barley Commission*

#### Docket No. **53-0101-1301**

000. Legal Authority. ....	50
001. Title And Scope. ....	50
003. Administrative Appeals.....	50
004. Incorporation By Reference. ....	50
005. Office -- Office Hours -- Mailing Address And Street Address -- Website. ....	50
006. Public Records Act Compliance.....	50
007. -- 009. (Reserved).....	50
100. First Purchaser Rules.....	50

# 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.

*Deadline for submission of written comments is November 27, 2013, unless otherwise noted.*

*Deadline for public hearing requests is November 20, 2013, unless otherwise noted.*

*(Temp & Prop) indicates the rule is both Temporary and Proposed.*

*(\*PH) indicates that a public hearing has been scheduled.*

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

**PO Box 83720, Boise, ID 83720-0036**

**16-0612-1302, Rules Governing the Idaho Child Care Program (ICCP).** (Temp & Prop) Currently in joint custody situations when both parents apply for the ICCP benefit, the first parent to apply receives the benefit. This rule change would give the parent with primary custody of child the ICCP benefit when both parents apply.

#### **IDAPA 35 - STATE TAX COMMISSION**

**PO Box 36, Boise, ID 83722-0410**

**35-0101-1303, Income Tax Administrative Rules.** (Temp & Prop) Defines marriage for purposes of computing Idaho taxable income; stipulates that only a married couple, as defined in Section 32-201, Idaho Code, or as recognized by Section 32-209, Idaho Code, or Article III, Section 28 of the Idaho Constitution, may file a joint return.

**35-0201-1303, Administration and Enforcement Rules.** (Temp & Prop) For purposes of any tax imposed or benefit granted under Title 63, Idaho Code, references to marriage in federal or state law are interpreted as referring to a marriage relationship as defined in Section 32-201, Idaho Code, or as recognized by Section 32-209, Idaho Code, or Article III, Section 28 of the Idaho Constitution.

#### **IDAPA 53 - IDAHO BARLEY COMMISSION**

**821 W. State St., Boise, ID 83702**

**53-0101-1301, Rules of the Idaho Barley Commission.** Removes the fixed barley tax rate from rule allowing the rate to be increased as needed up to \$.04 per hundredweight by commission vote; adds required sections.

#### **NOTICE OF PUBLIC HEARING**

**25-0101-1201, Rules of the Outfitters and Guides Licensing Board** (hearing date: 11-13-13)

Please refer to the Idaho Administrative Bulletin, **November 6, 2013, Volume 13-11**, 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 -- November 6, 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.)*

**IDAPA 02 -- DEPARTMENT OF AGRICULTURE****02.02.14, Rules for Weights and Measures**

- 02-0214-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6
- 02-0214-1302** Proposed Rulemaking, Bulletin Vol. 13-7
- 02-0214-1301** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-9
- 02-0214-1302** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)
- 02-0214-1301** Adoption of Pending Fee Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**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
- 02-0303-1301** Proposed Rulemaking, Bulletin Vol. 13-9
- 02-0303-1302** Proposed Rulemaking, Bulletin Vol. 13-9
- 02-0303-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)
- 02-0303-1302** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**02.04.19, Rules Governing Domestic Cervidae**

- 02-0419-1301** Proposed Rulemaking, Bulletin Vol. 13-7
- 02-0419-1301** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)

**02.04.20, Rules Governing Brucellosis**

- 02-0420-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7
- 02-0420-1301** Proposed Rulemaking, Bulletin Vol. 13-9
- 02-0420-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

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

- 02-0421-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6
- 02-0421-1301** Proposed Rulemaking, Bulletin Vol. 13-9
- 02-0421-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**02.04.27, Rules Governing Deleterious Exotic Animals**

- 02-0427-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7 (Rulemaking discontinued)

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

- 02-0602-1301** Proposed Rulemaking, Bulletin Vol. 13-6
- 02-0602-1301** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)

**02.06.09, Rules Governing Invasive Species**

- 02-0609-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6
- 02-0609-1301** Proposed Rulemaking, Bulletin Vol. 13-8
- 02-0609-1301** Public Hearing, Bulletin Vol. 13-10

**02.06.12, Rules Pertaining to the Idaho Fertilizer Law**

- 02-0612-1301** Proposed Rulemaking, Bulletin Vol. 13-6
- 02-0612-1301** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)

**02.06.13, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho**

- 02-0613-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7
- 02-0613-1301** Proposed Rulemaking, Bulletin Vol. 13-9
- 02-0613-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**02.06.22, Noxious Weed Rules**

- 02-0622-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

- 02-0622-1301** Proposed Rulemaking, Bulletin Vol. 13-8
- 02-0622-1301** Adoption of Pending Rule, Bulletin Vol. 13-10 (eff. \*PLR 2014)

**02.06.23, Noxious Weed Free Gravel and Rock Products Rules**

- 02-0623-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6
- 02-0623-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-8
- 02-0623-1301** Adoption of Pending Rule, Bulletin Vol. 13-10 (eff. \*PLR 2014)

**02.06.25, Rules Governing the Planting of Beans, other than Phaseolus Species, in Idaho**

- 02-0625-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 13-7
- 02-0625-1301** Proposed Rulemaking (New Chapter - Fee Rule), Bulletin Vol. 13-10

**02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001**

- 02-0641-1301** Proposed Rulemaking, Bulletin Vol. 13-6
- 02-0641-1301** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)

**IDAPA 05 -- DEPARTMENT OF JUVENILE CORRECTIONS****05.01.02, Rules and Standards for Secure Juvenile Detention Centers**

- 05-0102-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**IDAPA 07 -- DIVISION OF BUILDING SAFETY****07.01.06, Rules Governing the Use of National Electrical Code**

- 07-0106-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-4 (Rulemaking discontinued by agency)
- 07-0106-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5
- 07-0106-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**07.01.10, Rules Governing Certification and Approval of Electrical Products and Materials**

- 07-0110-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**07.03.01, Rules of Building Safety**

- 07-0301-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5
- 07-0301-1301** Proposed Rulemaking, Bulletin Vol. 13-9
- 07-0301-1302** Proposed Rulemaking, Bulletin Vol. 13-9
- 07-0301-1303** Proposed Rulemaking, Bulletin Vol. 13-9
- 07-0301-1304** Proposed Rulemaking, Bulletin Vol. 13-9
- 07-0301-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)
- 07-0301-1302** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)
- 07-0301-1303** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)
- 07-0301-1304** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**07.03.11, Rules Governing Manufactured/Mobile Home Industry Licensing**

- 07-0311-1301** Proposed Rulemaking, Bulletin Vol. 13-9
- 07-0311-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**07.05.01, Rules of the Public Works Contractors License Board**

- 07-0501-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems**

- 07-0701-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5
- 07-0701-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**IDAPA 08 -- IDAHO STATE BOARD OF EDUCATION  
AND STATE DEPARTMENT OF EDUCATION****08.01.05, Idaho Promise Scholarship Program**

- 08-0105-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0105-1301** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-8

**08.01.06, Leveraging Educational Assistance Partnership Program**

- 08-0106-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0106-1301** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-8

**08.01.09, Rules Governing the GEAR UP Idaho Scholarship Program**

- 08-0109-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0109-1301** Proposed Rulemaking, Bulletin Vol. 13-8

**08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools**

- 08-0111-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**08.01.12, Idaho Minority and "At-Risk" Student Scholarship Program**

- 08-0112-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0112-1301** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-8

**08.01.13, Rules Governing the Idaho Opportunity Scholarship Program**

- 08-0113-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0113-1301** Proposed Rulemaking, Bulletin Vol. 13-8

**08.02.01, Rules Governing Administration**

- 08-0201-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-1 (eff. 12-13-12)T  
**08-0201-1301** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 13-5  
**08-0201-1301** Adoption of Pending Rule, Bulletin Vol. 13-6 (eff. \*PLR 2014)  
**08-0201-1302** Proposed Rulemaking, Bulletin Vol. 13-10

**08.02.02, Rules Governing Uniformity**

- 08-0202-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-6 (eff. 4-18-13)T  
**08-0202-1302** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T  
**08-0202-1303** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T  
**08-0202-1304** Proposed Rulemaking, Bulletin Vol. 13-8  
**08-0202-1305** Proposed Rulemaking, Bulletin Vol. 13-8  
**08-0202-1301** Adoption of Pending Rule and Amendment to Temporary Rule, Bulletin Vol. 13-10 (eff. 8-16-13)T - (eff. \*PLR 2014)  
**08-0202-1306** Proposed Rulemaking, Bulletin Vol. 13-10  
**08-0202-1307** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 8-26-13)T  
**08-0202-1308** Proposed Rulemaking, Bulletin Vol. 13-10

**08.02.03, Rules Governing Thoroughness**

- 08-0203-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0203-1302** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T  
**08-0203-1303** Proposed Rulemaking, Bulletin Vol. 13-8  
**08-0203-1304** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-8  
**08-0203-1301** Proposed Rulemaking, Bulletin Vol. 13-10  
**08-0203-1302** Rescission of Temporary Rule and Vacation of Proposed Rulemaking, Bulletin Vol. 13-10  
**08-0203-1305** Temporary Rulemaking, Bulletin Vol. 13-10 (eff. 8-26-13)T  
**08-0203-1306** Proposed Rulemaking, Bulletin Vol. 13-10  
**08-0203-1307** Proposed Rulemaking, Bulletin Vol. 13-10

***08.02.04, Rules Governing Public Charter Schools***

- 08-0204-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0204-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T

***08.03.01, Rules of the Public Charter School Commission***

- 08-0301-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**08-0301-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-20-13)T

***IDAPA 09 -- IDAHO DEPARTMENT OF LABOR******09.01.30, Unemployment Insurance Benefits Administration Rules***

- 09-0130-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**09-0130-1301** Proposed Rulemaking, Bulletin Vol. 13-9  
**09-0130-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

***09.01.35, Unemployment Insurance Tax Administration Rules***

- 09-0135-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7  
**09-0135-1301** Proposed Rulemaking, Bulletin Vol. 13-9  
**09-0135-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

***IDAPA 10 -- IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS******10.01.01, Rules of Procedure***

- 10-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5  
**10-0101-1301** Notice of Proposed Rule, Bulletin Vol. 13-7  
**10-0101-1301** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)

***10.01.02, Rules of Professional Responsibility***

- 10-0102-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5  
**10-0102-1301** Notice of Proposed Rule, Bulletin Vol. 13-7  
**10-0102-1301** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)

***10.01.04, Rules of Continuing Professional Development***

- 10-0104-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5  
**10-0104-1301** Notice of Proposed Rule, Bulletin Vol. 13-7  
**10-0104-1301** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)

***IDAPA 11 -- IDAHO STATE POLICE******11.04.02, Rules Governing Simulcasting***

- 11-0402-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 7-1-13)T

***11.04.11, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances  
and Drug Testing of Horses***

- 11-0411-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 7-1-13)T

***11.10.01, Rules Governing Idaho Public Safety and Security Information System***

- 11-1001-1301** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-10

***11.10.02, Rules Establishing Fees for Services - Idaho Criminal Justice Information System***

**11-1002-1301\*** Proposed Rulemaking, Bulletin Vol. 13-10

\* Rulemaking changes chapter name from: "Rules Establishing Fees for Services - Idaho Criminal Justice Information System"  
to: "Rules Governing State Criminal History Records and Crime Information"

***Peace Officer Standards and Training (POST) Council***

***11.11.01, Rules of the Idaho Peace Officer Standards and Training Council***

**11-1101-1301** Notice of Proposed Rule, Bulletin Vol. 13-9

**11-1101-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

***IDAPA 13 -- IDAHO FISH AND GAME COMMISSION***

***13.01.08, Rules Governing the Taking of Big Game Animals in the State of Idaho***

**13-0108-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**13-0108-1302** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**13-0108-1302** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 8-26-13)T

**13-0108-1303** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 8-26-13)T

***13.01.09, Rules Governing the Taking of Game Birds in the State of Idaho***

**13-0109-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 8-26-13)T

***13.01.11, Rules Governing Fish***

**13-0111-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 8-26-13)T

**13-0111-1302** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 8-26-13)T

***IDAPA 14 -- BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS***

***14.01.01, Rules of Procedure of the Board of Registration for Professional Geologists***

**14-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-10

***IDAPA 15 -- OFFICE OF THE GOVERNOR***

***Executive Orders of the Governor***

Executive Order No. **2013-03** Bulletin Vol. 13-5

Executive Order No. **2013-01** Bulletin Vol. 13-2

Executive Order No. **2013-04** Bulletin Vol. 13-5

Executive Order No. **2013-02** Bulletin Vol. 13-5

***Division of Human Resources and Personnel Commission***

***15.04.01, Rules of the Division of Human Resources and Idaho Personnel Commission***

**15-0401-1301** Temporary Rulemaking, Bulletin Vol. 13-6 (eff. 7-1-13)T

**15-0401-1302** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

**15-0401-1302** Proposed Rulemaking, Bulletin Vol. 13-9

***15.06.03, Public Safety Communications Rules***

**15-0603-1301\*** Proposed Rulemaking, Bulletin Vol. 13-10

\* Rulemaking changes chapter name from: "Public Safety Communications Rules"

to: "Public Safety Communications Systems Installation and Maintenance Fee Rules"

***15.06.04, Rules Governing the Idaho Youth Challenge Program***

**15-0604-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-10

***15.06.05, Hazardous Substance Response Rules***

**15-0605-1300L** Notice of Legislative Action - Previously Codified IDAPA 15.13.02 has been redesignated as IDAPA 15.06.05, "Hazardous Substance Response Rules," Bulletin Vol. 13-10

### ***Emergency Response Commission***

#### ***15.13.01, Rules of the Idaho Emergency Response Commission***

**15-1301-1301** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-10

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

#### ***16.01.01, Emergency Medical Services (EMS) -- Advisory Committee (EMSAC)***

**16-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-8

#### ***16.01.02, Emergency Medical Services (EMS) - Rule Definitions***

**16-0102-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-8

#### ***16.01.03, Emergency Medical Services (EMS) -- Agency Licensing Requirements***

**16-0103-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-8

#### ***16.01.07, Emergency Medical Services (EMS) -- Personnel Licensing Requirements***

**16-0107-1301** Proposed Rulemaking, Bulletin Vol. 13-8

#### ***16.01.12, Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions***

**16-0112-1301** Proposed Rulemaking, Bulletin Vol. 13-8

#### ***16.02.02, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission***

**16-0202-1301** Proposed Rulemaking, Bulletin Vol. 13-7

#### ***16.02.03, Emergency Medical Services***

**16-0203-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-4

**16-0203-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (Second Notice), Bulletin Vol. 13-5

**16-0203-1301** Proposed Rulemaking, Bulletin Vol. 13-8

#### ***16.03.01, Eligibility for Health Care Assistance for Families and Children***

**16-0301-1301** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-10

**16-0301-1302** Proposed Rulemaking (Chapter Rewrite), Bulletin Vol. 13-10

#### ***16.03.04, Rules Governing the Food Stamp Program in Idaho***

**16-0304-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 11-1-13)T

#### ***16.03.05, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)***

**16-0305-1301** Proposed Rulemaking, Bulletin Vol. 13-10

#### ***16.03.06, Refugee Medical Assistance***

**16-0306-1301** Proposed Rulemaking, Bulletin Vol. 13-10

#### ***16.03.09, Medicaid Basic Plan Benefits***

**16-0309-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 9-1-13)T

**16-0309-1302** Proposed Rulemaking, Bulletin Vol. 13-10

**16-0309-1303** Proposed Rulemaking, Bulletin Vol. 13-10

**16-0309-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

#### ***16.03.10, Medicaid Enhanced Plan Benefits***

**16-0310-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 9-1-13)T

**16-0310-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**16.03.15, Rules and Minimum Standards for Semi-Independent Group Residential Facilities  
for the Developmentally Disabled or Mentally Ill**

**16-0315-1301** Proposed Rule (Chapter Repeal), Bulletin Vol. 13-6

**16.04.02, Idaho Telecommunication Service Assistance Program Rules**

**16-0402-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-7 (eff. 9-1-13)T

**16-0402-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**16.05.01, Use and Disclosure of Department Records**

**16-0501-1301** Proposed Rulemaking, Bulletin Vol. 13-9

**16.05.04, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding**

**16-0504-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**16.05.06, Criminal History and Background Checks**

**16-0506-1301** Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-8 (eff. 7-1-13)T

**16-0506-1302** Proposed Rulemaking, Bulletin Vol. 13-9

**16-0506-1303** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-9

**16-0506-1301** Adoption of Pending Fee Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**16.05.07, The Investigation and Enforcement of Fraud, Abuse, and Misconduct**

**16-0507-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**16.06.01, Child and Family Services**

**16-0601-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-6 (eff. 7-1-13)T

**16-0601-1302** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-9

**16-0601-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**16.06.12, Rules Governing the Idaho Child Care Program (ICCP)**

**16-0612-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**16-0612-1302** Temporary and Proposed Rulemaking, Bulletin Vol. 13-11 (eff. 10-1-13)T

**16.07.17, Alcohol and Substance Use Disorders Services**

**16-0717-1301** Proposed Rulemaking, Bulletin Vol. 13-9

**16.07.20, Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs**

**16-0720-1301** Proposed Rulemaking, Bulletin Vol. 13-9

**16.07.30, Behavioral Health Community Crisis Centers**

**16-0730-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-10

**16.07.33, Adult Mental Health Services**

**16-0733-1301** Proposed Rulemaking, Bulletin Vol. 13-9

***IDAPA 17 -- INDUSTRIAL COMMISSION***

**17.02.09, Medical Fees**

**17-0209-1301** Temporary Rulemaking, Bulletin Vol. 13-7 (eff. 7-1-13)T

**17-0209-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**17.02.10, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law --**

*Security for Compensation -- Insurance Carriers*

**17-0210-1301** Proposed Rulemaking, Bulletin Vol. 13-10

*17.02.11, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law --  
Security for Compensation -- Self-Insured Employers*

**17-0211-1301** Proposed Rulemaking, Bulletin Vol. 13-10

***IDAPA 18 -- DEPARTMENT OF INSURANCE***

*18.01.04, Rules Pertaining to Bail Agents*

**18-0104-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**18-0104-1301** Proposed Rulemaking, Bulletin Vol. 13-9

**18-0104-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

*18.01.23, Rules Pertaining to the Idaho Insurance Holding Company System Regulatory Act*

**18-0123-1301\*** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**18-0123-1301\*** Proposed Rulemaking, Bulletin Vol. 13-10

\* Rulemaking changes chapter name from: "Rules Pertaining to the Idaho Insurance Holding Company System Regulatory Act"  
to: "Rules Pertaining to Idaho Acquisitions of Control and Insurance Holding Company Systems"

*18.01.30, Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule*

**18-0130-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

*18.01.50, Adoption of the International Fire Code*

**18-0150-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**18-0150-1301** Proposed Rulemaking, Bulletin Vol. 13-10

***IDAPA 19 -- BOARD OF DENTISTRY***

*19.01.01, Rules of the Idaho State Board of Dentistry*

**19-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**19-0101-1301** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-10

***IDAPA 20 -- DEPARTMENT OF LANDS***

*20.02.01, Rules Pertaining to the Idaho Forest Practices Act*

**20-0201-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

**20-0201-1301** Proposed Rulemaking, Bulletin Vol. 13-9

***IDAPA 21 -- DIVISION OF VETERANS SERVICES***

*21.01.02, Rules Governing Emergency Relief for Veterans*

**21-0102-1301** Proposed Rulemaking, Bulletin Vol. 13-10

*21.01.08, Rules Governing Veterans Recognition Fund Grant Program*

**21-0108-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-10

***IDAPA 22 -- BOARD OF MEDICINE***

**22.01.03, Rules for the Licensure of Physician Assistants****22-0103-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 8-28-13)T**22.01.13, Rules for the Licensure of Dieticians****22-0113-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 8-28-13)T**IDAPA 23 -- BOARD OF NURSING****23.01.01, Rules of the Idaho Board of Nursing****23-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7**23-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-9**23-0101-1302** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 7-1-13)T**23-0101-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)**IDAPA 24 -- BUREAU OF OCCUPATIONAL LICENSES****24.02.01, Rules of the Board of Barber Examiners****24-0201-1301** Proposed Rulemaking, Bulletin Vol. 13-10**24.04.01, Rules of the Idaho Board of Cosmetology****24-0401-1301** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-10**24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals****24-0501-1301** Temporary Rulemaking (Fee Rule), Bulletin Vol. 13-7 (eff. 5-8-13)T**24-0501-1302** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-10**24.06.01, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants***(Moved From IDAPA 22)* (This rule was moved, re-indexed, and renumbered from IDAPA 22.01.09 - Board of Medicine)**24-0601-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-9 (eff. 7-1-13)T**24.07.01, Rules of the Idaho State Board of Landscape Architects****24-0701-1301** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-9**24.08.01, Rules of the State Board of Morticians****24-0801-1301** Proposed Rulemaking, Bulletin Vol. 13-9**24.11.01, Rules of the State Board of Podiatry****24-1101-1301** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-10**24.13.01, Rules Governing the Physical Therapy Licensure Board****24-1301-1301** Proposed Rulemaking, Bulletin Vol. 13-8**24-1301-1302** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-8**24.14.01, Rules of the State Board of Social Work Examiners****24-1401-0301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-9 (eff. 6-19-13)T**24.18.01, Rules of the Real Estate Appraiser Board****24-1801-1301** Proposed Rulemaking, Bulletin Vol. 13-10**24.25.01, Rules of the Idaho Driving Businesses Licensure Board****24-2501-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-7 (eff. 5-3-13)T

**24.26.01, Rules of the Idaho Board of Midwifery**

**24-2601-1301** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-10

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

**25.01.01, Rules of the Outfitters and Guides Licensing Board**

**25-0101-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-10

**25-0101-1201** Notice of Public Hearing and Extension of Written Comment Period, Bulletin Vol. 12-11

**25-0101-1201** Second Notice of Public Hearing/Extension of Comment Period, Bulletin Vol. 12-12

**25-0101-1201** Proposed Rulemaking, Bulletin Vol. 13-10

**25-0101-1201** Notice of Public Hearing, Bulletin Vol. 13-11

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

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

**26-0120-1301** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-10

**26-0120-1302** Proposed Rulemaking (Fee Rule), Bulletin Vol. 13-10

**IDAPA 27 -- BOARD OF PHARMACY**

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

**27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-12

**27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-1

**27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-2

**27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-3

**27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5

**27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7

**27-0101-1207** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-8

**27-0101-1207** Proposed Rulemaking, Bulletin Vol. 13-10

**27-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**27-0101-1302** Proposed Rulemaking, Bulletin Vol. 13-10

**IDAPA 28 -- DEPARTMENT OF COMMERCE**

**28.02.07, Rules Governing the Administration of the IGEM Grant Program**

**28-0207-1301** Temporary Rulemaking (New Chapter), Bulletin Vol. 13-4 (eff. 4-30-13)T

**28-0207-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-10

**28.03.01, Rules of the Idaho Opportunity Fund**

**28-0301-1301** Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 13-9 (eff. 8-1-13)T

**28.03.04, Rules of the Business and Jobs Development Grant Fund**

**28-0304-1301** Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-9 (eff. 8-1-13)T

**IDAPA 31 -- PUBLIC UTILITIES COMMISSION**

**31.01.01, Rules of Procedure of the Idaho Public Utilities Commission**

**31-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-8

**31-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**31.71.03, Railroad Safety and Accident Reporting Rules****31-7103-1301** Proposed Rulemaking, Bulletin Vol. 13-10**IDAPA 33 -- REAL ESTATE COMMISSION****33.01.01, Rules of the Idaho Real Estate Commission****33-0101-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 6-13-13)T**IDAPA 34 -- SECRETARY OF STATE****34.06.01, Rules Governing the Electronic Recording of Real Property****34-0601-1301** Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 13-7 (eff. 5-21-13)T**34-0601-1301** Adoption of Pending Rule, Bulletin Vol. 13-9 (eff. \*PLR 2014)**IDAPA 35 -- STATE TAX COMMISSION****35.01.01, Income Tax Administrative Rules****35-0101-1300L** Legislative Action - Final Rule, Bulletin Vol. 13-5**35-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5**35-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-10**35-0101-1302** Proposed Rulemaking, Bulletin Vol. 13-10**35-0101-1303** Temporary and Proposed Rulemaking, Bulletin Vol. 13-11 (eff. 1-1-13)T**35.01.02, Idaho Sales and Use Tax Administrative Rules****35-0102-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-1 (*Rulemaking Discontinued*)**35-0102-1302** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7**35-0102-1302** Proposed Rulemaking, Bulletin Vol. 13-10**35.01.03, Property Tax Administrative Rules****35-0103-1301** Temporary Rulemaking, Bulletin Vol. 13-5**35-0103-1302** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-9**35-0103-1303** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-9**35-0103-1302** Proposed Rulemaking, Bulletin Vol. 13-10**35.01.05, Motor Fuels Tax Administrative Rules****35-0105-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-5**35-0105-1301** Proposed Rulemaking, Bulletin Vol. 13-9**35-0105-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)**35.01.06, Hotel/Motel Room and Campground Sales Tax Administrative Rules****35-0106-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7**35.01.09, Idaho County Option Kitchen and Table Wine Tax Administrative Rules****35-0109-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7**35-0109-1301** Proposed Rulemaking, Bulletin Vol. 13-10**35.01.10, Idaho Cigarette and Tobacco Products Tax Administrative Rules****35-0110-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-7**35-0110-1301** Proposed Rulemaking, Bulletin Vol. 13-10**35.01.14, Prepaid Wireless E911 Fee Administrative Rules****35-0114-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 13-7

**35-0114-1301** Proposed Rulemaking (New Chapter), Bulletin Vol. 13-10

**35.02.01, Tax Commission Administration and Enforcement Rules**

**35-0201-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**35-0201-1302** Proposed Rulemaking, Bulletin Vol. 13-10

**35-0201-1303** Temporary and Proposed Rulemaking, Bulletin Vol. 13-11 (eff. 1-1-13)T

**IDAPA 39 -- IDAHO TRANSPORTATION DEPARTMENT**

**39.02.60, Rules Governing License Plate Provisions**

**39-0260-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 7-1-13)T

**39.02.71, Rules Governing Drivers License Violation Point Count System**

**39-0271-1301** Proposed Rulemaking, Bulletin Vol. 13-9

**39.03.12, Rules Governing Safety Requirements of Overlegal Permits**

**39-0312-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-9

**39.03.15, Rules Governing Excess Weight Permits for Reducible Loads**

**39-0315-1301\*** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 7-1-13)T

*\*Rulemaking changes chapter name to: "Rules Governing Excess Weight Permits for Reducible Loads"  
from: "Rules Governing Interstate Excess Weight Permits"*

**39.03.22, Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up to  
129,000 Pound Vehicle Combinations**

**39-0322-1301\*** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 7-1-13)T

*\*Rulemaking changes chapter name to: "Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up to  
129,000 Pound Vehicle Combinations" from: "Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations"*

**39-0322-1302** Proposed Rulemaking, Bulletin Vol. 13-8

**39.03.23, Rules Governing Revocation of Overlegal Permits**

**39-0323-1301\*** Temporary and Proposed Rulemaking, Bulletin Vol. 13-8 (eff. 7-1-13)T

*\*Rulemaking changes chapter name to: "Rules Governing Revocation of Overlegal Permits"  
from: "Rules Governing Revocation of Special Permits"*

**39.03.50, Rules Governing Safety Rest Areas**

**39-0350-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**39.04.02, Rules Governing the Marking of Hazards to Air Flight**

**39-0402-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-10 (eff. 7-1-13)T

**39.04.04, Rules Governing Idaho Airport Aid Program**

**39-04041301** Proposed Rulemaking, Bulletin Vol. 13-10

**IDAPA 37 -- DEPARTMENT OF WATER RESOURCES**

**37.03.11, Rules for Conjunctive Management of Surface and Ground Water Resources**

**37-0311-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-2

**37.03.13, The Water Management Rules**

**37-0313-9701** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 97-12

**37-0313-9701** Proposed Rulemaking, Bulletin Vol. 98-10

**37-0313-9701** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (2nd Notice), Bulletin Vol. 00-11

**37.03.14, Transfers**

**37-0314-9801** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 98-5

**37.03.15, Water Management Rules - Eastern Snake Plain Aquifer**

**37-0315-0001** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 00-12

**IDAPA 38 -- IDAHO DEPARTMENT OF ADMINISTRATION****38.04.06, Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities**

**38-0406-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-5 (eff. 4-5-13)T

**38-0406-1301** Adoption of Pending Rule, Bulletin Vol. 13-7 (eff. \*PLR 2014)

**38.04.08, Rules Governing Use of Idaho State Capitol Exterior**

**38-0408-1301** Temporary and Proposed Rulemaking, Bulletin Vol. 13-5 (eff. 4-5-13)T

**38-0408-1301** Adoption of Pending Rule, Bulletin Vol. 13-7 (eff. \*PLR 2014)

**IDAPA 46 -- BOARD OF VETERINARY MEDICAL EXAMINERS****46.01.01, Rules of the State of Idaho Board of Veterinary Medicine**

**46-0101-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-6

**46-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-9

**46-0101-1302** Proposed Rulemaking, Bulletin Vol. 13-9

**46-0101-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**46-0101-1302** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

**IDAPA 52 -- IDAHO STATE LOTTERY COMMISSION****52.01.02, Gaming Rules of the Idaho State Lottery Commission**

**52-0102-1301** Proposed Rulemaking, Bulletin Vol. 13-10

**IDAPA 53 -- IDAHO BARLEY COMMISSION****53.01.01, Rules of the Idaho Barley Commission**

**53-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-11

**IDAPA 57 -- SEXUAL OFFENDER MANAGEMENT BOARD****57.01.01, Rules of the Sexual Offender Management Board**

**57-0101-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-10

**57-0101-1201** Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 13-10 (eff. 11-1-13)T

**57-0101-1202** Temporary and Proposed Rulemaking (Chapter Rewrite - Fee Rule), Bulletin Vol. 13-10 (eff. 11-1-13)T

**IDAPA 58 -- DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58-0000-1301** The Little Salmon River Subbasin TMDL 2013 Addendum (HUC 17060210), Bulletin Vol. 13-4

**58-0000-1302** Blackfoot River Subbasin TMDL 2013 Addendum (HUC 17040207), Bulletin Vol. 13-6

**58-0000-1303** Lower North Fork Clearwater River Subbasin Five Year Review and TMDL Addendum (HUC 17060308), Bulletin Vol. 13-6

- 58-0000-1304** Federal Plan Delegation Request for the Control of Air Emissions from Hospital/Medical/Infectious Waste Incinerators, Bulletin Vol. 13-8
- 58-0000-1305** The Upper (North Fork) Coeur d'Alene River Temperature TMDL Addendum (HUC 17010301), Bulletin Vol. 13-9
- 58-0000-1306** The Mid Snake River/Succor Creek Tributaries Sediment TMDL 2013 Addendum (HUC 17050103), Bulletin Vol. 13-11
- 58-0000-1307** The Lower Payette River TMDL 2013 Addendum (HUC 17050122), Bulletin Vol. 13-11
- 58-0000-1308** The Big Wood River Tributaries Temperature TMDL 2013 Addendum (HUC 17040219), Bulletin Vol. 13-11

***58.01.01, Rules for the Control of Air Pollution in Idaho***

- 58-0101-1301** Proposed Rulemaking, Bulletin Vol. 13-8
- 58-0101-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

***58.01.02, Water Quality Standards***

- 58-0102-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-9
- 58-0102-1301** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 13-8

***IDAPA 59 -- PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)***

***59.01.06, PERSI Retirement Rules***

- 59-0106-1301** Proposed Rulemaking, Bulletin Vol. 13-9
- 59-0106-1301** Adoption of Pending Rule, Bulletin Vol. 13-11 (eff. \*PLR 2014)

# Subject Index

## D

Definitions, IDAPA 35.01.01 41  
Administration & Enforcement  
Rules 41  
Due Date 41  
Employee 41  
Employer 41  
Marriage 41  
Mathematical Error 41  
Sale 41  
Tax Home 41  
Terms 41  
These Rules 41  
Wages 41  
Definitions, IDAPA 35.02.01 45  
Date of Filing or Payment 45  
Marriage 46  
Pay, Paid, Payable or Payment 45  
Return or Tax Return 45  
Tax Commission 45  
These Rules 45

## E

Eligible Child 35  
Child Custody 35  
Child's Age Requirement 35  
Citizenship or Alien Status  
Requirement 35  
Immunizations Requirements 35

## F

First Purchaser Rules 50  
Barley Tax Return (Form Number  
1) 51  
Deduction of Tax on Net Weight of  
Barley 51  
Delivery of Documents to  
Commission (Form Number 2) 51  
Designated Quarters 50  
Late Payment Penalty 51

## J

Joint Returns 41  
Effect of Filing Status Used on  
Federal Returns, Joint Returns 42  
In General 42  
Resident Aliens or United States  
Citizens Married to Nonresident  
Aliens 42