

# 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.

*The written comment submission deadline is October 26, 2011, unless otherwise listed.  
(Temp & Prop) indicates the rule is both Temporary and Proposed.  
(\*PH) indicates that a public hearing has been scheduled.*

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

**02-0104-1101, Rules Governing the Idaho Preferred® Promotion Program.** Creates product definition and qualification criteria for lumber and further processed forest products.

**02-0409-1101, Rules Governing Milk and Cream Procurement and Testing.** Establishes specific parameters and protocols for milk component testing.

**02-0418-1101, Rules Governing the CAFO Site Advisory Team.** Updates incorporation by reference materials; adds new county CAFO definitions; establishes application fees for the CAFO Site Advisory Team; eliminates references to animal units; provides consistency in definitions with other rules.

**02-0426-1101, Rules Governing Livestock Marketing.** Provides that an annual market charter fee of \$100 with a renewal form prescribed by the department be submitted on or before May 1 of each year.

**02-0430-1101, Rules Governing Nutrient Management.** Defines poultry concentrated animal feeding operations; incorporates by reference the June 2007 Idaho Natural Resources Conservation Service Conservation Practice Standard, Nutrient Management Code 590 issued by the USDA.

**02-0432-1101, Rules Governing Poultry Operations.** Implements the Poultry Environmental Act, Title 25, Chapter 40, Idaho Code.

**02-0602-1101, Rules Pertaining to the Idaho Commercial Feed Law.** Incorporates by reference the 2012 AAFCO Official Publication.

**02-0612-1101, Rules Pertaining to the Idaho Fertilizer Law.** Incorporates by reference the 2012 AAPFCO Official Publication and the "2005 Official Methods of Analysis of the AOAC," 18th Edition; and changes the Enforcement Guidelines to Civil Penalties for consistency.

**02-0620-1101, Rules Governing Grape Planting Stock.** Clarifies and updates requirements for shipping grapevines into Idaho for planting.

**02-0630-1101, Rules Under the Idaho Bee Inspection Law.** Changes citations to Idaho Code; adds required sections; shifts inspection emphasis to certain diseases.

**02-0641-1101, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001.** Incorporates by reference the 2012 Official Publication of the AAPFCO and the 2005 Official Methods of Analysis of the AOAC, 18th Edition;

removes the sub-section regarding PAM products; amends labeling requirements to include Guaranteed Analysis and directions for use.

**IDAPA 03 - STATE ATHLETIC COMMISSION**  
**700 W. State St., Boise, ID 83720-0063**

**03-0101-1101, Rules of the State Athletic Commission.** Increases the application and renewal fees for a promoter, combatants and non-combatants, a matchmaker, and a ring official and application fee for a sanction permit.

**IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS**  
**954 W. Jefferson St., Boise ID 83702-0285**

**05-0102-1101, Rules and Standards for Secure Juvenile Detention Centers.** Changes reflect current practices, clarifies language, and addresses the Prison Rape Elimination Act.

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**P.O. Box 83720, Meridian, ID 83542**

**07-0103-1101, Rules of Electrical Licensing and Registration - General.** Allows an initial renewal of an apprentice registration if applicant completes 2 years of approved schooling and 4,000 hours of work experience toward a journeyman license; limits renewals of apprentice registrations to one without a Board recommendation; requires the Division and Board to consider any extenuating circumstances that may prevent an applicant from completing the schooling and work requirements.

**07.01.04 - Rules Governing Electrical Specialty Licensing**

**07-0104-1101,** Allows an initial renewal of a specialty electrical trainee registration if applicant completes one year (2,000 hours) of work experience toward a specialty journeyman license; limits renewals of specialty trainee registrations to one without a Board recommendation; requires the Division and Board to consider any extenuating circumstances which may prevent an applicant from completing the schooling and work requirements.

**07-0104-1102,** Establishes an electrical specialty license category for the installation, maintenance, and repair of photovoltaic electrical DC systems and micro-inverter/AC systems to include all electrical equipment, wires, and accessories.

**07-0105-1101, Rules Governing Examinations.** Eliminates the 30-day waiting period after a first or second failed journeyman examination attempt.

**07-0106-1101, Rules Governing the Use of National Electrical Code.** Adopts the 2011 edition of the National Electric Code and eliminates the amendment to the NEC that requires use of arc fault circuit interrupter breakers in bedrooms.

**07-0107-1101, Rules Governing Continuing Education Requirements.** Adds a fee to cover cost of reviewing continuing education provider applications.

**07.02.05 - Rules Governing Plumbing Safety Licensing**

**07-0205-1101,** Establishes requirements for continuing education courses of instruction, the Division's procedures for approval of programs and providers, the fees associated with applications for approval, and requirements for credit.

**07-0205-1102,** Requires anyone who has previously been licensed in any jurisdiction as a journeyman or master plumber to disclose such licensure history upon application to prevent any such individual from obtaining an apprentice registration.

**07-0205-1103,** Allows an apprentice to take the written portion of the journeyman exam upon completion of a 4-year board approved course of instruction without achieving the required 8,000 hours of work experience, however, no journeyman license would be issued, despite successful completion of the written exam, until the apprentice achieves 8,000 hours of work experience and then successfully completes the practical portion of the journeyman exam.

**07-0207-1101, Rules Governing Civil Penalties.** Establishes a civil penalty for applicants who fail to disclose the required information on any Division plumbing application, including their licensure history and any previously held licenses.

**07-0402-1101, Safety Rules For Elevators, Escalators, and Moving Walks.** Incorporates by reference the 2010 edition of the Safety Code for Elevators and Escalators, with several amendments and other more specific installation standards; requires an accredited Elevator/Escalator certification organization (AECO) approval in accordance with ANSI standard A17.7 in any request for alternate technology or construction from the Division.

**07-0501-1101, Rules of the Public Works Contractors License Board.** Adds a fee for requesting an application filing extension for a public works contractor license; adds a provision and fee for service for expediting a public works contractor license application.

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

**07-0701-1101,** Clarifies that HVAC contractors and specialty contractors must obtain a compliance bond in lieu of a performance bond, and that the bond must be effective for the entire duration of the 3-year licensing period; eliminates the need for different colored inspection tags and clarifies that unacceptable HVAC installations will receive a 'Notice of Correction' tag.

**07-0701-1102,** Eliminates the requirements related to the location and protection of the gas piping, regulators, and meters that are the responsibility of the utility company.

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

**P.O. Box 83720, Boise, ID 83720-0037**

**08-0104-1101, Residency Classification.** Change allows Board to determine which institution makes the certification of determination of residency for the special graduate and professional programs based on the program.

**08-0109-1101, Rules Governing the GEAR UP Idaho Scholarship Program.** New chapter establishes eligibility requirements and the application process for students who have participated in the GEARUP Idaho program.

**08-0111-1102, Registration of Post-Secondary Educational Institutions and Proprietary Schools.** Adds new enforcement and student complaint processes required by both Idaho and federal law; clarifies the registration requirement for start-up entities; more clearly defines "Idaho presence"; clarifies approval standards for proprietary schools; eliminates language that allowed for an approval process for postsecondary institutions that were not accredited and clarifies that all postsecondary institutions must be accredited by a national accreditation organization.

**08-0114-1101, Idaho Rural Physician Incentive Program.** (Temp & Prop) Allows for the incentive program award to be made directly to the physician, rather than the lender, for qualified education debt; further clarifies definition of a health professional shortage area.

**\*08-0201-1101, Rules Governing Administration.** (\*PH) Requires district negotiations with personnel to be conducted in open session in accordance with Idaho's open meeting law and prohibits the inclusion of any other items in a negotiated agreement; limits collective bargaining to compensation and benefits and clarifies definitions of both.

**08.02.02 - Rules Governing Uniformity**

**\*08-0202-1102,** (\*PH) Northwest Association of Accredited Schools has changed its name to the Northwest Accreditation Commission.

**\*08-0202-1103,** (\*PH) Requires an endorsement for the Exceptional Child Certificate; clarifies that the ENL endorsement language to mean modern foreign language; amends the school psychologist endorsement provision to accept national certification requirements for certification in Idaho.

**\*08-0202-1104,** (\*PH) Allows for a three-year interim certificate to be issued to any Idaho-trained educator whose certificate has expired.

**\*08-0202-1105,** (\*PH) Amends language to allow the accreditation process to remain focused on a single set of nationally recognized standards, yet retain necessary state control.

**\*08-0202-1106,** (\*PH) Clarifies the new parent input and growth in student achievement requirements; makes the domains and components of the teacher evaluation framework more consistent with Charlotte Danielson's Framework for Teaching Second Edition.

**08.02.03 - Rules Governing Thoroughness**

**08-0203-1102,** Clarifies definition of "online course"; requires 2 credits of "online learning" for graduation and identifies an alternate measure for students who may not be successful in an online learning environment.

**\*08-0203-1103, (\*PH)** Removes references to the Direct Writing Assessment (DWA) and Direct Math Assessment (DMA) tests.

**\*08-0203-1104, (\*PH)** (Temp & Prop) Changes two aspects of high school graduation requirements: dual credit as it pertains to the senior project and college entrance exams.

#### **IDAPA 11 - IDAHO STATE POLICE**

**700 S. Stratford Dr., Meridian, ID 83642-6202**

**11-1002-1101, Rules Establishing Fees for Services - Idaho Criminal Justice Information System.** Increases fees for processing background checks or rolling fingerprints to cover costs of these services.

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

**11-1101-1101,** Defines the terms “direction” and “supervision” as it relates to reserve officers; establishes that the Basic Misdemeanor Probation Academy may operate as a closed campus if POST has dorm space available; clarifies that a student must attend all basic academy classes to successfully complete the course; establishes criteria for obtaining credit toward higher certifications for officers who formerly served as military law enforcement officers; removes requirement that communications specialists meet minimum employment standards for age and traffic record; removes obsolete references to the Advanced Dispatch Academy; clarifies language regarding canine team training and certification requirements; and updates explosive substances list used for detection canine team certification.

**11-1101-1102,** Requires POST Division Administrator to report decertification proceedings to the Council on a regular basis; identifies conduct that may constitute cause for decertification; requires an officer charged with a felony or misdemeanor to notify his agency head within 5 business days and requires an agency head to notify POST within 14 days of learning of the charge; allows an agency head intending to hire a decertified officer to petition the Council for reconsideration for law enforcement officer employment 10 years after the date the officer was decertified; establishes the due process procedures.

**11-1101-1103,** Removes provision that allowed the POST Council to grant a waiver for a felony conviction if the crime has, by statute, been reduced to a misdemeanor or decriminalized.

**11-1102-1101, Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers.** Allows a POST-certified detention officer who does not change employers but simply takes on juvenile detention responsibilities to qualify for juvenile detention certification without having to meet the minimum hearing and vision standards again.

**11-1106-1101, Rules of the Idaho Peace Officer Standards and Training Council for Misdemeanor Probation Officers.** Allows POST to certify Misdemeanor Probation Officers employed by a private contractor.

#### **IDAPA 12 - DEPARTMENT OF FINANCE**

**800 Park Blvd., Suite 200, Boise, ID 83712**

**12-0110-1101, Rules Pursuant to the Idaho Residential Mortgage Practices Act.** Updates references to federal laws and regulations to “January 1, 2011” and clarifies that use of the Nationwide Mortgage Licensing System and Registry by Idaho mortgage brokers/lenders/originators for license issuance and maintenance is required.

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

**P.O. Box 25, Boise, ID 83707**

**13-0102-1101, Rules Governing Public Safety.** (Temp & Prop) Provides for an exemption from the live fire requirement of hunter education certification for persons with military and peace officer training.

##### **13.01.04 - Rules Governing Licensing**

**13-0104-1101,** (Temp & Prop) Allows nonresident disabled veterans to receive reduced fees for certain licenses and tags for specific hunts; provides specific rules for bighorn sheep auction and lottery tags to accommodate proxy bidders but prevent tag resale; and sets nonresident tag and outfitter set-aside quotas.

**13-0104-1102,** Provides consistency in tag allocation for the Landowner Appreciation Program and provides incentives for landowners in certain units who provide benefits for wildlife, wildlife habitat, or sportsmen.

**13-0105-1101, Rules Governing Fishing Contests.** Clarifies and simplifies the definition of “fishing contest”.

**13-0106-1101, Rules Governing Classification and Protection of Wildlife.** Changes classification name for Leatherside chub and Bluehead sucker to comply with recent research.

**13-0108-1101, Rules Governing the Taking of Big Game Animals in the State of Idaho.** (Temp & Prop) Deletes references to a wolf trapping permit; allows wolf trapping near naturally deceased big game carcasses; and clarifies and adjusts certain Big Game Management Unit descriptions.

**13-0109-1101, Rules Governing the Taking of Game Birds in the State of Idaho.** (Temp & Prop) Amends the Youth Waterfowl Day to correspond to the federal age qualification; removes obsolete references to seasons, bag limits, and possession limits which are set by Commission Proclamation.

**13-0110-1101, Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife.** Allows increased salvage of commercially valuable wildlife.

**13-0111-1101, Rules Governing Fish.** (Temp & Prop) Amends and simplifies certain definitions; specifies the conditions by which legally-harvested hatchery steelhead and salmon may be transported without tails and heads attached; prohibits marking and releasing fish without a collecting permit; allows use of a gaff hook when harvesting nongame fish taken with archery equipment.

**13-0112-1101, Rules Governing Commercial Fishing.** Removes mountain sucker from the list of fish species that may be commercially harvested.

**13-0116-1101, Rules Governing the Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals.** (Temp & Prop) Adjusts setting of trapping closures near campgrounds and picnic areas; provides detail specifications on trap break-away devices; specifies allowable jaw size for foothold traps in ground sets; and sets wolf trap equipment specifications.

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

### **15.02 - COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**

**P.O. Box 83720, Boise, ID 83720-0012**

**15-0202-1101, Vocational Rehabilitation Services.** Adds a policy outlining Information and Referral; changes the application for VR services to indicate all ways that a client is considered to have applied; removes the policy citing financial participation for clients that received SSA benefits in compliance with federal regulations; changes the VR payment policy related to maintenance; adds a policy that defines what the information and referral process is for ICBVI's VR program.

### **15.04 - DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**P.O. Box 83720, Boise, ID 83720-0066**

**15-0401-1101, Rules of the Division of Human Resources and Idaho Personnel Commission.** (Temp & Prop) Expands veterans' preference for disabled veterans to require an interview when a disabled veteran's name appears in the top 25 of a hiring list; clarifies that temporary service would apply towards entrance probation and acting appointment service would apply towards promotional probation.

### **15.10 - IDAHO STATE LIQUOR DIVISION**

**P.O. Box 179001, Boise, ID 83717-9001**

**15-1001-1101, Rules of the Idaho State Liquor Division.** Aligns rules to long-standing agency business practices and procedures by amending definitions to more accurately reflect terminology used in ISLD day-to-day operations; clarifies ambiguous language and eliminates unnecessary terms.

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

**P.O. Box 83720, Boise, ID 83720-0036**

**16-0301-1101, Eligibility for Health Care Assistance for Families and Children.** Aligns rule with other Department

eligibility assistance program rules regarding business processes by adding a self-employment standard deduction for allowable expenses and excluding veterans' educational payments.

**16-0304-1101, Rules Governing the Food Stamp Program in Idaho.** Changes allow households to conduct business with the Department electronically and allows Department to e-mail notices to participants; streamlines the process for determining student eligibility and recertification for simplified reporting households; adds a Job Search Assistance Program exemption for women in their third trimester of pregnancy; refines the definition of prohibited participation; ensures Idaho's compliance with federal food stamp regulations.

**16-0305-1102, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD).** Aligns rule with other Department eligibility assistance program rules regarding business processes to improve the outcomes for individuals in need of assistance by adding a self-employment standard deduction for allowable expenses and excluding veterans' educational payments.

**16-0308-1101, Rules Governing the Temporary Assistance for Families in Idaho (TAFI) Program.** Standardizes household composition, income, resources and application time frames; allows Department to collect in all situations involving TAFI overpayments; clarifies how actions impact TAFI time limits for eligible recipients.

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

**\*16-0309-1105, (Temp & Prop) (\*PH)** Requires mental health agency providers to meet national accreditation standards per HB 260 (2011).

**\*16-0309-1106, (\*PH)** Provides for the administration of and establishes policies needed to pay for Certified Professional Midwife Services.

**\*16-0309-1107, (\*PH)** Limits benefits to eligible participants of the medical assistance program for physical therapy, speech therapy, and occupational therapy services to meet the Medicare caps.

**16-0309-1108,** Clarifies Medicaid's reimbursement policies to providers for non-Medicare coordination of benefits when a third party payor (insurance company) reimburses a provider for services, or when the Department determines that a third party liability exists.

**\*16-0318-1101, Medicaid Cost-Sharing.** (Temp & Prop) (\*PH) Establishes enforceable cost sharing in the form of copayments and provides language regarding when copayments can be charged for participants for chiropractic, podiatry, optometry, physical therapy, occupational therapy, speech therapy, physician office visits, and outpatient hospital services.

**16-0414-1101, Rules Governing Low Income Home Energy Assistance Program.** Aligns income eligibility with the Food Stamp and SSI eligibility requirements that are 150% of the Federal Poverty Guidelines.

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

**P.O. Box 83720, Boise, ID 83720-0041**

**17-0209-1102, Medical Fees.** Provides the annual adjustment of the medical fee schedule for physician reimbursement and removes reference to individual status codes.

**\*17-0211-1101, Rules Governing Security For Compensation - Self-Insured Employers.** (\*PH) Adds to the requirements for public and private employers applying for approval to become self-insured; expands on the acceptable forms of security; adds provisions to better ensure that security deposits are sufficient to cover the employer's liabilities and provides credit for excess insurance policies; changes the reporting requirements and forms to capture the outstanding liabilities of a self-insured employer for workers' compensation which helps in determining their security deposit requirements and ensures injured workers are adequately covered.

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

**PO Box 83720, Boise, ID 83720-0063**

**18-0146-1101, Recognition of New Mortality Tables for Use in Determining the Minimum Standard of Valuation for Annuities and Pure Endowment Contracts.** Adds two new permitted mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts by life and annuity insurance companies operating in Idaho.

**18-0150-1101, Adoption of the International Fire Code.** Prevents the adopted fire code from interfering with a governmental entity's ability to establish conditions of employment; restores an exemption for the placement of fire extinguishers for certain types of building uses; clarifies when fire sprinklers are required in a building selling upholstered furniture.

**IDAPA 19 - IDAHO STATE BOARD OF DENTISTRY**

**350 N. 9th St. Ste M-100, Boise, ID 83702**

**\*19-0101-1102, Rules of the State Board of Dentistry.** (\*PH) Allows qualified dentists to administer moderate enteral sedation to patients who are 16 years of age and older and 100 pounds and over.

**IDAPA 20 - DEPARTMENT OF LANDS**

**300 N 6th Street, Suite 103, Boise, ID 83720**

**20-0315-1102, Rules Governing the Issuance of Geothermal Leases.** Clarifies definitions; most leases would be initially offered at auction instead of on a first-come basis; extends lease term up to 49 years; requires timely exploration and development of lease or it may be cancelled; clarifies exploration and development requirements; geothermal rents and royalties would be determined through bidding or set by the board according to market rates; size of a lease is not restricted and will be determined by the Land Board; requires reinjection of surplus geothermal water to recharge the geothermal aquifer; limits to one year the confidentiality of well logs; bond amounts are to be determined based on the costs of reclamation; increases application fees.

**20-0702-1102, Rules Governing Oil and Gas Conservation in the State of Idaho.** Clarifies definitions; expands well drilling permit requirements to ensure department's ability to properly review them; adds public comment period on applications; adds application, operating, and reporting requirements for well treatments, including hydraulic fracturing; increases bond amounts and adds additional bonding requirements; provides basic surface owner protections and expands geophysical exploration requirements; modifies well drilling and plugging rules and adds periodic testing of well integrity to better prevent waste and protect fresh waters; adds comprehensive pit requirements and surface reclamation standards; clarifies well completion and well log reporting; defines active and inactive wells to reduce the potential liability of abandoned wells; Class II injection wells are no longer permitted under this rule; adds basic emergency response requirements to address public safety and fire issues; upgrades or adds to rules addressing wellhead equipment, tools with radioactive material, the pulling of casing, gas-oil ratios, and multiple zone completions to prevent waste, protect correlative rights, and protect fresh water supplies; clarifies the responsibilities of the department and the Oil and Gas Conservation Commission; incorporates industry standards by reference.

**IDAPA 21 - DIVISION OF VETERANS SERVICES**

**P.O. Box 83720, Boise, ID 83720-0092**

**\*21-0107-1101, Rules for Education and Training Programs for Veterans.** (\*PH) New chapter transfers and revises the rules governing the Division of Veterans Services' administration of federal requirements for Veterans Education Programs.

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

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

**24-0101-1101, Rules of the Board of Architectural Examiners.** Updates the incorporation by reference of the NCARB Handbook for Interns and Architects and the Rules of Conduct to the latest editions; effective January 1, 2014, the continuing education requirements change and the number of required hours increases to 12.

**24-0501-1101, Rules of the Board of Drinking Water and Wastewater Professionals.** Clarifies and updates the rules to align them with current national standards; streamlines process to reduce the length of time it takes to reach various license classes.

**24-1101-1101, Rules of the State Board of Podiatry.** Increases the annual renewal fee to \$500.

**24-1301-1101, Rules of the Physical Therapy Licensure Board.** Amends the continuing education requirements to allow for additional credit and courses that may be pre-approved.

**24-1401-1101, Rules of the State Board of Social Work Examiners.** Clarifies accreditation requirements for approved colleges and universities and clarifies an approved social work program to bring training in line with national standards.

**24-1501-1101, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists.** Amendments update rule to current standards, provide clarification, and simplify licensure by endorsement.

**24-1701-1101, Rules of the State Board of Acupuncture.** (Temp & Prop) Complies with HB 46 (2011) by replacing the technician certificate with the acupuncture trainee permit.

**24-1801-1101, Rules of the Real Estate Appraiser Board.** Updates incorporation by reference of the Uniform Standards of Professional Appraisal Practice; clarifies definitions; establishes the CE provider fee and increases license fees; updates the application section; clarifies licensure qualifications; clarifies and amends the registered trainee section; clarifies the requirements for certified residential appraisers and the qualifications for certified general appraisers; amends the continuing education section to allow CE in a 2-year cycle; amends the temporary practice to require applicants to be listed on the National Registry as proof of licensure.

**IDAPA 27 - IDAHO STATE BOARD OF PHARMACY  
P.O. Box 83720, Boise, ID 83720-0067**

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

**27-0101-1101,** Chapter repeal.

**27-0101-1102,** Chapter rewrite reorganizes the Board's rules, provides a more comprehensive list of definitions and fee schedules, and provides new rules affecting the practice of pharmacy and controlled substance registrants not previously addressed, including the provisions of a waiver or variance to rule, mandated electronic record keeping systems, automated dispensing and storage systems, sterile product preparation, pharmacy closing procedures, and drug manufacturer rules; expands existing rule that address limited service pharmacy, remote dispensing site registration, unprofessional conduct, student pharmacist practice standards, and institutional pharmacy practice standards; amends provisions for parental admixture pharmacy, registration and licensure, records retention, labeling, technicians, controlled substance inventory, pharmacy security, durable medical equipment outlets, and veterinary drug orders; reduces provisions for therapeutic equivalents, pharmacy minimum standards, space and fixtures, home health care nursing, and pharmacy advertising; eliminates redundant rules including student pharmacist experience hours, preceptor site registration, poison control, and many paper reports.

**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION  
P.O. Box 83720, Boise, ID 83720-0074**

**31-1101-1101, Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission.** Update four safety rules by adopting the 2012 edition of the NESC, the 2012 edition of the IMC, and the 2012 edition of the IFGC, and the October 1, 2011 edition of the pipeline safety CFRs and 18 C.F.R. Part 260.9.

**31-7103-1101, Railroad Safety and Accident Reporting Rules.** Adopts by reference the 2011 edition of the CFR pertaining to the transportation of hazardous materials by railroads issued by the federal Pipeline and Hazardous Material Safety Administration.

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

**35-0101-1102, Income Tax Administrative Rules.** Addresses the effective date, closed years or issues, and transactions before an effective date of the rules in this chapter; conforms to changes to the Servicemembers Civil Relief Act; amends rule so exemption for income earned on an Indian reservation matches the federal law; adjusts the tax brackets for 2011; removes information related to the standard deduction for tax year 1999; clarifies that real property must be held 12 months to qualify as required by law; addresses when interest and dividend income is received by a part-year resident; addresses the sourcing of guaranteed payments and distributions in excess of basis that a nonresident individual partner would report to Idaho; changes when a nonresident is ineligible to elect to have



a pass-through entity pay his tax on such income; addresses the amount of a suspended passive activity loss a part-year resident is allowed to deduct on their Idaho return; provides more information on what constitutes an Idaho work day; clarifies what qualifies as investment income for nonresidents; addresses how the receipts from stock sales in another corporation will be sourced for purposes of the sales factor numerator when it represents the sale of operational assets of a business; corrects the types of contributions that qualify for the credit; addresses how the investment tax credit may be shared in the year a corporation with ITC is acquired; revises the income tax credit allowed for qualifying new employees; modifies the base on which backup withholding is computed from actual distributions to distributive or pro rata income; provides individuals with additional time to receive a refund of withholding if they receive a filing extension.

**35-0102-1101, Sales Tax Administrative Rules.** Exempts all gratuities, whether voluntary or mandatory, if the gratuity is given for services provided as a supplement to the income of the service provider; exempts the use of motor vehicles by nonresident college students in the state of Idaho; clarifies where in rule the Red Cross's sales and use tax responsibility should be addressed; establishes that the state of Idaho cannot require the federal government or its instrumentalities to collect sales tax on any sales and that the Red Cross is an instrumentality of the federal government for purposes of sales and use tax; addresses the altered appearance of the diplomatic exemption card system; exempts the use of motor vehicles by nonresident college students in Idaho; exempts all purchases made by temporarily assigned military personnel more than 90 days prior to moving to Idaho; amends definition of a nonresident company to say that it is not required to be registered with the Idaho Secretary of State; changes the definition of 'currency operated amusement devices' to included credit and debit card machines, changes requirement from a specific location on the device to any easily visible place on the device, and requires another permit to be affixed to a device in the event of a lost, stolen, or destroyed permit.

**35-0105-1101, Idaho Motor Fuels Tax Administrative Rules.** Amends a provision to provide the Tax Commission greater flexibility when determining whether a fuel distributor's bond exemption should be terminated because the fuel distributor is no longer financially responsible.

**35-0107-1101, Kilowatt Hour Tax Administrative Rules.** Makes the change from monthly to quarterly filing of the kilowatt hour tax return discretionary, subject to Tax Commission approval.

**35-0108-1101, Mine License Tax Administrative Rules.** Includes additional examples of what constitutes a valuable mineral typically found in Idaho that is subject to the mine license tax.

**35-0201-1101, Tax Commission Administration and Enforcement Rules.** Adds the interest rate and applicable Revenue Ruling for calendar year 2012 to the table that identifies this information by year; provides an exchange of information agreement between the Tax Commission and the State Treasurer; adds the applicable code section to the title of the rule and the information that may be exchanged with the State Treasurer's office in the applicable subsection.

#### IDAPA 37 - DEPARTMENT OF WATER RESOURCES

PO Box 83720, Boise, ID 83720-0098

**\*37-0302-1101, Beneficial Use Examination Rules.** (\*PH) Clarifies that examinations for some water rights may be conducted without an "on-site" inspection; clarifies when the examiner must report an annual diversion volume and how annual diversion volumes are determined; requires submission of an aerial photograph with all field reports; removes the water measurement exemption for diversion systems where IDWR did not require the permit holder to install a measuring device or access port; clarifies that IDWR employees are not CWREs, but they may be authorized by the Director to conduct beneficial use examinations; conforms descriptions of large tracts of irrigated land to Idaho Code; establishes that irrigated acreage will be reported to the tenth of an acre for parcels of land covering less than 10 acres.

#### IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

PO Box 7129, Boise ID 83707-1129

**39-0276-1101, Rules Governing Driver's License Renewal-By-Mail Process.** Documents procedural changes to match current practice; sets limitations on electronic or mail renewals for those who may or may not have a lawful presence in the US; adds provisions for "electronic renewal" that is part of the current DMV modernization plan.

**IDAPA 46 - BOARD OF VETERINARY MEDICINE  
PO Box 7249, Boise, ID 83707**

***46.01.01 - Rules of the State of Idaho Board of Veterinary Medicine***

**\*46-0101-1101, (\*PH)** Deletes requirement for the Board to determine candidate eligibility to take the national exam; veterinary technician applicants who withdraw their applications will not receive fee refunds; clarifies requirements when revisions to both paper and electronic patient records are made; deletes requirement for a written release from the owner prior to transfers of patient medical information.

**\*46-0101-1102, (\*PH)** Increases most, but not all, of the initial application, renewal, and reinstatement licensing and certification fees for veterinarians, veterinary technicians, euthanasia agencies, and euthanasia technicians.

**NOTICE OF ADOPTION OF TEMPORARY RULE ONLY**

***State Board of Education***

**08-0111-1101**, Registration of Post-Secondary Educational Institutions and Proprietary Schools

***Idaho Fish and Game Commission***

**13-0104-1103**, Rules Governing Licensing

**NOTICE OF PROCLAMATION OF RULEMAKING**

***State Board of Correction***

**06-0101-1101**, Rules of the Idaho State Board of Correction (effective date 11/4/11)

***Idaho Fish and Game Commission***

**13-0108-1102P and 13-0108-1103P**, Rules Governing the Taking of Big Game Animals in the State of Idaho

**13-0109-1102P and 13-0109-1103P**, Rules Governing the Taking of Game Birds in the State of Idaho

**13-0111-1102P**, Rules Governing Fish

**NOTICE OF SCHEDULED NEGOTIATED RULEMAKING MEETINGS**

Department of Environmental Quality

**58-0108-1101**, Idaho Rules For Public Drinking Water Systems

Please refer to the Idaho Administrative Bulletin, **October 5, 2011, Volume 11-10**, for notices and text of all rulemakings, public hearings and negotiated meeting schedules, Governor's executive orders, and agency contact information.

***Issues of the Idaho Administrative Bulletin can be viewed at [adminrules.idaho.gov](http://adminrules.idaho.gov).***

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