

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the latest publication of the state Administrative Bulletin.

*The written comment submission deadline is October 22, 2014 unless otherwise noted.
Public hearing request deadline is October 15, 2014 unless otherwise noted.
(Temp & Prop) indicates the rule is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 01 - BOARD OF ACCOUNTANCY PO Box 83720, Boise, ID 83720-0002

01.01.01 - Idaho Accountancy Rules

01-0101-1401, Provides for a new license renewal extension deadline date of April 30th each year.

01-0101-1402, Only firms performing any of the services set out in Rule 602 must register annually with the Board.

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

02-0605-1401, Rules Governing Diseases of Hops (Humulus Lupulus). (Temp & Prop) Changes hop quarantine area to allow free movement of hops green matter among Idaho, Washington, and Oregon and requires a negative test and Clean Plant Health Network certification prior to shipment into Idaho if imported from outside the three-state area.

02-0627-1402, Rules Governing Bacterial Ring Rot of Potatoes. Requires testing for BRR to prevent the introduction and spread of BRR into Idaho and the United States and to ensure that certified seed potatoes and table stock exported from Idaho are free from the disease.

IDAPA 07 - DIVISION OF BUILDING SAFETY PO Box 83720, Meridian, ID 83542

07-0103-1401, Electrical Licensing and Registration - General. Requires anyone who has previously been licensed in any jurisdiction as a journeyman or master electrician to disclose such licensure history to the Division upon application and prevents any such individual from obtaining an apprentice registration.

07-0107-1401, Continuing Education Requirements. Allows for an additional category of instruction in the area of electrical code-related training to qualify toward the continuing education credits that a journeyman and master electrician must obtain in each licensing period.

07-0111-1401, Rules Governing Civil Penalties. Establishes a civil penalty for applicants who fail to disclose the required information on any Division electrical license application, specifically to include their licensure history and any licenses previously held in any state or jurisdiction; clarifies that the required CEU hours must be completed in each 3-year licensing period.

07-0204-1401, Rules Governing Plumbing Safety Inspections. Incorporates by reference the 7th Edition of the Cross Connection Control Manual published in 2012 by the American Water Works Association replacing 1995 6th Edition.

07-0205-1401, Rules Governing Plumbing Safety Licensing. Clarifies schooling and work experience requirements for all in-state and out-of-state applicants to obtain a journeyman license or certificate of competency or plumbing contractor license.

07-0206-1401, Rules Concerning Idaho State Plumbing Code. Allows certain materials to be used for potable water distribution piping and building sewers and eliminates several provisions of the code which can unnecessarily cost contractors and property owners additional expense.

07.03.01 - Rules of Building Safety

07-0301-1401, Reinstates an exemption for building permits for fences under 7 feet in height; amends table for residential exterior wall fire resistance ratings and fire separation distances; amends a provision requiring residential mechanical ventilation for air exchange in a dwelling and creates an exception where the air infiltration is already greater than required.

07-0301-1402, (Temp & Prop) Allows owner-occupied lodging house occupancies (bed and breakfast) with 5 or fewer guestrooms to be constructed or remodeled in accordance with the residential code instead of the commercial building code, and allows them to be operated without the installation of fire sprinklers.

IDAPA 08 - STATE BOARD OF EDUCATION / DEPARTMENT OF EDUCATION

PO Box 83720, Boise, ID 83720-0037

08-0111-1401, Registration of Post-Secondary Educational Institutions and Proprietary Schools. Amends definition of what constitutes having an "Idaho presence"; allows Board to use financial instruments other than an institution's audited financial statements as part of the registration process.

***08-0201-1402, Rules Governing Administration.** (*PH) (Temp & Prop) Makes technical corrections to rule.

08.02.02 - Rules Governing Uniformity

***08-0202-1401,** (*PH) Amends the certification requirements to add a tiered certification system.

***08-0202-1402,** (*PH) Adopts the current revisions to the Idaho Standards for Initial Certification for Professional School Personnel and the Operating Procedures for Idaho Public Driver Education Programs manuals that are incorporated by reference.

***08-0202-1403,** (*PH) Removes an unapproved endorsement; adds Interim Speech Language Pathologist endorsement and clarifies that an emergency need not be declared to request alternative authorization for these interim certificates; clarifies types and nature of electronic or photographic images of students that a professional educator may not take or possess.

***08-0202-1404,** (*PH) For teacher evaluation purposes, allows for one classroom observation when a teacher is unavailable for two classroom observations; clarifies the individuals responsible for measuring teacher performance.

08.02.03 - Rules Governing Thoroughness

***08-0203-1401,** (*PH) Clarifies the substitution clause to require a student to show mastery of the content standards to receive one credit of physical education for graduation; a student may elect an exemption in grade 11 from the college entrance exam requirement if enrolled for the first time in grade 12 at an Idaho high school after the fall statewide administration of the college entrance exam; increases student proficiency standards.

***08-0203-1402,** (*PH) (Temp & Prop) Clarifies that a limited English proficient (LEP) student is one who does not score "proficient" on the approved test and meets one of the other listed criteria.

***08-0203-1403,** (*PH) (Temp & Prop) Use of accommodations/adaptations for LEP students must accurately reflect the Designated Supports and Accommodations guidelines; science End of Course Assessments have been added to the list of required assessments.

***08-0203-1404,** (*PH) (Temp & Prop) Replaces the inadvertently removed requirements for physical education and professional technical education as required instructional offerings of a high school; clarifies that learning plans are reviewed throughout a student's high school career.

***08-0203-1406,** (*PH) (Temp & Prop) Allows for the 5 new data elements to be collected from the districts which will provide information to accurately calculate payments for staffing and for the Advanced Opportunities option.

IDAPA 10 - IDAHO BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

1510 Watertower St., Meridian, ID 83642

***10-0103-1401, Rules for Corner Perpetuation and Filing.** (*PH) Requires surveyors to perpetuate historic corner

record information on the corner perpetuation and filing (CP&F) forms filed or recorded in the county courthouse in lieu of listing all corner record instrument numbers on the record of survey map.

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

11-0301-1401, Rules Governing Alcohol Testing. (Temp & Prop) Adds the following to current standard operating procedures: breath alcohol instrument training requirements for operators and specialists; breath alcohol instrument performance verification and calibration requirements; breath alcohol testing requirements and procedures; alcohol laboratory approval and operational standards; minor in possession/minor in consumption testing methods; and passive testing procedures.

IDAHO RACING COMMISSION

11-0409-1401, Rules Governing Claiming Races. Clarifies that it is not necessary for a horse that has been claimed to re-establish eligibility for a starter allowance race by running in a claiming race; further prevents the use of “protective claims.”

11-0410-1401, Rules Governing Live Horse Races. Allows thoroughbred horses that are owned by the same owner to be uncoupled for wagering purposes.

POST COUNCIL

11-1101-1403, Rules of the Idaho Peace Officer Standards and Training Council. Addresses home schooling and foreign education, and clarifies required proof of education documentation; removes certain medical standards from rule that are the responsibility of the employing agencies; requires applicants to be physically capable of passing all requirements while in the academy or face disenrollment; clarifies the different disciplines trained by POST.

11-1104-1401, Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers. Conforms the minimum employment standards to other POST disciplines for education and physical and medical requirements.

COMMERCIAL VEHICLE SAFETY DIVISION

11.13.01 - The Motor Carrier Rules

11-1301-1401, Incorporates by reference federal regulations that allow interstate carriers, who have been declared an imminent hazard or who have failed to pay fines for previous violations, to be put out of service until the issues are resolved.

11-1301-1402, Incorporates by reference federal regulations that allow exemptions for interstate operations of “covered farm vehicles” and vehicle engaged in the transportation of agricultural commodities and farm supplies.

**IDAPA 12 - DEPARTMENT OF FINANCE
PO Box 83720, Boise, ID 83720-0031**

12-0110-1401, Rules Pursuant to the Idaho Residential Mortgage Practices Act. Incorporates by reference the most recent changes to Regulation X, Regulation Z, the Real Estate Settlement Procedures Act, and the Truth in Lending Act.

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION
PO Box 25, Boise, ID 83707**

13-0102-1401, Rules Governing Hunter Education and Mentored Hunting. (Temp & Prop) Clarifies that a 10 year old can hunt big game.

13.01.04 - Rule Governing Licensing

13-0104-1402, (Temp & Prop) Change in eligibility rules for nonresident disabled American veterans would reduce fees for a hunting license and certain tags.

13-0104-1403, (Temp & Prop) Adds IRS status 501(c)(4) and 501(c)(19) non-profits to list of qualified organizations for the disabled veteran big game tag program.

13-0104-1404, (Temp & Prop) Implements new discretionary Commission authority to add bear tags to the Landowner Appreciation Program.

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

13-0108-1402, Allows Commission to designate specific unlimited controlled hunts for deer and elk as “first-choice only” hunts when applied for during the controlled hunt application process.

13-0108-1403, (Temp & Prop) Per statute, lowers the age of hunters who can apply for youth-only controlled hunts from 12 to 10 years of age.

13-0108-1404, (Temp & Prop) Reorganizes some of the elk zones, and the units contained within a zone, within the Smoky Mountains, Bennett Hills, Owyhee/South Hills, Teton, Palisades, Island Park, and Bannock elk zones.

13-0109-1401, Rules Governing the Taking of Game Birds in the State of Idaho. (Temp & Prop) Allows Commission flexibility to modify shooting hours on Wildlife Management Areas where pheasants are stocked.

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO FOREST PRODUCTS COMMISSION
PO Box 855, Boise, ID 83701**

15-0301-0104, Rules of Administrative Procedure of the Idaho Forest Products Commission. Addresses the nomination and vacancy of the at-large Commission member; amends the assessment basis of forest landowners.

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

16-0202-1401, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission. Revises the Standards Manual that is incorporated by reference to align rules with state law by redefining “Emergency Medical Services.”

***16-0219-1401, Food Safety and Sanitation Standards for Food Establishments.** (*PH) (Temp & Prop) Allows individuals to donate harvested wild game meat to food banks and other organizations that help feed Idaho citizens and provides a way for these organization to be able to accept the donated wild game meat.

16-0301-1401, Eligibility for Health Care Assistance for Families and Children. Clarifies definitions and amends the rules with regard to parent and caretaker relatives.

***16-0303-1401, Rules Governing Child Support Services.** (*PH) Updates income withholding processes; clarifies good cause factors that can be considered during suspension of license proceedings and those that may not be appropriate when applying them to recreational licenses.

16-0304-1401, Rules Governing the Food Stamp Program in Idaho. Includes the term “trafficking” to include fraudulent activities not previously considered to be program violations.

16-0305-1401, Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD). Clarifies participant liability for pre-existing medical expenses based on guidance received from the Centers for Medicaid and Medicare (CMS); improves the administration of the AABD program for participants in long-term care settings, which include a change to the share of cost determination for participants who enter or leave a nursing home during the middle of the month.

16-0507-1401, The Investigation and Enforcement of Fraud, Abuse, and Misconduct. Addresses current practice concerning reinstatement of an individual or entity who has been excluded from the Medicaid program.

16-0733-1401, Adult Mental Health Services. Amends and add definitions; removes obsolete rules; clarifies current mental health services available through the Department.

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

17-0204-1401, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Benefits. Allows an injured worker attending medical appointments resulting from an industrial injury or occupational disease to be reimbursed for travel expenses; removes the health care travel expense reimbursement form from rule and directs the injured worker to the Commission office or website to obtain the form.

17-0206-1401, Employer's Reports. Removes language that extends the deadline for filing a summary of payments

for adjusters who do not timely make indemnity payments; changes the time period from 60 to 120 days to file a summary of payments in case of default by an employer for reason of insolvency or bankruptcy.

17-0208-1401, Miscellaneous Provisions. Adds Commission's mailing address; removes from rule the form used to notify claimants of a status change and directs them to the Commission office or website to obtain the form.

17-0209-1401, Medical Fees. Updates the facility fee schedule; changes the CPT code range affecting psychiatric diagnostic evaluations; changes the reimbursement for certain hospital outpatient diagnostic lab services; the allowable period for prompt payment by a payer is changed to commence upon acceptance of liability if made after receipt of the provider's bill.

17-0501-1401, Rules Under the Crime Victims Compensation Act. Implements updates under the CVC Medical Fee Schedule and clarifies the calculations of the allowable payment of CPT Codes; provides a consistent method for calculating mileage reimbursement for the necessary treatment and services for eligible victims of the program.

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

24-0201-1401, Rules of the Board of Barber Examiners. Provides for the issuance of a contiguous barber shop license to the address of the primary shop allowing licensees to move their workspaces within the primary shop without reapplying for a new license; standardizes the inspection process.

24-0401-1401, Rules of the Idaho Board of Cosmetology. Provides for the issuance of a contiguous license to the address of the primary establishment which will allow licensees to move their workspaces within the primary establishment without reapplying for a new establishment license.

24-0601-1401, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants. Decreases initial licensure fee, limited permit or temporary license fee, annual active license renewal, and inactive license renewal.

24-0901-1401, Rules of the Board of Examiners of Nursing Home Administrators. Increases fees for the original application, endorsement application, annual renewal, original license, and the Administrator-in-training registration.

24-1401-1401, Rules of the State Board of Social Work Examiners. Increases fee for initial application and endorsement, and annual renewals fees for Clinical Social Worker, Social Worker and Masters Social Worker, Inactive Clinical Social Worker, and Inactive Social Worker and Inactive Masters Social Worker.

24-1501-1401, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. Updates the incorporation by reference of the American Counseling Association Code of Ethics, amended effective 2014.

24-2601-1402, Rules of the Idaho Board of Midwifery. Clarifies when newborns must be transferred and when newborn consultation is required.

IDAPA 27 - IDAHO BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067

27.01.01 - Rules of Idaho State Board of Pharmacy

***27-0101-1401, (*PH)** Allows a biosimilar product to be substituted for a prescribed biological product, upon the determination by the FDA that the biosimilar product is interchangeable.

***27-0101-1402, (*PH) (Temp & Prop)** Defines outsourcing facilities, creates new registration category, establishes a registration fee, and institutes practice standards for outsourcing facilities.

***27-0101-1403,** Creates a labeling rule for distributed compounded drug product; establishes general compounding standards, including controls that regulate equipment, practices, policies and procedures, compounding accuracy, and recordkeeping; limits pharmacy distribution of non-sterile compounded drug product; expands sterile product preparation and hazardous drug rules.

***27-0101-1404, (*PH)** Prohibits patients from using their dispensed drugs when being admitted to an institutional facility because the drugs are not unit dosed packaged; clarifies that a pharmacist foreign graduate is required to obtain 1,500 student pharmacist hours; clarifies that a technician-in-training may only renew two times; amends

standard drug labeling rule; creates a new limited pharmacy repackaging rule; clarifies when a controlled substance inventory is to be taken; allows pharmacist immunizers to utilize all forms of injectible epinephrine; clarifies that statutory requirements of nonresident registered pharmacists also pertain to nonresident licensed pharmacists; clarifies pharmacy security requirements; combines various pharmacy authorized entry rules into one rule; and updates remote dispensing site security and training requirements, also requiring a continuous quality improvement program.

**27-0101-1405*, Amends rule to be consistent with federal requirement regulating wholesale distribution.

IDAPA 28 - IDAHO DEPARTMENT OF COMMERCE
PO Box 83720, Boise, ID 83720-0093

28-0401-1402, Rules Governing the Idaho Reimbursement Incentive Act. Establishes the applications, templates, workflow processes, incentive agreements and other supporting documentation necessary to execute the Idaho Reimbursement Incentive Act.

IDAPA 33 - IDAHO REAL ESTATE COMMISSION
575 E. Parkcenter Blvd., Suite 180, Boise ID 83706

**33-0101-1401, Rules of the Idaho Real Estate Commission.* (*PH) Deletes obsolete rules and makes technical corrections.

**33-0102-1401, Rules of Practice and Procedure of the Idaho Real Estate Commission Governing Contested Cases.* (*PH) Clarifies agency office hours; deletes gender specific and obsolete terms; provides for electronic service of process.

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

35.01.01 - Income Tax Administrative Rules

35-0101-1401, Amends rule to conform to Supreme Court interpretation of statute; clarifies the broadband equipment tax credit and its allowable 14 year carryover period.

35-0101-1402, Clarifies how a nonresident or part-year resident can deduct suspended losses; explains how a nonresident partner of a multistate investment partnership calculates the taxable income from the partnership that is included in Idaho taxable income.

35-0101-1403, Adds tax brackets for 2014 and removes 2009 information; increases the maximum amount deductible for the Idaho Medical Savings Account to \$10,000 single/\$20,000 married filing joint; updates amount of guaranteed payments that is sourced as compensation for services per Idaho Code §63-3026A(3)(a)(i)(2); adds tax year 2014 and the applicable grocery credit amounts to the table; changes language from split monthly to semi monthly.

35.01.02 - Idaho Sales and Use Tax Administrative Rules

35-0102-1401, Clarifies that software accessed remotely (ie. cloud-based), electronically delivered or by load and leave method is not tangible property; clarifies that digital books, games, music and movies are tangible property regardless of how obtained.

35-0102-1402, Clarifies manufacturer, retailer, and customer responsibilities related to sales and use tax liability on drop shipment transactions.

35-0102-1403, Clarifies what is and is not covered by out-of-state contact exemption; regarding renting or leasing tangible property, clarifies intent that only one lease type applies to a particular lease contract; clarifies that materials and equipment used on a tree farm for uses other than harvesting can qualify under the production exemption but not the logging exemption; requires exempt organizations to use the ST-104-HM for claiming an exemption on purchases of lodging accommodations.

35-0102-1404, Amends definition for 'contractor improving real property' by using the term 'speculative builder' in place of 'speculation contractor' and 'spec contractor'; clarifies that a single payment may be made to cover multiple tax types; updates the use tax exemption for new residents and military personnel.

35.01.03 - Property Tax Administrative Rules

35-0103-1403, Provides an opportunity to challenge one of the two required courses by passing a test for appraisal certification and for cadastral certification.

35-0103-1406, New rule regarding operating property required to be assessed by the State Tax Commission that includes gathering lines as defined in Idaho Code, regardless of whether such lines are owned or operated in

conjunction with a public utility, and also includes property owned by the same taxpayer and associated with the extraction of any oil or gas to be carried by such gathering lines.

35-0201-1401, Tax Commission Administration and Enforcement Rules. Adds interest rate for calendar year 2015 and the Revenue Ruling where the federal rate for the calculation can be found; details current division changes in the agency.

**IDAPA 37 - DEPARTMENT OF WATER RESOURCES
PO Box 83720, Boise, ID 83720-0098**

***37-0311-1101, Rules for Conjunctive Management of Surface and Ground Water Resources.** (*PH) Deletes obsolete rule regarding conjunctive administration of connected ground and surface water supplies in the Eastern Snake River Aquifer.

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION
PO Box 83720, Boise, ID 83720-0036**

38-0501-1401, Rules of the Division of Purchasing. Clarifies state agency purchasing processes and addresses processes for high dollar service contracts and for contract administration and management.

38-0601-1401, Rules of the Department of Administration Governing Billing Procedures of the Office of the Chief Information Officer. Documents calculation methods for allocating technology overhead costs and technology service charges billed from the Department of Administration, Office of the Chief Information Officer to State government organizations.

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

39-0203-1402, Rules Governing Vehicle Dealer's Principal Place of Business. Further defines principal place of business requirements; requires retail dealers to be open 20 hours a week and wholesale dealers 4 hours a week, part of which must be between 8am and 5pm Monday to Friday; adds information regarding the Idaho Consumer Asset Recovery Fund (ICAR); addresses dealer liability insurance and surety bond requirements.

39-0310-1401, Rules Governing When An Overlegal Permit Is Required. (Temp & Prop) Allows a motorized vehicle to be hauled on a trailer behind a self-propelled vocational vehicle when the hauled vehicle is to be used solely for the return trip after the delivery of the self-propelled vocational vehicle.

39-0350-1401, Rules Governing Safety Rest Areas. Defines "soliciting" and "fireworks" and reinstates the ban on fireworks at rest areas; increases occupancy time limit for rest areas on interstate highways to comply with federal law.

**IDAPA 49 - CERTIFIED SHORTHAND REPORTERS BOARD
PO Box 83720, Boise, ID 83720-0063**

49-0101-1401, Rules of Procedure of the Idaho Certified Shorthand Reporters Board. Clarifies the nature and scope of the certification exam and segments of the exam, and the qualifications for a temporary permit.

**IDAPA 50 - IDAHO COMMISSION OF PARDONS AND PAROLE
3056 Elder St., Boise, ID 83705**

50-0101-1401, Rules of the Commission of Pardons and Parole. Updates terminology and deletes obsolete language; expedites hearing process; updates language regarding general conditions of parole; grants authority to the executive director to add special conditions; changes detainer provision; clarifies Interstate Compact procedures; adds additional language to the section on victims for public safety; includes victims not included in the instant offense and those removed from the instant offense as a result of a plea bargain; and limits the time of jail time served on the first and each subsequent offense.

**IDAPA 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION
PO Box 83720, Boise, ID 83720-00637**

55-0104-1401, Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-Up Grants. New chapter establishes the eligibility requirements, application process, and selection process for the two grant programs.

NOTICES OF ADOPTION OF TEMPORARY RULE

IDAPA 08 - STATE BOARD OF EDUCATION / DEPARTMENT OF EDUCATION

08-0202-1405, Rules Governing Uniformity

08-0203-1405, Rules Governing Thoroughness

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39-0203-1401, Rules Governing Vehicle Dealer's Principal Place of Business

NOTICES OF INTENT TO PROMULGATE - NEGOTIATED RULEMAKING

IDAPA 11 - IDAHO STATE POICE - ALCOHOL BEVERAGE CONTROL UNIT

11-0501-1401, Rules Governing Alcohol Beverage Control.

Please refer to the Idaho Administrative Bulletin, **October 1, 2014, Volume 14-10**, for the notices and text of all rulemakings, public hearings schedules, information on negotiated rulemakings, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at adminrules.idaho.gov.

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