

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 proposed rule public hearing request deadline is October 18, 2017, unless otherwise posted.

The proposed rule written comment submission deadline is October 25, 2017, unless otherwise posted.

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

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

IDAPA 02 – DEPARTMENT OF AGRICULTURE PO Box 790 State St., Boise, ID 83701

02-0414-1702, Rules Governing Dairy Byproduct. Incorporates by reference the Phosphorus Index to ensure a more accurate and reliable standard for measuring soil phosphorus.

IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS PO Box 83720, Boise, ID 83720-0285

05-0102-1701, Rules and Standards for Secure Juvenile Detention Centers. Clarifies definitions; updates procedures; reorganizes and updates several sections; adds law enforcement officers to any list of allowed confidential visitors.

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

08-0111-1701, Registration of Post-Secondary Educational Institutions and Proprietary Schools. Clarifies that the Board does not review courses or courses of study and that individuals providing training for a profession regulated by another state agency or Board must attest that the courses meet the licensing or certification requirements of the regulating agency or Board; specifies that appeal requests must be in writing.

08-0113-1701, Rules Governing the Opportunity Scholarship Program. (Temp & Prop) Updates the SAT score to realign the indicator with the ACT score to allow for a more equitable distribution of scholarship awards; clarifies the verification of a student's expected family contribution; updates college entrance exam requirements scores used to determine academic eligibility for scholarship applicants with a GED score and no high school grade point average.

08.02.02 – Rules Governing Uniformity

08-0202-1701, Updates the Idaho Standards for the Initial Certification of Professional School Personnel; the certificates and endorsements reviewed and amended include English language endorsements; adds 3 new Pupil Personnel Services endorsements; renewal requirements include math in-service program; addresses reinstatement of expired certificate; amends background checks provisions; updates definitions.

08-0202-1702, Updates the Standards for Idaho School Buses and Operations that are incorporated by reference.

08-0202-1703, Update reference to the Northwest Accreditation Commission that part of AdvancEd; removes a reference to private and parochial schools; adds a reference to Residential Schools certified by the Board.

08-0202-1705, (Temp & Prop) Redefines “institutional recommendation” to differentiate usage; makes “professional learning plan” consistent terminology; amends educator evaluation requirements.

08-0202-1707, Authorizes reimbursement of allowable transportation costs for the purposes of transporting students

as part of structured college or university visits.

08-0202-1708, Provides for 3 levels of occupational specialist certificates and the requirement for each.

08.02.03 – Rules Governing Thoroughness

08-0203-1703, Adds the Idaho Content Standards Core Content Connectors to the Extended Idaho Content Standards that are incorporated by reference.

08-0203-1704, Adopts the August 2017 amendments to the Idaho Special Education Manual that is incorporated by reference.

08-0203-1705, Adopts most recent revisions to the Idaho Content Standards for Science, Driver Education, and Information and Communication Technology.

08-0203-1707, Defines the term “diploma” as it relates to graduation from high school and clarifies the school districts may determine the format of the diploma they issue and gives school districts discretion on graduation requirements used for students who previously attended.

08-0203-1709, Incorporates by reference new content standards for secondary students that address college and career readiness; adds flexibility to the senior project graduation requirements to allow activities specific to college and career preparation.

08-0203-1710, Would put career technical content standards on par with academic standards, including agriculture and natural resources, business and marketing, engineering and technology, health sciences, and skilled and technical sciences; updates the previously approved Early Childhood Education Standards.

08-0203-1712, Amends the data elements collected as part of the statewide longitudinal data system to include grade point average.

08-0204-1701, Rules Governing Public Charter Schools. (Temp & Prop) Creates a single application process that applies to all charter school petitioners, removes obsolete and duplicate provisions specified in Idaho Code.

08-0301-0701, Rules of the Public Charter School Commission. (Temp & Prop) Removes petition submission provision from rule and makes technical corrections.

08-0401-0701, Rules of the Idaho Digital Learning Academy. Aligns accreditation requirement language with terminology used elsewhere in Idaho Code and rule; updates provisions related to student work and ethical conduct.

08-0501-1701, Rules Governing Seed and Plant Certification. Amends the Idaho Grain Certification Standards “Land Requirements” and the Potato Certification Standards.

IDAPA 12 – DEPARTMENT OF FINANCE

PO Box 83720, Boise, ID 83720-0031

12-0110-1701, Rules Pursuant to the Idaho Residential Mortgage Practices Act. Updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X).

IDAPA 13 – DEPARTMENT OF FISH AND GAME

P.O. Box 25, Boise, ID 83707

13.01.04 - Rules Governing Licensing.

13-0104-1701, Puts certain use limitations on special big game hunt tags; creates an application and draw process when eligible applications exceed the number of tags; designates 1 disabled veteran special big game tag to the Idaho Division of Veterans Services to sponsor a resident applicant.

13-0104-1702, Includes all of Controlled Hunt Area 11 for the bighorn sheep auction and lottery tags.

13-0104-1703, Creates an outfitter allocation of big game tags for an unlimited controlled hunt when a nonresident big game tag limitation is established.

13-0106-1701, Rules Governing Classification and Protection of Wildlife. Reclassifies Red Squirrel from a Protected Nongame Species to an Upland Game Animal to allow a harvest season to be set.

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

13-0108-1704, Allows the Commission the flexibility to proportionally limit the number of non-outfitted, nonresident big game tags allocated in an unlimited controlled hunt.

13-0108-1705, (Temp & Prop) Rescinds requirement to pay the tag fee at the time of application for a moose, bighorn sheep, or mountain goat controlled hunt tag; creates a purchase deadline for first draw tags and a second draw process for unclaimed and leftover tags.

13-0108-1706, Deletes reference to the Supertag drawing for hunters complying with Mandatory Report requirements; makes changes to the mandatory hunter orientation process for controlled archery-only hunts that require hunter orientation; removes duplicate language regarding Mandatory Reports and update the rule to reflect current reporting procedures; deletes the mandatory requirement that successful wolf hunters must report wolf harvest with a telephone report.

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

16-0202-1701, *Rules of the Idaho Emergency Medical Services (EMS) Physician Commission*. Updates the standards manual incorporated by reference to the latest version.

16.03.01 – Eligibility for Health Care Assistance for Families and Children

***16-0301-1701**, (*PH) Creates the Youth Empowerment Services (YES) Medicaid program for youth diagnosed with Severe Emotional Disturbance (SED) and establishes eligibility criteria and provided services.

16-0301-1702, Clarifies certain areas of eligibility for specialized populations.

16-0305-1701, *Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)*. Clarifies that only the AABD population receiving SSI are eligible for the Cash Assistance program; asset transfers and annuities are being aligned with federal regulations and guidance; increases the Personal Needs Allowance and Personal Needs Supplement amount for individuals living in a nursing home facilities; amends the Basic Needs Allowance calculation explanation for RALFs and CFHs.

16-0308-1701, *Rules Governing the Temporary Assistance for Families in Idaho (TAFI) Program*. A child's Supplemental Security Income (SSI) is excluded when their families apply for and receive TAFI benefits; redefines "dependent child" as a child under the age of 18.

16.03.09 – Medicaid Basic Plan Benefits

***16-0309-1702**, (*PH) Allows Department flexibility to adjust requirements for authorizations and coverage to ensure that access to mental health services is consistent with the requirements in Federal Code.

***16-0309-1703**, (*PH) Moves early intervention service requirements to another chapter and updates provisions to support program eligibility, service coverage, limitations, provider and reimbursement services.

***16-0309-1704**, (*PH) Implements a new assessment tool to replace the SIB-R assessment tool.

16.03.10 – Medicaid Enhanced Plan Benefits

***16-0310-1702**, (*PH) Allows Department flexibility to adjust requirements for authorizations and coverage to ensure that access to mental health services is consistent with the requirements in Federal Code.

***16-0310-1703**, (*PH) Moves early intervention service requirements to another chapter and updates provisions to support program eligibility, service coverage, limitations, provider and reimbursement services.

***16-0310-1706**, (*PH) Creates the Youth Empowerment Services (YES) Medicaid program for youth diagnosed with Severe Emotional Disturbance (SED) and establishes eligibility criteria and provided services.

***16-0310-1707**, (*PH) Implements a new assessment tool to replace the SIB-R assessment tool.

16-0318-1701, *Medicaid Cost-Sharing*. As part of the cost-sharing requirements, a monthly premium is being charged to YES participants whose family income is above Title XIX income limits.

16-0507-1701, *The Investigation and Enforcement of Fraud, Abuse, and Misconduct*. Amends percentage of total ownership interest a person or entity may have in an entity; per federal regulation, allows Department to suspend payment without first notifying a Medicaid provider under certain circumstances.

16-0612-1701, Rules Governing the Idaho Child Care Program (ICCP). Implements new health and safety requirements for child care providers around safe sleep for infants; streamlines and clarifies eligibility determination processes for determining eligibility, and updating terms and references needed to meet federal and state requirements.

16-0737-1701, Children's Mental Health Services. Adds grievances and expedited hearings to appeals process for YES related services; removes reimbursement amounts for foster care and references IDAPA 16.06.01, "Child and Family Services," that provide payments to alternate care providers.

**IDAPA 22 – IDAHO STATE BOARD OF MEDICINE
1755 Westgate Drive, Suite 140, Boise, Idaho 83704**

***22-0113-1701, Rules for the Licensure of Dietitians.** (*PH) Updates Dietitians' scope of practice, definitions, and organizational titles, and add the option for licensure by endorsement.

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

24-0101-1701, Rules of the Board of Architectural Examiners. Reduces the annual license renewal and endorsement license fees; establishes a temporary license fee.

24-0301-1701, Rules of the State Board of Chiropractic Physicians. Establishes fees for clinical nutrition certification and practice, instructions for certification application, recertification, cancellation and reissuance, standards of practice, rules for obtaining and administering nutrition prescription drug products, and a clinical nutrition formulary.

24-0601-1701, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants. Reduces initial licensure fee and active and inactive license renewal fees.

24-0701-1701, Rules of the Idaho State Board of Landscape Architects. Reduces application fee, examination fee, and original and annual license fees.

24-0801-1701, Rules of the State Board of Morticians. Establishes terms, procedures, and fees necessary to maintain an inactive license for morticians and funeral directors.

24-1201-1701, Rules of the Idaho State Board of Psychologist Examiners. Ensures temporary licensees hold a Board-issued certification of prescriptive authority before issuing a prescription; shortens the length of face-to-face supervision time required for category III service extenders; refines definition of telepsychology; clarifies the informed consent provisions.

24-1301-1701, Rules Governing the Physical Therapy Licensure Board. Establishes the number of hours of continuing education (CE) required for reinstatement of a physical therapy license.

24-1801-1701, Rules of the Real Estate Appraiser Board. Allows the Board to collect and pass-through fees to the federal government for appraisal management companies; updates the incorporation by reference of the "Uniform Standards of Professional Appraisal Practice (USPAP)" to the 2018-2019 edition.

24.23.01 - Rules of the Speech, Hearing and Communication Services Licensure Board

24-2301-1701, Clarifies that the practice of audiology does not include the operation of automated newborn hearing screening machines; increases flexibility for licensees in completing continuing education (CE) by moving from a one-year to a three-year CE cycle.

24-2301-1702, Implements the provisions of the Speech and Hearing Services Practices Act by including sign language interpreting to rule; adds definitions, application and licensure requirements and qualifications and adds fees for licensure; provides for out-of-state licenses, examinations, certifications and provisional permits; adds a code of ethics.

24-2401-1701, Rules of the Genetic Counselors Licensing Board. Reduces the application, original license, annual renewal license, provisional license, and license by endorsement fees.

24-2501-1701, Rules of the Idaho Driving Businesses Licensure Board. Reduces the initial application processing fee, original instructor license and renewal fees, instructor apprentice permit fee. And original business license and renewal fees.

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

27-0101-1701, Rules of the Idaho State Board of Pharmacy. Repeal of chapter. (Chapter is being rewritten into multiple new chapters.)

27-0101-1702, Rules of Procedure. Establishes general provisions for the Board to be used in all Board rule chapters; outlines criteria for obtaining a waiver or variance; authorizes the Board to inspect and investigate; adds the following definitions and abbreviations: ‘ACCME,’ ‘CLIA-Waived Test,’ ‘Clinical Guidelines,’ ‘CPE Monitor,’ and ‘Student Technician’; and address acts that constitute unprofessional conduct and includes provisions related to ‘Standard of Care’ and ‘Unnecessary Services or Products.’

27-0102-1701, Rules Governing Licensure and Registration. Establishes requirements for licensure and registration for individuals and facilities and includes general requirements, board fees, fee schedule, pharmacist licensure and registration, pharmacist intern registration, technician registration, practitioner controlled substance registration, and drug outlet licensure and registration; eliminates several licensure and registration categories; consolidates pharmacist and distributor controlled substance registration into the main licenses for each; changes annual renewal deadlines for individuals and facilities; streamlines continuing education requirements; externs and interns are now “pharmacist interns”; caps “technician-in-training period to 2 years; allows for a temporary license for drug outlets; floor plans must no longer be submitted and approved prior to remodel; streamlines process for permanently closing a pharmacy.

27-0103-1701, Rules Governing Pharmacy Practice. Regulates the practice of pharmacy and addresses the following: professional practice standards, drug outlet practice standards, filling and dispensing prescription drugs, recordkeeping and reporting requirements, and prescription drug monitoring program requirements; additionally, removes specific requirements related to fixtures, books, equipment, or staffing patterns that drug outlets must have; addresses issue of public safety by broadening offsite pharmacy service rules; clarifies which drug outlets must have a person-in-charge; removes certain technology standards; emergency refill authorizations for non-controlled substances are specified; and removes requirement that all employment changes must be reported by the PIC.

27-0104-1701, Rules Governing Pharmacist Prescriptive Authority. Specifies the products pharmacists may prescribe. This chapter implements House Bill 191, which passed in the 2017 Idaho Legislature. House Bill 191 amended Section 54-1704, Idaho Code, and provided the Board of Pharmacy with rulemaking authority to designate drugs, drug categories, and devices that pharmacists may prescribe, provided certain conditions are met. In addition, existing rules related to collaborative pharmacy practice and statewide protocol agreements are organized into this chapter.

27-0105-1701, Rules Governing Drug Compounding. Establishes rules related to drug compounding, sterile product preparation, hazardous drug preparation, outsourcing facilities, and labeling of distributed compounded drug products.

27-0106-1701, Rules Governing DME, Manufacturing, and Distribution. Regulates durable medical equipment (DME), manufacturing, and distribution; removes the transaction restriction on non-prescription drugs, which coincides with the removal of registration of non-pharmacy retail outlets; and amend the restriction on delivering drugs only to “the premises listed on the authorized receiving person’s license or registration” to “the registered address” to reflect recent changes in what is on a state license and registration.

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

PO Box 83720, Boise, ID 83720-0074

31-1101-1701, Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission. Updates the incorporation by reference of the Federal Natural Gas Safety Regulations to the 2017 version.

IDAPA 35 – IDAHO STATE TAX COMMISSION**PO Box 36, Boise, ID 83722-0410****35.01.03 – Property Tax Administrative Rules.**

35-0103-1701, Defines “abstract” as a document summarizing taxable (net taxable value) and market value for assessment purposes (full market value) by secondary categories. Also, outlines the signature requirements. Changes deal with partial ownerships; instructs to count the community property interest as 50% interest in the property rather than 66 2/3%. Address levy setting when there is refinancing of bonded debt.

35-0103-1704, Addresses the use of aerial photographs and other digital imaging technology tools; deletes the Idaho Supreme Court Brandon Bay case cross reference concerning section 42 properties.

35-0103-1706, Changes deal with partial ownerships; instructs to count the community property interest as 50% interest in the property rather than 66 2/3%.

35-0103-1707, Sets out methods to value park model recreational vehicles as defined in HB156. Confirms the requirement to value park model recreational vehicles using any available standard indices of retail value. If an index is not available the procedures outline in Rule 217 must be used.

35-0103-1709, Updates the incorporation by reference of the Official Railroad Equipment Register to the 2018 edition; adds a flotation cost factor of 0.2% to the discount rate; removes obsolete link.

35-0105-1701, Idaho Motor Fuels Tax Administrative Rules. Clarifies documents required to be kept to support refund claims; clarifies the procedures used when calculating refund claims when using tax-paid special fuels in intrastate motor vehicles, auxiliary equipment and power take-off equipment.

35-0106-1702, Hotel/Motel Room and Campground Sales Tax Administrative Rules. Subjects lodging operators and short-term rental marketplaces to the sales tax and any local government taxes that apply to this type of rental.

35-0109-1702, Idaho County Option Kitchen and Table Wine Tax Administrative Rules. Describes when dispositions of wine are subject to the wine tax; authorizes the issuing of a wine tax permit to allow cancellation of inactive permits.

35-0112-1702, Idaho Beer Tax Administrative Rules. Describes when dispositions of beer are subject to the beer tax; authorizes the issuing of a beer tax permit to allow cancellation of inactive permits.

35-02.01 - Tax Commission Administration and Enforcement Rules

35-0201-1701, Provides guidance on the appeals process; establishes definitions; provides restrictions, exceptions, permitted communications and procedures for a taxpayer to participate in communications between the appeals unit and the originating division and others during the redetermination process.

35-0201-1703, Adds the interest rate for calendar year 2018 and the Revenue Ruling where the federal rate for the calculation can be found.

IDAPA 42 – IDAHO WHEAT COMMISSION**PO Box 83720, Boise, ID 83720-0099**

42-0101-1701, Rules of the Idaho Wheat Commission. Clarifies that the first purchaser of wheat completes and returns the Report of Tax, or equivalent, to the Commission office at the end of each production year (July 1 - June 30). The report shall include the name and address of the grower and seller.

IDAPA 47 – DIVISION OF VOCATIONAL REHABILITATION**PO Box 83720, Boise, ID 83720-0037**

47-0101-1701, Rules of the Idaho Division of Vocational Rehabilitation. Updates the Division’s Field Services Policy Manual to the 2017 edition that is incorporated by reference.

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION**PO Box 83720, Boise, ID 83720-0037**

55-0103-1701, Rules of Career Technical Schools. Updates the definition section; clarifies the career technical school program requirements and career technical school added cost unity funding eligibility requirements; changes attendance reporting and other accountability requirements.

55-0104-1701, Rules Governing Idaho Quality Program Standards Incentive Grants and Agricultural Education Program Start-Up Grants.

**IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD
1299 N Orchard St. Ste, 110, Boise, ID 83706**

57-0101-1701, Rules of the Sexual Offender Management Board. Removes documents that are incorporated by reference; adds statement to the Notice and Consent forms for adult and juvenile Psychosexual Evaluations to provide authorization for release of psychosexual evaluations to the SOMB for quality assurance purposes.

**IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION
816 West Bannock St., Suite 201, Boise, ID 83702**

61-0106-1701, Rules Governing Procedures for the Oversight, Implementation, Enforcement and Modification of Indigent Defense Standard. Establishes procedures for the oversight, implementation, enforcement and modification of indigent defense standards.

61-0107-1701, Rules Governing Standards for Defending Attorneys that Utilize Idaho’s Principles of an Indigent Defense Delivery System. Establishes standards for defending attorneys who represent indigent defendants in capital cases and standards related to investigation and the use of experts.

NOTICE OF INTENT TO PROMULGATE - NEGOTIATED RULEMAKING

IDAPA 07 – DIVISION OF BUILDING SAFETY

07-0206-1701, Rules Concerning Idaho State Plumbing Code (see Bulletin for scheduled meeting dates)

07-0701-1703, Rules Governing Installation of Heating, Ventilation, Air Conditioning Systems (see Bulletin for scheduled meeting dates)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20-0401-1701, Rules Pertaining to Forest Fire Protection (see Bulletin for meeting schedule information)

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26-0110-1701 Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation

26-0120-1701, Rules Governing the Administration of Park and Recreation Areas and Facilities

26-0123-1701, Rules Governing Filming Within Idaho State Parks

NOTICE OF PROCLAMATION

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13-0109-1704P, Rules Governing the Taking of Game Birds in the State of Idaho

Please refer to the Idaho Administrative Bulletin, [October 4, 2017, Volume 17-10](#), 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