

PROCLAMATION RULES COMMITTEE RULES REVIEW BOOK

Submitted for Review Before
Senate Judiciary & Rules Committee
63rd Idaho Legislature
Second Regular Session



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2016

SENATE JUDICIARY & RULES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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Docket No. 06-0102-15023

IDAPA 06 - BOARD OF CORRECTION
06.01.02 - RULES OF CORRECTIONAL INDUSTRIES
DOCKET NO. 06-0102-1502
NOTICE OF PROCLAMATION OF RULEMAKING

**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE PROCLAMATION OF RULEMAKING**

EFFECTIVE DATE: The effective date of this rule is November 6, 2015.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. Section 20-413A, Idaho Code, requires the Idaho State Board of Correction to make rules. Pursuant to Section 20-212(1), Idaho Code, rules of the Idaho State Board of Correction are subject to review of the Idaho State Legislature pursuant to Sections 67-454, 67-5291, and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the Board, except as otherwise specifically provided by statute. In accordance with Section 20-212(1) of the Idaho Code, this rule shall become final and effective thirty (30) days after the date of publication in the Idaho Administrative Bulletin.

PUBLIC HEARING SCHEDULE: Pursuant to Section 20-212(1), Idaho Code, public hearing(s) concerning this rulemaking will not be scheduled.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking will amend IDAPA 06.01.02, Rules of Correctional Industries, by revising the definition of private agricultural employer, and by replacing language throughout the rule related to obligations to act.

FEE SUMMARY: There is no increase in fees imposed with this rulemaking.

FISCAL IMPACT: There is no fiscal impact on general funds for this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because Section 20-212(1) exempts the Idaho State Board of Correction from conducting negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Andrea Sprengel, Services Manager, at (208) 577-5561.

DATED this 13th Day of August, 2015.

Andrea Sprengel
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LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 06-0102-1502

010. DEFINITIONS.

01. Inmate. An individual in the physical custody of the Board. (7-4-14)

02. Private Agricultural Employer. As person as defined in 44-1601(2), Idaho Code, ~~any individual engaged in farm labor contracting for an agricultural operation owned or operated exclusively by such individual or a member of such individual's immediate family, if such activities are performed only for such operation and exclusively by such individual, but without regard to whether such individual has incorporated or otherwise organized for business purposes.~~ (7-4-14)(11-6-15)

03. Work Site. Any place where inmates may be found when assigned to a work project. (7-4-14)

(BREAK IN CONTINUITY OF SECTIONS)

012. CONTRACTS WITH PRIVATE AGRICULTURAL EMPLOYERS.

Correctional Industries ~~shall~~ will make all reasonable efforts to ensure non-inmate workers are not displaced when entering into a contract with a private agricultural employer for inmate labor. (7-4-14)(11-6-15)

01. Wage Determination. On an annual basis, Correctional Industries ~~shall~~ will request a prevailing wage determination letter from the Idaho Department of Labor (IDOL) for the prevailing wage of the region for Standard Occupational Classification codes related to the agricultural work to be performed. (7-4-14)(11-6-15)

02. Prior to Contract. Prior to entering into any contract with a private agricultural employer for inmate labor, Correctional Industries ~~shall~~ will conduct a work site evaluation with assistance from Idaho Department of Correction staff to identify inmate safety and security risks and needs. (7-4-14)(11-6-15)

03. Contract Requirements. Contracts with a private agricultural employer ~~will~~ must include the following: (7-4-14)(11-6-15)

a. At a minimum, the hourly rate per inmate paid to Correctional Industries by the private agricultural employer for inmate labor ~~will~~ must be set at the prevailing wage provided by IDOL for that region, or state minimum wage, whichever is higher. The hourly rate per inmate ~~will~~ must also account for any other costs the private agricultural employer would be required by law to pay for non-inmate workers even if not required by law to pay for inmate workers, for example workers compensation insurance premiums. (7-4-14)(11-6-15)

b. The security and safety provisions identified during the work site evaluation and the responsibilities of each party. Security and supervision of the inmates will be provided at the work site by Idaho Department of Correction (IDOC) correctional officers. (7-4-14)

c. A statement certifying that the private agricultural employer was unable to employ a sufficient number of non-inmate workers to complete the job as described in the contract. (7-4-14)

013. INMATE COMPENSATION.

01. Correctional Industries Betterment Account. The moneys received from the private agricultural employer for inmate labor ~~shall~~ will be deposited into the Correctional Industries Betterment Account pursuant to Section 20-416, Idaho Code. The funds deposited will be dispersed between Correctional Industries and the IDOC to cover costs of the agricultural inmate labor program and contribute to the Idaho Victim's Compensation Fund. (7-4-14)(11-6-15)

a. The funds dispersed to Correctional Industries will also be used in accordance with Section 20-416, Idaho Code. (7-4-14)

b. The funds dispersed to IDOC ~~shall~~ may also be used to offset the costs of incarceration, supplement education opportunities to inmates, and provide resources for reentry to the community. ~~(2-6-15)~~(11-6-15)

02. Inmate Trust Account. Inmates will be compensated for their work in accordance with Section 20-412, Idaho Code. Inmate earnings ~~will~~ must be deposited into the inmate's trust account. Upon deposit, deductions for court-ordered financial obligations, including child support and restitution, will be made by IDOC. Any other deductions by IDOC will be made according to IDOC policy. ~~(2-6-15)~~(11-6-15)