

<p><b>Docket Number:</b> <u>58-0123-1201</u>  <b>Effective Date:</b> <u>2013 Sine die</u>  <b>Rules Title:</b> <u>Rules of Administrative Procedure Before the Board of Environmental Quality</u>  <b>Agency Contact and Phone:</b> <u>Paula Wilson, 373-0418</u></p>	<p style="text-align: right;"><b>Public Notice</b></p> <p><b>Hearings:</b> [ ] Yes [X] No  <b>Locations and Dates:</b> N/A  <b>Written Comment Deadline:</b> July 5, 2012</p>
<p><b>Descriptive Summary of Rule as Initially Proposed:</b></p> <p>This rulemaking has been initiated to make revisions to the Rules of Administrative Procedure Before the Board of Environmental Quality, 58.01.23, for consistency with the 2012 amendment to the Idaho Administrative Procedure Act (APA) enacted under Senate Bill 1366.</p> <p>The proposed rule includes revisions to the following sections:</p> <p>1) Sections 811 and 830. The current rule provides that if an agency determines that negotiated rulemaking is not feasible, the agency shall explain in a Notice of Intent to Promulgate Rules why negotiated rulemaking is not feasible. Senate Bill 1366 directs agencies to include the feasibility explanation in the Notice of Proposed Rulemaking. Sections 811 and 830 have been revised so that agencies would be required to include the feasibility explanation in the Notice of Proposed Rulemaking, rather than the Notice of Intent to Promulgate Rules.</p> <p>2) Section 814. The current rule provides that parties of the negotiated rulemaking shall transmit a report to the agency stating whether or not consensus was reached. Senate Bill 1366 requires agencies to prepare a written summary of unresolved issues, key information considered, and conclusions reached during and as a result of the negotiated rulemaking. For consistency with the APA, Section 814 has been revised by replacing the "report" requirement with the "written summary" requirement set forth in Senate Bill 1366.</p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a pending rule with the final effective date coinciding with the adjournment <i>sine die</i> of the First Regular Session of the Sixty-second Idaho Legislature. The rule is subject to review by the Legislature before becoming final and effective.</p>	<p><b>Negotiated Rule Making:</b> [ ] Yes [X] No  <b>Groups Involved:</b> N/A</p> <p>Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking was not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to implementing Idaho Code provisions.</p> <p><b>Costs To the Agency:</b> None anticipated.  <b>Costs To the Regulated Community:</b> None anticipated.</p> <p><b>Relevant Statutes:</b> Sections 39-105, 39-107 and 67-5206, Idaho Code</p> <p><b>Idaho Code § 39-107D Statement:</b> This rule does regulate an activity not regulated by the federal government. The federal government does not regulate administrative procedures for the state of Idaho; therefore, the proposed rule revisions are not broader in scope or more stringent than federal law or regulations.</p> <p><b>Idaho Code § 67-5221(1)(c) Fiscal Impact Statement:</b> The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective: Not applicable.</p>

Temporary Rule       Necessary to protect public health, safety or welfare  
 Compliance with deadlines in amendments to governing law or federal programs  
 Conferring a benefit

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Section	Section Title	Summary of Rule Changes Based on Public Comment
811	<b>Publication in Idaho Administrative Bulletin.</b>	This section has not been changed. No comment received.
814	<b><u>Reports to the Department Negotiated Rulemaking Summary.</u></b>	This section has not been changed. No comment received.
815	<b><u>Department Consideration of Report Consensus Reached by Parties.</u></b>	This section has not been changed. No comment received.
830	<b>Requirements for Notice of Proposed Rulemaking.</b>	This section has not been changed. No comment received.