

IDAPA 48 - IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48.01.01 - RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

DOCKET NO. 48-0101-1601 (2ND NOTICE)

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 54-3605(15) and 54-3610, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking has been scheduled by the Idaho Grape Growers and Wine Producers Commission, and will be held as follows:

Thursday, July 21, 2016 at 9:00 a.m. (MDT)

**Idaho Grape Growers and
Wine Producers Commission Office
821 W. State Street
Boise, Idaho 83702**

During the scheduled public meeting, additional negotiated rulemaking meetings may be established by the Commission, if necessary. Adequate notice of the dates, locations, and manner of participation of any such additional meetings will be posted on the Commission website at <http://wine.idaho.gov/>.

The meeting site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Commission. Individuals may also attend the public meeting to be conducted on the above date during which the Commission will allow oral comments or presentations to be made.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Through the passage of House Bill No. 456, the 2016 Idaho Legislature amended Idaho Code section 54-3610 to remove statutory assessment language that was inconsistent with and duplicative to the Idaho Grape Growers and Wine Producers Commission's administrative rules that were adopted by the Idaho Legislature in 2010 with respect to grapes and grape juice purchased from out-of-state producers for the production of wine in Idaho. Omission of this duplicative language was inadvertently overlooked by industry until prior to the 2016 legislative session. By statute, the Commission is charged with setting forth the assessment calculations by rule for Idaho's grape and wine industry. In reviewing the current assessment structure for grapes and grape juice, Idaho wineries have brought forth the request to simplify the assessment structure for future assessment cycles.

The current assessment structure has proven confusing for industry members and requires them to convert wine grapes purchased in tons into gallons produced before applying assessment payments. In turn, the Commission has to reconvert gallons to tons in order to determine total tons harvested in Idaho for that year. The temporary and proposed rulemaking streamlines the assessment process by requiring both wineries and vineyards to pay assessments based on tons rather than any conversion to gallons. This rule change will simplify and streamline the current assessment

structure removing the need for wineries to convert tons to gallons for assessment dues, as well as removing the need for the Commission to convert gallons to tons for proper harvest numbers.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, if available, contact Moya Dolsby, Executive Director, (208) 332-1538. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Commission's website at the following web address: <http://wine.idaho.gov/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 20, 2016.

DATED this 20th Day of June 2016.

Moya Dolsby
Executive Director
Grape Growers and Wine Producers Commission
821 W. State St.
Boise, ID 83702
Phone: (208) 332-1538
Fax: (208) 334-2505

IDAPA 48
TITLE 01
CHAPTER 01

IDAPA 48 - IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48.01.01 - RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

020. TAX AND LATE PAYMENT PENALTY.

01. Levy and Rate of Tax. In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries, ~~and grapes grown,~~ used, ~~grown,~~ or purchased, and grape juice purchased for the production of wine in Idaho. The rate of each tax shall be: ~~(3-29-10)~~

a. ~~Four cents (\$.04)~~ Seven dollars (\$7) per gallon ton of wine produced grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho. ~~(3-29-10)~~

b. Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of ~~vinification during the previous calendar year~~ production of wine in Idaho. ~~(3-29-10)~~

c. Seven dollars (\$7) per ton for of grapes purchased from by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho during the previous calendar year. ~~(3-29-10)~~

d. ~~Six dollars and sixty-eight~~ Four cents (\$6.6804) per one hundred sixty-seven (167) gallons, or any portion thereof, of grape juice purchased ~~from~~ by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho during the previous calendar year. ~~(3-29-10)~~

e. ~~The tax rates set forth in Paragraphs 020.01.a. through 020.01.d., shall be phased in over a three-year (3) period as follows:~~ ~~(3-29-10)~~

i. ~~Thirty three percent (33%) in fiscal year 2010;~~ ~~(3-29-10)~~

ii. ~~Sixty six percent (66%) in fiscal year 2011; and~~ ~~(3-29-10)~~

iii. ~~One hundred percent (100%) in fiscal year 2012 and all subsequent years, except that the maximum tax levied upon any winery for fiscal year 2010 shall be one thousand dollars (\$1,000).~~ ~~(3-29-10)~~

02. Minimum Levy. The minimum taxes paid by any grower or winery shall be one hundred dollars (\$100) annually. (3-29-10)

03. Payment of Tax. The grower harvesting grapes for the production of wine shall pay the tax levied upon the grower. Each winery shall pay the tax levied upon the winery for the production of wine. Purchasers of grapes grown or grape juice produced outside Idaho shall pay taxes levied on such grapes and grape juice. Purchasers of grape juice produced in Idaho shall pay taxes levied on such grape juice. All taxes shall be paid on or before June 30 of each year. ~~(3-2)~~

04. Late Payment Penalty. Persons making payment of the levied tax after the date set forth in this chapter shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. In addition to the late payment penalty, the Commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in Section 020 of these rules. (3-19-07)

05. Opt Out Alternative. A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. The letter shall include the grower or producer's name and address.

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