

IDAHO ADMINISTRATIVE BULLETIN

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August 7, 1996

Volume 96-8

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IDAPA 17 - INDUSTRIAL COMMISSION

17.10.30 - GENERAL SAFETY AND HEALTH STANDARDS-TOXIC AND HAZARDOUS SUBSTANCES

DOCKET NO. 17-1030-9601

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to §72-508 and §§72-720, 721, 722, and 723, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 1996. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to Patricia S. Ramey, Secretary, Industrial Commission, P. O. Box 83720, Boise, ID 83720-0041. Telephone and fax numbers are listed below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule:

The Industrial Commission, in cooperation with the Division of Building Safety, proposes the adoption of rules to replace IDAPA 17.04.01, General Safety and Health Standards Code 1, which is being repealed in its entirety. The proposed rules update the state's minimum safety and health standards in the use and exposure to toxic and hazardous substances for the public sector and bring them into line with generally accepted safety and health standards in the private sector.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Mike Poulin, Bureau of Logging and Industrial Safety, at (208) 334-2129.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 3rd day of June, 1996.

Patricia S. Ramey, Commission Secretary
Industrial Commission
P. O. Box 83720
Boise, Idaho 83720-0041
Telephone: (208) 334-6000
Fax: (208) 334-5145

TEXT OF DOCKET NO. 17-1030-9601

**IDAPA 17
TITLE 10
Chapter 30**

**17.10.30 - GENERAL SAFETY AND HEALTH STANDARDS --
TOXIC AND HAZARDOUS SUBSTANCES**

000. LEGAL AUTHORITY.

These rules presented in IDAPA 17, Title 10, are promulgated pursuant to the authority granted the Industrial Commission by Sections 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code. ()

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 17, Title 10, Chapter 30, General Safety and Health Standards -- Toxic and Hazardous Substances. For purposes of IDAPA 17, Title 10, these rules shall be applicable to places of public employment, as defined in Sections 72-205 and 72-207, Idaho Code, by the State of Idaho and its political subdivisions i.e. counties, cities, public school districts, and other taxing entities as follows: ()

01. State. Every person in the service of the state or of any political subdivision thereof, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing their official duties. ()

02. County/City. Every person in the service of a county, city, or any political subdivision thereof, or of any municipal corporation. ()

03. National Guard. Members of the Idaho National Guard while on duty. ()

04. Youth Conservation. Participants in Idaho youth conservation project under the supervision of the Idaho State Forester. ()

05. Volunteers. Every person who is a member of volunteer fire, police department, or ambulance service shall be deemed to be in the employment of the political subdivision or municipality where the department is organized. ()

06. Civil Defense. Every person who is a regularly enrolled volunteer member or trainee of the Department of Disaster and Civil Defense, or of a civil defense corps, shall be deemed to be in the employment of the state. ()

07. Public School. Every person who is in the service of a public school or school district shall be deemed to be in the employment of the state. ()

002. WRITTEN INTERPRETATIONS.

For purposes of IDAPA 17, Title 10, there are no written statements which pertain to the interpretation of these rules. ()

003. ADMINISTRATIVE APPEALS.

For purposes of IDAPA 17, Title 10, there are no provisions for administrative appeal of these rules. The procedure for appeals in safety matters is prescribed by Sections 72-722 and 72-714 through 72-718, Idaho Code. ()

004. -- 299. (RESERVED).

300. TOXIC AND HAZARDOUS SUBSTANCES.

01. Scope. ()

a. The use and exposure to toxic and to hazardous substances shall conform to all other applicable requirements of this standard, as well as the following provisions. Nothing in this standard shall be construed to prohibit better or otherwise safer conditions than specified herein. ()

02. Definitions Applicable to this Section. ()

03. General Requirements. ()

a. Rules and Regulations of the State Department of Health and Welfare shall be complied with by every employer and shall be enforced as provided for by statute law. ()

b. Any type of paint, solvent, or cleansing liquids containing toxic additives shall have a label on each and every box, package or container showing thereon the name and type of such ingredients and/or toxic additives and the amount of each. ()

c. The requirements and procedures for specific materials/substances are contained in other sections of this standard. ()

04. Prohibited use of Cyanide or Cyanide Mixtures. ()

a. Use of compounds containing dimethylamino-propionitrile, or bis (two (2) dimethylamino, ethyl, ether), in the sewer grout process, is hereby prohibited. ()

b. The term bis (two (2)-dimethylamino ethyl, ether) shall also include compounds referred to as two (2), two (2)' oxybis (N, N dimethylethylamine). ()

c. The term dimethylaminopropionitrile shall also include compounds referred to as three (3) - (dimethylamino) propionitrile. ()

05. Air contaminants. ()

a. An employee's exposure to any material listed in Table 300.05-A, of this section shall be limited in accordance with the requirements of the following subsection. ()

b. An employee's exposure to any material in Table 300.05-A, the name of which is preceded by a "C" (Ceiling Value) shall at no time exceed the ceiling value given for that material in the table. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a fifteen (15)-minute time weighted average exposure which shall not be exceeded at any time during the working day. ()

c. An employee's exposure to any material in Table 300.05-A, the name of which is not preceded by "C", in any eight (8)-hour work shift of a forty (40)-hour work week, shall not exceed the eight (8)-hour weighted average given for that material in the table. ()

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Substance	CAS No. ^c	ppm ^{a1}	mg/m ^{3b1}	Designation
Acetaldehyde	75-07-0	200	360	
Acetic acid	64-19-7	10	25	
Acetic anhydride	108-24-7	5	20	
Acetone	67-64-1	1000	2400	
Acetonitrile	75-05-8	40	70	
2-Acetylaminofluorene	53-96-3			
Acetylene dichloride, see 1, 2- Dichloroethylene				
Acetylene tetrabromide	79-27-6	1	14	
Acrolein	107-02-8	0.1	0.25	
Acrylamide	79-06-1		0.3	X
Acrylonitrile	107-13-1			
Aldrin	309-00-2		0.25	X
Allyl alcohol	107-18-6	2	5	X

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Allyl chloride	107-05-1	1	3	
Allyl glycidyl ether (AGE)	106-92-3	C ₁₀	C ₄₅	
Allyl propyl disulfide	2179-59-1	2	12	
alpha-Alumina Total dust Respirable fraction	1344-28-1		15 5	
4-Aminodiphenyl	92-67-1			
2-Aminoethanol, see Ethanolamine				
2-Aminopyridine	504-29-0	0.5	2	
Ammonia	7664-41-7	50	35	
Ammonium sulfamate Total dust Respirable fraction	7773-06-0		15 5	
n-Amyl acetate	628-63-7	100	525	
sec-Amyl acetate	626-38-0	125	650	
Aniline	62-53-3	5	19	X
Anisidine (o,p-isomers)	29191-52-4		0.5	X
Antimony and compounds (as Sb)	7440-36-0		0.5	
ANTU (alph Naphthylthiourea)	86-88-4		0.3	
Arsenic, inorganic compounds (as As)	7440-38-2			
Arsenic, organic compounds (as As)	7440-38-2		0.5	
Arsine	7784-42-1	0.05	0.2	
Asbestos	4			
Azinphos-methyl	86-50-0		0.2	X
Barium, soluble compounds (as Ba)	7440-39-3		0.5	
Barium sulfate Total dust Respirable fraction	7727-43-7		15 5	
Benomyl Total dust Respirable fraction	17804-35-2		15 5	
Benzene ^d	71-43-2			
Benzidine	92-87-5			
p-Benzoquinone, see Quinone				
Benzo ^a pyrene Coal tar pitch volatiles				

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Benzoyl peroxide	94-36-0		5	
Benzyl chloride	100-44-7	1	5	
Beryllium compounds (asBe)	7440-41-7		2	
Biphenyl, see Diphenyl				
Bismuth telluride Undoped Total dust Respirable fraction	1304-82-1		15 5	
Boron oxide Total dust	1303-86-2		15	
Boron trifluoride	7637-07-2	C ₁	C ₃	
Bromine	7726-95-6	0.1	0.7	
Bromoform	75-25-2	0.5	5	X
Butadiene (1, 3-butadiene)	106-99-0	1000	2200	
Butanethiol, see butyl mercaptan				
2-Butanone (Methyl ethyl ketone)	78-93-3	200	590	
2-Butoxyethanol	111-76-2	50	240	X
n-Butyl acetate	123-86-4	150	710	
sec-Butyl acetate	105-46-4	200	950	
tert-Butyl-acetate	540-88-5	200	950	
n-Butyl alcohol	71-36-3	100	300	
sec-Butyl alcohol	78-92-2	150	450	
tert-Butyl alcohol	75-65-0	100	300	
Butylamine	109-73-9	C ₅	C ₁₅	X
tert-Butyl chromate (as CrO ³)	1189-85-1		C0.1	X
n-Butyl glycidyl ether (BGE)	2426-08-6	50	270	
Butyl mercaptan	109-79-5	10	35	
p-tert-Butyltoluene	98-51-1	10	60	
Cadmium (ac Cd)	7440-43-9			
Calcium Carbonate Total dust Respirable fraction	1317-65-3		15 5	
Calcium hydroxide Total dust Respirable fraction	1305-62-0		15 5	
Calcium oxide	1305-78-8		5	

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Calcium silicate Total dust Respirable fraction	1344-95-2		15 5	
Calcium sulfate Total dust Respirable fraction	7778-18-9		15 5	
Camphor, synthetic	76-22-2		2	
Carbaryl (Sevin ^R)	62-25-2		5	
Carbon black	1333-86-4		3.5	
Carbon dioxide	124-38-9	5000	9000	
Carbon disulfide	75-15-0		2	
Carbon monoxide	630-08-0	50	55	
Carbon tetrachloride	56-23-5		2	
Cellulose Total dust Respirable fraction	9004-34-6		15 5	
Chlordane	57-74-9		0.5	X
Chlorinated camphene	8001-35-2		0.5	X
Chlorinated diphenyl oxide	55720-99-5		0.5	
Chlorine	7782-50-5	C ₁	C ₃	
Chlorine dioxide	10049-04-4	0.1	0.3	
Chlorine trifluoride	7790-91-2	C _{0.1}	C _{0.4}	
Chloroacetaldehyde	107-20-0	C ₁	C ₃	
a-Chloroacetophenone (Phenacyl chloride)	532-27-4	0.05	0.3	
Chlorobenzene	108-90-7	75	350	
o-Chlorobenzylidene malononitrile	2698-41-1	0.05	0.4	
Chlorobromomethane	74-97-5	200	1050	
2-Chloro-1, 3-butadiene, see beta-Chloroprene				
Chlorodiphenyl (42% Chlorine) (PCB)	53469-21-9		1	X
Chlorodiphenyl (54% Chlorine) (PCB)	11097-69-1		0.5	X
1-Chloro-2, 3-epoxypropane, see Epichlorhydrin				
2-Chloroethanol, see Ethylene chlorohydrin				
Chloroethylene, see Vinyl chloride				
C Chloroform (trichloromethane)	67-66-3	C ₅₀	C ₂₄₀	
bis (Chloromethyl) ether	542-88-1			

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Chloromethyl methyl ether	107-30-2			
1-Chloro-1-nitropropane	600-25-9	20	100	
Chloropicrin	76-06-2	0.1	07	
beta-Chloroprene	126-99-8	25	90	X
2-Chloro-6 (trichloromethyl) pyridine				
Total dust	1929-82-4		15	
Respirable fraction			5	
Chromic acid and chromates (as CrO ³)	4		2	
Chromium (II) compounds (as Cr)	7440-47-3		0.5	
Chromium (III) compounds (as Cr)	7440-47-3		0.5	
Chromium metal and insol. salts (as Cr)	7440-47-3		1	
Chrysene, see Coal tar pitch volatiles				
Clopidol				
Total dust	2971-90-6		15	
Respirable fraction			5	
Coal dust (less than 5% SiO ²), respirable fraction			3	
Coal dust (greater than or equal to 5% SiO ²) respirable fraction			3	
Coal tar pitch volatiles (benzene soluble fraction) anthracene, BaP, phenanthrene, acridine, chrysene, pyrene	65966-93-2		0.2	
Cobalt metal, fume, and dust (as Co)	7440-48-4		0.1	
Coke oven emissions				
Copper				
Fume (as Cu)	744-50-8		0.1	
Dusts and Mists (as Cu)			1	
Cotton dust ^e				
Crag [®] herbicide (Sesone)				
Total dust	136-78-7		15	
Respirable fraction			5	
Cresol, all isomers	1319-77-3	5	22	X
Crotonaldehyde	123-73-9 4170-30-3	2	6	
Cumene	98-82-9	50	245	X
Cyanides (as CN)	4		5	
Cyclohexane	110-82-7	300	1050	
Cyclohexanol	108-93-0	50	200	

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Cyclohexanone	108-94-1	50	200	
Cyclohexene	110-83-8	300	1015	
Cyclopentadiene	542-92-7	75	200	
2, 4-D (Dichlorophenoxyacetic acid)	94-75-7		10	
Decaborane	17702-41-9	0.05	0.3	X
Demeton (Systox)	8065-48-3		0.1	X
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	123-42-2	50	240	
1,2-diaminoethane, see Ethylenediamine				
Diazomethane	334-88-3	0.2	0.4	
Diborane	19287-45-7	0.1	0.1	
1,2-Dibromo-3-chloropropane (CBCP)	96-12-8			
1,2-Dibromoethane; see Ethylene dibromide				
Dibutyl phosphate	107-66-4	1	5	
Dibutyl phthalate	84-74-2		5	
o-Dichlorobenzene	95-50-1	C ₅₀	C ₃₀₀	
p-Dichlorobenzene	106-46-7	75	450	
3,3'-Dichlorobenzidine	91-94-1			
Dichlorodifluoromethane	75-71-8	1000	4950	
1,3-Dichloro-5, 5-dimethyl hydantoin	118-52-5		0.2	
Dichlorodiphenyltrichloroethane (DDT)	50-29-3		1	X
1,1-Dichloroethane	75-34-3	100	400	
1,2-Dichloroethylene; see Ethylene dichloride				
1,2-Dichloroethylene	540-59-0	200	790	
Dichloroethyl ether	111-44-4	C ₁₅	C ₉₀	X
Dichloromethane, see Methylene chloride				
Dichloromonofluoromethane	75-43-4	1000	4200	
1,1-Dichloro-1-nitroethane	594-72-9	C ₁₀	C ₆₀	
1,2-Dichloropropane, see Propylene dichloride				
Dichlorotetrafluoroethane	76-14-2	1000	7000	
Dieldrin	60-57-1		0.25	X
Diethylamine	109-89-7	25	75	
2-Diethylamino ethanol	100-37-8	10	50	X
Diethyl ether; see Ethyl ether				

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Difluorodibromomethane	75-61-6	100	860	
Diglycidyl ether (DGE)	2238-07-5	^C 0.5	^C 2.8	
Dihydroxybenzene; see Hydroquinone				
Diisobutyl ketone	108-83-8	50	290	
Diisopropylamine	108-18-9	5	20	X
4-Dimethylaminoazobenzene	60-11-7			
Dimethoxymethane, see Methylal				
Dimethyl acetamide	127-19-5	10	35	X
Dimethylamine	124-40-3	10	18	
Dimethylaminobenzene, see Xylidene				
Dimethylaniline (N,N-Dimethylaniline)	121-69-7	5	25	X
Dimethylbenzene, see Xylene				
Dimethyl 1, 2-dibromo-2, 2-dichloroethyl phosphate (Dibrom)	300-76-5		3	
Dimethylformamide-Skin	68-12-2	10	30	X
2, 6-Dimethyl-4-heptanone, see Diisobutyl ketone				
1, 1-Dimethylhydrazine	57-14-7	0.5	1	X
Dimethylphthalate	131-11-3		5	
Dimethyl sulfate	77-78-1	1	5	X
Dinitrobenzene (all isomers) (ortho) (meta) (para)	528-29-0 99-65-0 100-25-4		1	X
Dinitro-o-cresol	534-52-1		0.2	X
Dinitrotoluene	25321-14-6		1.5	X
Dioxane (Diethylene dioxide)	123-91-1	100	360	X
Diphenyl (Biphenyl)	92-52-4	0.2	1	
Diphenylmethane diisocyanat; see Methylene bisphenyl isocyanate				
Dipropylene glycol methyl ether	34590-94-8	100	600	X
Di-sec, octyl phthalate (Di-(2-ethylhexyl)phthalate)	117-81-7		5	
Emery Total dust Respirable fraction	12415-34-8		15 5	
Endosulfan	115-29-7		0.1	X

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Endrin	72-20-8		0.1	X
Epichlorhydrin	106-89-8	5	19	X
EPN	2104-64-5		0.5	X
1, 2-Epoxypropane, see Propylene oxide				
2, 3-Epoxy-1-propanol, see Glycidol				
Ethanethoil, see Ethyl mercaptan				
Ethanolamine	141-43-5	3	6	
2-Ethoxyethanol (Cellosolve)	110-80-5	200	740	X
2-Ethoxyethyl acetate (Cellosolve acetate)	111-15-9	100	540	X
Ethyl acetate	141-78-6	400	1400	X
Ethyl acrylate	140-88-5	25	100	X
Ethyl alcohol (ethanol)	64-17-5	1000	1900	
Ethylamine	75-04-7	10	18	
Ethyl amyl ketone (5-methyl-3-heptanone)	541-85-5	25	130	
Ethyl benzene	100-41-4	100	435	
Ethyl bromide	74-96-4	200	890	
Ethyl butyl keton (3-Heptanone)	106-35-4	50	230	
Ethyl chloride	75-00-3	1000	2600	
Ethyl ether	60-29-7	400	1200	
Ethyl formate	109-94-4	100	300	
Ethyl mercaptan	75-08-1	C ₁₀	C ₂₅	
Ethyl silicate	78-10-4	100	850	
Ethylene chlorohydrin	107-07-3	5	16	X
Ethylenediamine	107-15-3	10	25	
Ethylene dibromide	106-93-4		2	
Ethylene dichloride (1,2-Dichloroethane)	107-06-2		2	
Ethylene glycol dinitrate	628-96-6	C _{0.2}	C ₁	X
Ethylene glycol monomethyl ether acetate, see Methyl cellosolve acetate				
Ethyleneimine	151-56-4			
Ethylene oxide	75-21-8			
Ethylidine chloride, see 1, 1-Dichloroethane				
N-Ethylmorpholine	100-74-3	20	94	X

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Ferbam Total dust	14484-64-1		15	
Ferrovandium dust	12604-58-9		1	
Fluorides (as F)	4		2.5	
Fluorine	7782-41-4	0.1	0.2	
Fluorotrichloromethane (Trichlorofluoromethane)	75-69-4	1000	5600	
Formaldehyde	50-00-0			
Formic acid	64-18-6	5	9	
Furfural	98-01-1	5	20	X
Furfuryl alcohol	98-00-0	50	200	
Grain dust (oat, wheat, barley)			10	
Glycerin (mist) Total dust Respirable fraction	56-81-5		15 5	
Glycidol	556-52-5	50	150	
Glycol monoethyl ether, see 2-Ethoxyethanol				
Graphite, natural Respirable dust	7782-42-5		3	
Graphite, synthetic Total dust Respirable dust			15 5	
Guthion®, see Azinphos methyl				
Gypsum Total dust Respirable fraction	13397-24-5		15 5	
Hafnium	7440-58-6		0.5	
Heptachlor	76-44-8		0.5	X
Heptane (n-heptane)	142-82-5	500	2000	
Hexachloroethane	67-72-1	1	10	X
Hexachloronaphthalene	1335-87-1		0.2	X
n-Hexane	110-54-3	500	1800	
2-Hexanone (Methyl n-butyl ketone)	591-78-6	100	410	
Hexone (Methyl isobutyl ketone)	108-10-1	100	410	
sec-Hexyl acetate	108-84-9	50	300	
Hydrazine	302-01-2	1	1.3	X
Hydrogen bromide	10035-10-6	3	10	

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Hydrogen chloride	7647-01-0	C ₅	C ₇	
Hydrogen cyanide	74-90-8	10	11	X
Hydrogen fluoride (as F)	7664-39-3		2	
Hydrogen peroxide	772-84-1	1	1.4	
Hydrogen selenide (as Se)	7783-07-5	0.05	0.2	
Hydrogen sulfide	7783-06-4		2	
Hydroquinone	123-31-9		2	
Iodine	7553-56-2	C _{0.1}	C ₁	
Iron oxide fume	1309-37-1		10	
Isomyl acetate	123-92-2	100	525	
Isomyl alcohol (primary and secondary)	123-51-3	100	360	
Isobutyl acetate	110-19-0	150	700	
Isobutyl alcohol	78-83-1	100	300	
Isophorone	78-59-1	25	140	
Isopropyl acetate	108-21-4	250	950	
Isopropyl alcohol	67-63-0	400	980	
Isopropylamine	75-31-0	5	12	
Isopropyl ether	108-20-3	500	2100	
Isopropyl glycidyl ether (IGE)	4016-1-4-2	50	240	
Kaolin Total dust Respirable fraction	1332-58-7		15 5	
Ketene	463-51-4	0.5	0.9	
Lead inorganic (as Pb)	7439-92-1			
Limestone Total dust Respirable fraction	1317-65-3		15 5	
Lindane	58-89-9		0.5	X
Lithium hydride	7580-67-8		0.025	
L.P.G. (liquified petroleum gas)	68476-85-7	1000	1800	
Magnsite Total dust Respirable fraction	546-93-0		15 5	
Magnesium oxide fume Total particulate	1309-48-4		15	

TABLE 300.05-A					
LIMITS FOR AIR CONTAMINANTS					
Malathion	Total dust	121-75-5		15	X
Maleic anhydride		108-31-6	0.25	1	
Manganese compounds (as Mn)		7439-96-5		C ₅	
Manganese fume (as Mn)		7439-96-5		C ₅	
Marble	Total dust respirable fraction	1317-65-3		15 5	
Mercury (aryl and inorganic) (as Hg)		7439-97-6		2	
Mercury (organo) alkyl compounds (as Hg)		7439-97-6		2	
Mercury (vapor) (as Hg)		7439-97-6		2	
Mesityl oxide		141-79-7	25	100	
Methanethiol, see Methyl mercaptan					
Methoxychlor	Total dust	72-43-5		15	
2-Methoxyethanol (Methyl cellosolve)		109-86-4	25	80	X
2-Methoxyethyl acetate (Methyl cellosolve acetate)		110-49-6	25	120	X
Methyl acetate		79-20-9	200	610	
Methyl acetylene (propyne)		74-99-7	1000	1650	
Methyl acetylene-propadiene mixture (MAPP)			1000	1800	
Methyl acrylate		96-33-3	10	35	X
Methylal (dimethoxy-methane)		109-87-5	1000	3100	
Methyl alcohol		67-56-1	200	260	
Methylamine		74-89-5	10	12	
Methyl amyl alcohol; see Methyl Isobutyl carbinol					
Methyl n-amyl ketone		110-43-0	100	465	
Methyl bromide		74-83-9	C ₂₀	C ₈₀	X
Methyl butyl ketone; see 2 Hexanone					
Methyl cellosolve; see 2-Methoxyethanol					
Methyl cellosolve acetate; see 2-Methoxyethyl acetate					
Methyl chloride		74-87-3		2	
Methyl chloroform (1,1,1-Trichloroethane)		71-55-6	350	1900	
Methylcyclohexane		108-87-2	500	2000	
Methylcyclohexanol		25639-42-3	100	470	

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
o-Methylcyclohexanone	583-60-8	100	460	X
Methylene chloride	75-09-2		2	
Methyl ethyl ketone (MEK); see 2-Butanone				
Methyl formate	107-31-3	100	250	
Methyl hydrazine (Monomethyl hydrazine)	60-34-4	^C 0.2	^C 0.35	X
Methyl iodide	74-88-4	5	28	X
Methyl isoamyl ketone	110-12-3	100	475	
Methyl isobutyl carbinol	108-11-2	25	100	X
Methyl isobutyl ketone, see Hexone				
Methyl isocyanate	624-83-9	0.02	0.05	X
Methyl mercaptan	74-93-1	^C 10	^C 20	
Methyl methacrylate	80-62-6	100	410	
Methyl propyl ketone, see 2-Pentanone				
alpha Methyl styrene	98-83-9	^C 100	^C 480	
Methylene bisphenyl isocyanate (MDI)	101-68-8	^C 0.02	^C 0.2	
Mica; see Silicates				
Molybdenum (as Mo): Soluble compounds Insoluble compounds Total dust	74-39-98-7		5 15	
Monomethyl aniline	100-61-8	2	9	X
Monomethyl hydrazine; see Methyl hydrazine				
Morpholine	110-91-8	20	70	X
Naphtha (coal tar)	8030-30-6	100	400	
Naphthalene	91-20-3	10	50	
alpha-Naphthylamine	134-32-7			
beta-Naphthylamine	91-59-8			
Nickel carbonyl (as Ni)	13463-39-3	0.001	0.007	
Nickel, metal and insoluble compounds, (as Ni)	7440-02-0		1	
Nickel, soluble compounds (as Ni)	7440-02-0		1	
Nicotine	54-11-5		0.5	X
Nitric acid	7697-37-2	2	5	
Nitric oxide	10102-43-9	25	30	
p-Nitroaniline	100-01-6	1	6	X

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Nitrobenzene	98-95-3	1	5	X
p-Nitrochlorobenzene	100-00-5		1	X
4-Nitrodiphenyl	92-93-3			
Nitroethane	79-24-3	100	310	
Nitrogen dioxide	10102-44-0	C ₅	C ₉	
Nitrogen trifluoride	7783-54-2	10	29	
Nitroglycerin	55-63-0	C _{0.2}	C ₂	X
Nitromethane	75-52-5	100	250	
1-Nitropropane	108-03-2	25	90	
2-Nitropropane	79-46-9	25	90	
N-Nitrododimethylamine				
Nitrotoluene (all isomers)				
o-isomer	88-72-2	5	30	X
m-isomer	99-08-1			
p-isomer	99-99-0			
Nitrotrichloromethane, see Chloropierin				
Octachloronaphthalene	2234-13-1		0.1	X
Octane	111-65-9	500	2350	
Oil mist, mineral	8012-95-1		5	
Osmium tetroxide (as Os)	20816-12-0		0.002	
Oxalic acid	144-62-7		1	
Oxygen difluoride	7783-41-7	0.05	0.1	
Ozone	10028-15-6	0.1	0.2	
Paraquat, respirable dust	4685-14-7 1910-42-5 2074-50-2		0.5	X
Parathion	56-38-2		0.1	X
Particulates not otherwise regulated (PNOR) (f)				
Total dust			15	
Respirable fraction			5	
PCB; see Chlorodiphenyl (42% and 54% chlorine)				
Pentaborane	19624-22-7	0.005	0.01	
Pentachloronaphthalene	1321-64-8		0.5	X
Pentachlorophenol	87-86-5		0.5	X

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Pentaerythritol Total dust Respirable fraction	115-77-5		15 5	
Pentane	109-66-0	1000	2950	
2-Pentanone (Methyl propyl ketone)	107-87-9	200	700	
Perchloroethylene (Tetrachloroethylene)	127-18-4		2	
Perchloromethyl mercaptan	594-42-3	0.1	0.8	
Perchloryl fluoride	7616-94-6	3	13.5	
Perlite Total dust Respirable fraction	93763-70-3		15 5	
Petroleum distillates (naphtha)(rubber solvent)		500	2000	
Phenol	108-92-2	5	19	X
p-Phenylene diamine	106-50-3		0.1	X
Phenyl ether (vapor)	101-84-8	1	7	
Phenyl ether-biphenyl mixture (vapor)		1	7	
Phenylethylene, see Styrene				
Phenyl glycidyl ether (PGE)	122-60-1	10	60	
Phenylhydrazine	100-63-0	5	22	X
Phosdrin (Mevinphos®)	7786-34-7		0.1	X
Phosgene (carbonyl chloride)	75-44-5	0.1	0.4	
Phosphine	7803-51-2	0.3	0.4	
Phosphoric acid	7664-38-2		1	
Phosphorus (yellow)	7723-14-0		0.1	
Phosphorus pentachloride	10026-13-8		1	
Phosphorus pentasulfide	1314-80-3		1	
Phosphorus trichloride	7719-12-2	0.5	3	
Phthalic anhydride	85-44-9	2	12	
Picloram Total dust Respirable fraction	1918-02-1		15 5	
Picric acid	88-89-1		0.1	X
Pindone (2-Pivalyl-1, 3-indandione)	83-26-1		0.1	
Plaster of paris Total dust Respirable fraction	26499-65-0		15 5	

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Platinum (as Pt) Metal Soluble Salts	7440-06-4		0.002	
Portland cement Total dust Respirable fraction	65997-15-1		15 5	
Propane	74-98-6	1000	1800	
beta-Propiolactone	57-57-8			
n-Propyl acetate	109-60-4	200	840	
n-Propyl alcohol	71-23-8	200	500	
n-Propyl nitrate	627-13-4	25	110	
Propylene dichloride	78-87-5	75	350	
Propylene imine	75-55-8	2	5	X
Propylene oxide	75-56-9	100	240	
Propyne, see Methyl acetylene				
Pyrethrum	8003-34-7		5	
Pyridine	110-86-1	5	15	
Quinone	106-51-4	0.1	0.4	
RDX; see Cyclonite				
Rhodium (as Rh), metal fume and insoluble compounds	7440-16-6		0.1	
Rhodium (as Rh), soluble compounds	7440-16-6		0.001	
Ronnel	299-84-3		15	
Rotenone	83-79-4		5	
Rouge Total dust Respirable fraction			15 5	
Selenium compounds (as Se)	7782-49-2		0.2	
Selenium hexafluoride(as Se)	7783-79-1	0.05	0.4	
Silica, amorphous, precipitated and gel.	112926-00-8		3	
Silica, amorphous, diatomaceous earth, containing less than 1% crystalline silica	61790-53-2		3	
Silica, crystalline cristobalite, respirable dust	14464-46-1		3	
Silica, crystalline quartz, respirable dust	14808-60-7		3	
Silica, crystalline tripoli (asquarts), respirable dust	1317-95-9		3	
Silica, crystalline tridymite, respirable dust	15468-32-3		3	

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Silica, fused, respirable dust	60676-86-0		3	
Silicates (less than 1% crystalline silic)				
Mica (respirable dust)	12001-26-2		3	
Soapstone, total dust			3	
Soapstone, respirable dust			3	
Talc (containing asbestos):use asbestos limit			3	
Talc (containing no asbestos), respirable dust	14807-96-6		3	
Tremolite, asbestiform				
Silicon				
Total dust	7440-21-3		15	
Respirable fraction			5	
Silicon carbide				
Total dust	409-21-2		15	
Respirable fraction			5	
Silver, metal and soluble compounds (as Ag) 39	7440-22-4		0.01	
Soapstone; see Silicates				
Sodium fluoracetate	62-74-8		0.05	X
Sodium hydroxide	1310-73-2		2	
Starch				
Total dust	9005-25-8		15	
Respirable fraction			5	
Stibine	7803-52-3	0.1	0.5	
Stoddard solvent	8052-41-3	500	2900	
Strychnine	57-24-9		0.15	
Styrene	100-42-5		2	
Sucrose				
Total dust	57-50-1		15	
Respirable fraction			5	
Sulfur dioxide	7446-09-5	5	13	
Sulfur hexafluoride	2551-62-4	1000	6000	
Sulfuric acid	7664-93-9		1	
Sulfur monochloride	10025-67-9	1	6	
Sulfur pentafluoride	5714-22-7	0.025	0.25	
Sulfuryl fluoride	2699-79-8	5	20	
Systox, see Demeton®				
2, 4, 5T (2,4,5-trichlorophenoxyacetic acid)	93-76-5		10	
Talc; see Silicates				

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Tantalum metal and oxide dust	7440-25-7		5	
TEDP (Sulfotep)	3689-24-5		0.2	X
Tellurium and compounds (as Te)	13494-80-9		0.1	
Tellurium hexafluoride (as Te)	7783-80-4	0.02	0.2	
Temephos Total dust Respirable fraction	3383-96-8		15 5	
TEPP (Tetraethyl pyrophosphaate)	107-49-3		0.05	X
Terphenyls	26140-60-3	C ₁	C ₉	
1, 1, 1, 2-Tetrachloro-2, 2-difluoroethane	76-11-9	500	4170	
1, 1, 2, 2-Tetrachloro-1, 2-difluoroethane	76-12-0	500	4170	
1, 1, 2, 2-Tetrachloroethane	79-34-5	5	35	X
Tetrachloroethylene: see Perchloroethylene				
Tetrachloromethane, see Carbon tetrachloride				
Tetrachloronaphthalene	1335-88-2		2	X
Tetraethyl lead (as Pb)	78-00-2		0.075	X
Tetrahydrofuran	109-99-9	200	590	
Tetramethyl lead (as Pb)	75-74-1		0.075	X
Tetramethyl succinonitrile	333-52-6	0.5	3	X
Tetranitromethane	509-14-8	1	8	
Tetryl (2, 4, 6-trinitrophenylmethylnitramine)	479-45-8		1.5	X
Thallium, soluble compounds (as Tl)	7440-28-0		0.1	X
4,4'-Thiobis (6-tert, Butyl-m-cresol) Total dust Respirable fraction	96-69-5		15 5	
Thiram	137-26-8		5	
Tin (inorganic compounds, except oxides) as (Sn)	7440-31-5		2	
Tin (organic compounds) as (Sn)	7440-31-5		0.1	
Titanium dioxide Total dust	13463-67-7		15	
Toluene	108-88-3		2	
Toluene-2, 4-diisocyanate (TDI)	584-84-9	C _{0.02}	C _{0.14}	
0-Toluidine	95-53-4	5	22	X
Toxaphene, see Chlorinated camphene				
Tremolite; see Silicates				

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Tributyl phosphate	126-73-8		5	
1, 1, 1-Trichloroethane, see Methyl chloroform				
1, 1, 2-Trichloroethane	79-00-5	10	45	X
Trichloroethylene	79-01-6		2	
Trichloromethane, see Chloroform				
Trichloronaphthalene	1321-65-9		5	X
1, 2, 3-Trichloropropane	96-18-4	50	300	
1, 1, 2-Trichloro 1, 2, 2-trifluoroethane	76-13-1	1000	7600	
Triethylamine	121-44-8	25	100	
Trifluorobromomethane	75-63-8	1000	6100	
2, 4, 6-Trinitrophenol, see Picric acid				
2, 4, 6-Trinitrophenylmethyl nitramine, see Teteryl				
2,4,6-Trinitrotoluene (TNT)	118-96-7		1.5	X
Triorthocresyl phosphate	78-30-8		0.1	
Triphenyl phosphate	115-86-6		3	
Turpentine	8006-64-2	100	560	
Uranium (as U) Soluble compounds Insoluble compounds	7440-61-1		0.05 0.05	
Vanadium Respirable dust (as V ₂ O ₅) Fume (as V ₂ O ₅)	1314-62-1		C _{0.5} C _{0.1}	
Vegetable oil mist Total dust Respirable fraction			15 5	
Vinyl benzene, see Styrene				
Vinyl chloride	75-01-4			
Vinyl cyanide, see Acrylonitrile				
Vinyl toluene	25013-15-4	100	480	
Warfarin	81-81-2		0.1	
Xylenes (o-, m-, p-isomers)	1330-20-7	100	435	
Xylidine	1300-73-8	5	25	X
Yttrium	7440--65-5		1	
Zinc chloride fume	7646-85-7		1	
Zinc oxide fume	1314-13-2		5	

TABLE 300.05-A				
LIMITS FOR AIR CONTAMINANTS				
Zinc oxide Total dust Respirable fraction	1314-13-4		15 5	
Zinc stearate Total dust Respirable fraction	557-05-1		15 5	
Zirconium compounds (as Zr)	7440-67-7		5	
Footnote ¹ The PELs are 8-hour TWAs unless otherwise noted. They are to be determined from breathing zone air samples.				
A ^C designation denotes a ceiling limit. They are to be determined from breathing zone air samples.				
Footnote ^a Parts of vapor or gas per million parts of contaminated air by volume at 25 degrees Celsius and 760 torr.				
Footnote ^b Milligrams of material/substance per cubic meter of air. When entry is in this column only, the value is exact; when listed with a ppm entry, it is approximate.				
Footnote ^c The CAS number is for information only. Enforcement is based on the material/substance name. For an entry covering more than one metal compound measured as the metal, the CAS number for the metal is given not CAS numbers for the individual compounds.				
Footnote ^d The benzene section applies to all occupational exposures to benzene except in some circumstances the distribution and sale of fuels, sealed containers and pipelines, coke production, oil and gas drilling and production, natural gas processing, and the percentage exclusion for liquid mixtures; for the excepted subsegments, the benzene limits in table 300.05.c apply.				
Footnote ^e This 8-hour TWA applies to respirable dust as measured by a vertical elutriator cotton dust sampler or equivalent instrument. The time weighted average applies to the cotton waste processing operation of waste recycling (sorting, blending, cleaning, and willowing) and garnetting.				
Footnote ^f All inert or nuisance dusts, whether mineral, inorganic, or organic, not listed specifically by material/substance name are covered by the Particulates Not Otherwise Regulated (PNOR) limit which is the same as the inert or nuisance dust limit of table 300.05-C.				
Footnote ² See table 300.05-B.				
Footnote ³ See table 300.05-C.				
Footnote ⁴ Varies with compound.				

d. An employee's exposure to any material listed in Table 300.05-B of this section shall be limited in accordance with the requirements of the following subsection. ()

e. An employee's exposure to any material listed in Table 300.05-B in any eight (8)-hour work day of a forty (40)-hour work week shall not exceed the eight (8)-hour time weighted average limit given for that material in table 300.05-B. ()

f. An employee's exposure to a material listed in Table 300.05-B, shall not be exceed at any time during an eight (8)-hour shift the acceptable ceiling concentration limit given for the material in the table, except for a time period, and up to a concentration not exceeding the maximum duration and concentration allowed in the column under "acceptable maximum peak above the acceptable ceiling concentration for an eight (8)-hour shift".
 EXAMPLE. During an eight (8)-hour work shift, an employee may be exposed to a concentration of substance A (with a ten (10)-ppm TWA, twenty-five (25)-ppm ceiling, and fifty (50)-ppm peak) above twenty-five (25)-ppm (but never above fifty (50)-ppm.) only for a maximum period of ten (10)-minutes. Such exposure must be compensated by exposures to concentrations less than ten (10)-ppm. so that the cumulative exposure for the entire eight (8)-hour work

shift does not exceed a weighted average of ten (10)-ppm.

()

TABLE 300.05-B				
			Acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift	
Material	8-hour time weighted average	Acceptable ceiling concentration	Concentration	Maximum duration
Benzene (Z37.40-1969) ^a	10 p.p.m.	25 p.p.m	50 p.p.m.	10 minutes
Beryllium and beryllium compounds (Z37.29-1970)	2 ug/M ³ 5	ug/M ³ 25	ug/M ³	30 minutes
Cadmium fume (Z37.5-1970)	0.1 mg/M ³	0.3 mg/M ³	.....	.....
Cadmium dust (Z37.5-1970)	0.2 mg/M ³	0.6 mg/M ³	.....	.....
Carbon disulfide (Z37.3-1968)	20 p.p.m.	30 p.p.m.	100 p.p.m.	30 minutes
Carbon tetrachloride (Z37.17-1967)	10 p.p.m.	25 p.p.m.	200 p.p.m.	5 minutes in any 4 hours
Ethylene dibromide(Z37.31-1970)	20 p.p.m.	30 p.p.m.	50 p.p.m.	5 minutes
Ethylene dichloride (Z37.21-1969)	50 p.p.m.	100 p.p.m.	200 p.p.m.	5 minutes in any 3 hours
Formaldehyde (Z37.16-1967)	3 p.p.m.	5 p.p.m.	10 p.p.m.	30 minutes
Hydrogen Fluoride (Z37.26-1969)	3 p.p.m.	.....	.....	.....
Fluoride as dust (Z37.28-1969)	2.5 mg/M ³	.....	.....	.....
Lead and its inorganic compounds (Z37.11-1969)	0.2 mg/M ³	.....	.....	.....
Methyl chloride (Z37.18-1969)	100 p.p.m.	200 p.p.m.	300 p.p.m.	5 minutes in any 3 hours
Methylene chloride (Z37.23-1969)	500 p.p.m.	1,000 p.p.m.	2,000 p.p.m.	5 minutes in any 2 hours
Organo (alkyl) mercury	0.01 mg/M ³	0.04 mg/M ³	.....	.....
Styrene (Z37.15-1969)	100 p.p.m.	200 p.p.m.	600 p.p.m.	5 minutes in any 3 hours
Trichloroethylene (Z37.19-1967)	100 p.p.m.	200 p.p.m.	300 p.p.m.	5 minutes in any 2 hours
Tetrachloroethylene (Z37.22-1967)	100 p.p.m.	200 p.p.m.	300 p.p.m.	5 minutes in any 3 hours
Toluene (Z37.12-1967)	200 p.p.m.	300 p.p.m.	500 p.p.m.	10 minutes

TABLE 300.05-B				
Hydrogen sulfide (Z37.2-1966)	.....	20 p.p.m.	50 p.p.m.	10 minutes once only if no other measurable exposure occurs
Mercury (Z37.8-1971)	.....	1 mg/10M ³	.....	.....
Chromic acid and Chromates (Z37.7-1971)	.....	1 mg/10M ³	.....	.....
Footnote ^a This section applies to the segments exempt from the 1-ppm 8-hour TWA and 5-ppm STEL of the benzene section.				
Footnote ^b This standard applies to any operations or sectors for which the cadmium section is not otherwise in effect.				

f. An employee's exposure to any material listed in Table 300.05-C of this section, in any eight (8)-hour work shift of a forty (40)-hour work week, shall not exceed the eight (8)-hour time weighted average limit given for that material in table 300.05-C. ()

TABLE 300.05 C	
MINERAL DUST	
Substance	^e Mppcfmg/M ³
Silica: Crystalline: Quartz (respirable) ^f 250	^m 10 mg/M ³ %SiO ₂ + 5%SiO ₂ + 2
Quartz (total dust)	30 mg/M ³ %S ₂ O ₂ + 2
Cristobalite: Use 1/2 the value calculated from the count or mass formulae for quartz. Tridymate: Use 1/2 the value calculated from the formulae for quartz. Amorphous, including natural diatomaceous earth ²⁰	80 mg/M ³ %SiO ₂

TABLE 300.05 C		
MINERAL DUST		
Silicates (less than 1% crystalline silica):		
Mica.....	20	
Soapstone.....	20	
Talc (non-asbestos-form).....	ⁿ 20	
Talc (fibrous). Use asbestos limit.....		
Tremolite (see talc, fibrous).....		
Portland cement.....	50	
Graphite (natural).....	15	
Coal dust (respirable fraction less than 5% SiO ₂).....		2.4 mg/M ³
		or
For more than 5% SiO ₂		10 mg/M ³
		%SiO ₂ + 2
Inert or Nuisance Dust:		
Respirable fraction.....	15	5 mg/M ³
Total dust.....	50	15 mg/M ³
NOTE: Conversion factors-mppcf x 35.3 = million particles per cubic meter = particles per cc.		
Footnote ^a Millions of particles per cubic foot of air, based on impinger samples counted by light-field techniques.		
Footnote ^b The percentage of crystalline silica in the formula is the amount determined from air-borne samples, except in those instances in which other methods have been shown to be applicable.		
Footnote ^c Containing less than 1% quartz; if 1% quartz or more, use quartz limit.		
Footnote ^d All inert or nuisance dusts, whether mineral, inorganic, or organic, not listed specifically by material/substance name are covered by the Particulates Not Otherwise Regulated (PNOR) limit which is the same as the inert or nuisance dust limit of table 300.05-A.		
Footnote ^e Both concentration and percent quarts for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:		

Aerodynamic diameter (unit density sphere)	Percent passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

The measurements under this note refer to the use of an AEC instrument. The respirable fraction of coal dust is determined with a MRE; the figure corresponding to that of 2.5 Mg/M³ in the table for coal dust is 4.5 Mg/M³.

()

06. Computation Formula. ()

a. The cumulative exposure for an eight (8)-hour work shift shall be computed as follows: $(E = C_a T_a + C_b T_b + \dots + C_n T_n) \div \text{eight (8)}$. Where: E is the equivalent exposure for the working shift; C is the concentration during any period of time T where the concentration remains constant; and T is the duration in hours of the exposure at the concentration C. The value of E shall not exceed the 8-hour limit for time weighted averages in Table 300.05-A, 300.05-B and 300.05-C for the material involved. ()

b. To illustrate the formula prescribed in this subsection, note that isoamyl acetate has an eight (8)-hour weighted average limit of one-hundred (100)-ppm. Assume that an employee is subject to the following exposure: Two (2) hours exposure at one-hundred fifty (150)-ppm; Two (2) hours exposure at seventy-five (75)-ppm; four (4) hours exposure at fifty (50)-ppm. Substituting this information in the formula we have: $(\text{two (2) x one-hundred fifty (150)} + \text{two (2) x seventy-five (75)} + \text{four (4) x fifty (50)}) \div \text{eight (8)} = \text{eighty-one point twenty-five (81.25)-ppm}$. Since eighty-one point twenty-five (81.25)-ppm is less than one-hundred (100)-ppm, the eight (8)-hour time weighted average limit, the exposure is acceptable. ()

c. In case of a mixture of air contaminates, an employer shall compute the equivalent exposure as follows: $E_m = (C_1 - L_1 + C_2 - L_2) + \dots + (C_n - L_n)$. Where E_m is the equivalent exposure for the mixture, C is the concentration of a particular contaminant, L is the exposure limit for that contaminant, from Table 300.05-A, 300.05-B, 300.05-C. The value of E_m shall not exceed units. ()

d. To illustrate the formula prescribed in paragraph i of this section, consider the following exposures:

Material	Actual Concentration of 8-hour exposure	8-hour time weighted average exposure limit
Acetone (Table 300.05-A)	500-ppm	1,000-ppm
2-Butanone (Table 300.05-A)	45-ppm	200-ppm
Toluene (Table 300.05-B)	40-ppm	200-ppm
Since E_m is less than unity, the exposure combination is within acceptable limits.		

()

e. To achieve compliance with subsections 300.05.a. through 300.05.g., of this section, administrative or engineering controls must first be determined and implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measures shall be used to keep the exposure of employees to air contaminant within the limits prescribed in this section. Any equipment and/or technical measures used for this purpose must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with Subsection 052.06 of this standard. ()

07. Disposal of Hazardous and Toxic Waste Material. ()

a. Hazardous and toxic material shall be disposed of in a manner and location approved by: the local District Health District; Idaho Division of Environmental Quality; Federal Environmental Protection Agency. ()

301. HAZARD COMMUNICATION.

01. Scope. ()
- a. The hazard communication program shall conform to all other applicable requirements of this standard, as well as the following provisions. Nothing in this standard shall be construed to prohibit better or otherwise safer conditions than specified herein. ()
- b. The purpose of this section is to ensure that the hazards of all chemicals produced or obtained are evaluated, and that information concerning their hazards is transmitted to employers and employees. This transmittal of information shall be accomplished by means of a comprehensive hazard communication program, which shall include container labeling and other forms of warning, material safety data sheets (MSDS), and employee training. ()
02. Definitions Applicable to this Section. ()
- a. Article is a manufactured item other than a fluid or particle: which is formed to a specific shape or design during manufacture; which has end use function(s) dependent in whole or in part upon its shape or design during end use; and which under normal conditions does not release more than minute or trace amounts if a hazardous chemical. ()
- b. Chemical is any element, chemical compound, or mixture of elements and/or compounds. ()
- c. Chemical Manufacture is an employer with a workplace where chemical(s) are produced for use or distribution. ()
- d. Chemical Name is the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation. ()
- e. Combustible Liquid is any liquid having a flash point at or above one-hundred (100)-degrees Fahrenheit but below two-hundred (200)-degrees Fahrenheit, except any mixture having components with flashpoints of two-hundred (200)-degrees Fahrenheit, or higher, the total of which make up ninety-nine (99%)-percent or more of the total volume of the mixture. ()
- f. Common Name is any designation or identification such as a code name, code number, trade name, brand name, or generic name used to identify a chemical other than by its chemical name. ()
- g. Compressed Gas is: a gas or mixture of gases having, in a container, an absolute pressure exceeding forty (40)-psi at seventy (70)-degrees Fahrenheit; or a gas or mixture of gases having, in a container, an absolute pressure exceeding one-hundred four (104)-psi at one-hundred thirty (130)-degrees Fahrenheit regardless of the pressure at seventy (70)-degrees Fahrenheit; or a liquid having a vapor pressure exceeding forty (40)-psi at one-hundred (100)-degrees Fahrenheit as determined by ASTM D-323. ()
- h. Container is any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a chemical or material. For the purposes of this section, pipes or piping systems, and engines, fuel tanks, or other operating systems in a vehicle, are not considered to be containers. ()
- i. Explosive is a chemical reaction that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature. ()
- j. Exposure or Exposed is when an employee is subjected in the course of employment to a chemical or material that is a physical or health hazard. ()
- k. Flammable is a chemical that falls into one (1) of the following categories: Flammable Aerosol is

an aerosol that yields a flame projection exceeding eighteen (18)-inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening; Flammable Gas is a gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen (13%)-percent by volume or less; or a gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve (12%)-percent by volume, regardless of the lower limit; Flammable Liquid is any liquid having a flashpoint below one-hundred (100)-degrees Fahrenheit, except any mixture having compounds with flashpoints of one-hundred (100)-degrees Fahrenheit or higher, the total of which make up ninety-nine (99%)-percent or more of the total volume of the mixture; Flammable solid is a solid, other than a blasting agent or explosive, that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. ()

l. Flashpoint is the minimum temperature at which a liquid gives off vapor in sufficient concentration to ignite. ()

m. Foreseeable Emergency is any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of a hazardous chemical or material into the workplace. ()

n. Hazardous Chemical is any chemical which is a physical hazard or a health hazard. ()

o. Hazard Warning is any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which conveys the specific physical and health hazards, including target organ effects, of the chemical or material in the container. ()

p. Health Hazard is any chemical for which there is statistically significant evidence based on at least one (1) study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term health hazard includes chemicals which are carcinogens, toxic or highly toxic, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which may damage the lungs, skin, eyes, or mucous membranes. ()

q. Identity is any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical or material. The identity used shall permit cross references to one made among the required list of hazardous chemicals, the label, and the MSDS. ()

r. Immediate Use means that the chemical or material will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred. ()

s. Label is any written, printed, or graphic material displayed on or affixed to containers of chemicals or materials. ()

t. Material Safety Data Sheet (MSDS) is written or printed material, concerning hazardous chemicals or materials, which has been prepared in accordance with 29CFR1910.1200. ()

u. Mixture is any combination of two (2) or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction. ()

v. Organic Peroxide is an organic compound that contains the bivalent -O-O structure and which may be considered to be a structural derivative of hydrogen peroxide where one (1) or both of the hydrogen atoms has been replaced by an organic radical. ()

w. Oxidizer is a chemical other than blasting agents or explosives that initiates or promotes combustion in other materials, thereby causing fire either of itself or through release of oxygen or other gases. ()

x. Physical Hazard is any chemical or material for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water reactive. ()

- y. Produce is to manufacture, process, formulate, blend, extract, generate, emit, or repackage. ()
- z. Pyrophoric is a chemical or material that will ignite spontaneously in air at a temperature of one-hundred thirty (130)-degrees Fahrenheit or below. ()
- aa. Responsible Party is someone who can provided additional information on a hazardous chemical or material and appropriate emergency procedures, if necessary. ()
- bb. Specific Chemical Identity is the chemical name, Chemical Abstracts service (CAS) Registry Number, or any other information that reveals the precise chemical designation of the substance. ()
- cc. Subjected in terms of health hazards, includes any route of entry (e.g. inhalation, ingestion, skin contact, or absorption). ()
- dd. Trade Secret is any confidential formula, pattern, process, device, information, or combination of information that is used in business that gives the business an opportunity to obtain an advantage over competitors who do not know or use it. ()
- ee. Unstable (reactive) is a chemical or material which in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self reactive under conditions of shock, pressure, or temperature. ()
- ff. Use is to package, handle, react, emit, extract, generate as a byproduct, or transfer. ()
- gg. Water Reactive is a chemical or material that reacts with water to release a gas that is either flammable or presents a health hazard. ()
03. General Requirements. ()
- a. All employers shall provide information to their employees about hazardous chemicals and materials to which they are exposed, by means of a hazard communication program, labels and other forms of warning, material safety data sheets, and information and training. ()
- b. Employers that do not produce hazardous chemicals and materials need only focus on those parts of this section that deal with establishing a workplace program and communicating information to their workers. ()
- c. This section applies to any chemical or material which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions or in a foreseeable emergency. ()
04. Written Hazard Communication Program: ()
- a. Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria in this section pertaining to labels, and other forms of warning, material safety data sheets, and employee information and training will be met. ()
- b. A list of the hazardous chemicals and materials known to be present using an identity that is referenced on the appropriate material safety data sheet shall be a part of the written hazard communication program. ()
- c. The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels, products of experiments, etc.), and the hazards associated in unlabeled pipes in their work areas shall be included in the written hazard communication program. ()
- d. Employers who produce, use or store hazardous chemicals or materials at a workplace in such a way that the employees of an other employer may be exposed (for example, employees of a construction contractor working on site) shall additionally ensure that the hazard communication programs developed under this subsection

shall include: the methods the employer will use to provide the other employer(s) on site access to material safety data sheets for each hazardous chemical or material the other employer's employees may be exposed to while at the workplace; the methods the employer will use to inform the other employer(s) of any precautionary measures that need to be taken to protect employees during the workplace's normal operating conditions and in foreseeable emergencies; and the methods the employer will use to inform the other employer(s) of the labeling system used in the workplace. ()

e. The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives, and representatives of the Department. ()

f. Where employees work at temporary worksites, the written hazard communication program need only be kept at primary workplaces. ()

05. Labels and Other Forms of Warning. ()

a. The employer shall ensure that all containers of chemicals and materials entering, used on, or leaving the employer's workplace is labeled, tagged, or marked with the following information: the identity of the hazardous chemical or material; appropriate hazard warnings; and the name and address of the chemical manufacture, importer, or other responsible party. ()

b. For solid metal (such as a steel beam or metal casting), solid wood, or plastic items that are not exempted as articles due to their downstream use, or shipments of whole grain, the required label may be transmitted to the customer at the time of the initial shipment, and need not be included with subsequent shipments unless the information on the label changes. The label may be transmitted with the initial shipment itself, or with the material safety data sheet that is to be provided prior to or at the time of the first shipment. This exception to requiring labels on every container of chemicals or materials is only for the solid material itself, and does not apply to hazardous chemicals or materials used in conjunction with, or known to be present with, the material and to which employees handling the items in transit may be exposed (for example cutting fluids or pesticides in grains). ()

c. The employer may use signs, placards, process sheets, batch tickets, or other such written materials in lieu of affixing labels to individual stationary process containers as long as the alternative method identifies the containers to which it is applicable and conveys the information required by this subsection to be on the label. The written materials shall be readily accessible to the employees in their work area throughout each work shift. ()

d. The employer is not required to label portable containers into which chemicals or materials are transferred from labeled containers, and which are intended only for the immediate use of the person who performs the transfer. For purposes of this section, drugs which are dispensed by a pharmacy to a health care provider direct administration to a patient are exempted from labeling. ()

e. The employer shall ensure that labels on containers are not removed or defaced. Containers whose labels are missing or defaced shall be immediately remarked with the required information. ()

06. Material Safety Data Sheets (MSDS). ()

a. Employers shall have a material safety data sheet in the workplace for each hazardous chemical or material which they use or have on hand. ()

b. Each material safety data sheet shall be in English (it is recommended that the employer maintain copies in other languages as well). ()

c. Each material safety data sheet shall contain the following information: The identity used on the label (except as provided for trade secrets). The chemical and common name for a single hazardous chemical. The chemical common names of the ingredients which contribute to those known hazards, and the common name(s) of the mixture itself. If the hazardous chemical/material is a mixture which has not been tested as a whole then the chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise one (1%)-percent or greater of the composition, except that chemicals identified as carcinogens shall be listed if the concentrations are zero point one (0.1%)-percent or greater; or if they comprise less than one (1%)-percent (zero

point one (0.1%)-percent for carcinogens) and there is evidence that the ingredient(s) could be released from the mixture in concentrations which would exceed an established permissible exposure limit or threshold limit value, or could present a health risk to employees; and the chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture; Physical and chemical characteristics of the hazardous chemical or material (such as vapor pressure, flash point); The physical hazards of the hazardous chemical or material, including the potential for fire, explosion, and reactivity; The health hazards of the hazardous chemical or material, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical or material; The primary route(s) of entry; The permissible exposure limit, threshold limit value, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet, where available; Whether the hazardous chemical is listed in the National Toxicology Program (NTP) as a carcinogen or has been found to be a potential carcinogen the International Agency for Research on Cancer (IARC) monographs, or by OSHA; Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, importer, or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks; Any generally applicable control measures which are known to the chemical manufacturer, importer, or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment; Emergency and first aid procedures; The date of preparation of the material safety data sheet or the last change to it; The name, address, and telephone number of the chemical manufacturer, importer, employer, or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical or material and appropriate emergency procedures, if necessary; ()

d. If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer, or employer preparing the material safety data sheet shall mark it to indicate that no applicable information was found. ()

e. Where complex mixtures have similar hazards and contents (i.e. the chemical ingredients are essentially the same, but specific composition varies from mixture to mixture), the chemical manufacturer, importer, or employer may prepare one (1) material safety data sheet to apply to all of these similar mixtures. ()

f. The chemical manufacturer, importer, or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer, or employer preparing the material safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three (3)-months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the new information to the material safety data sheet before the chemical or material is introduced into the workplace again. ()

g. Chemical manufacturers, importers, and distributors shall ensure that and employers are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated. ()

h. The chemical manufacturer, importer, or distributor shall either provide material safety data sheets with the shipped containers or send them to the distributor employer prior to or at the time of the shipment. ()

i. If the material safety data sheet is not provided with a shipment that has been labeled as a hazardous chemical, the chemicals or materials shall not be used until the employer has obtained a material safety data sheet from the distributor or manufacturer. ()

j. The chemical manufacturer, importer, or distributor shall provide employers with a material safety data sheet upon request. ()

k. Retail distributors selling hazardous chemicals or materials to employers shall provide a material safety data sheet to such employers upon request, and shall post a sign or otherwise inform them that a material safety data sheet is available. ()

l. Wholesale distributors selling hazardous chemicals or materials to employers over-the-counter may

also provide material safety data sheets upon the request of the employer at the time of the over-the-counter purchase, and shall post a sign or otherwise inform such employers that a material safety data sheet is available. ()

m. If an employer without a commercial account purchases a hazardous chemical or material from a retail distributor not required to have material safety data sheets on file (i.e. the retail distributor does not have commercial accounts and does not use the materials, the retail distributor shall provide the employer, upon request, with the name, address, and telephone number of the chemical manufacturer, importer, or distributor from which a material safety data sheet can be obtained. ()

n. Wholesale distributors shall also provided material safety data sheets to employers or other distributors upon request. ()

o. The employer shall maintain in the workplace copies of the required material safety data sheets for each hazardous chemical or material, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). Electronic access, microfiche, and other alternatives to maintaining paper copies of the material safety data sheets are permitted as long as no barriers to immediate employee access in each work place are created by such options. ()

p. Where employees work at temporary worksites, the material safety data sheets need only be kept at primary workplaces. In this situation, the employer shall ensure that employees can immediately obtain the required information in an emergency. ()

q. Material safety data sheets may be kept in any form, including operating instructions or procedures, and may be designed to cover groups of hazardous chemicals or materials in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical or material, and is readily accessible during each work shift to employees when they are in their work area(s). ()

r. Material safety data sheets shall also be made available to designated employee representatives and representatives of the Department, upon request. ()

07. Employee Information and Training. ()

a. Employers shall provide employees with effective information and training on hazardous chemicals and materials in their work area at the time of their initial assignment, and whenever a new physical or health hazard the employees have not previously been trained about is introduced into their work area. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical specific information must always be available through labels and material safety data sheets. ()

b. Employees shall be informed of the requirements of this section; any operations in their work are where hazardous chemicals or materials are present; and the location and availability of the written hazard communication program, including the required lists of hazardous chemicals and materials, and material safety data sheets required by this section. ()

c. Employee training shall include at least methods and observations that may be used to detect the presence or release of a hazardous chemical or material in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals or materials when being released, etc.); the physical and health hazards of the chemicals or materials in the work area; the measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals or materials, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and the details of the hazard communication program developed by the employer, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information. ()

08. Laboratories. ()

a. Employers shall ensure that labels on incoming containers of chemicals and materials are not

- removed or defaced. ()
- b. Employers shall maintain material safety data sheets for all chemicals and materials received and on hand. ()
- c. Employers shall ensure that material safety data sheets are readily accessible during each workshift to all employees when they are in their work areas. ()
- d. Employers shall ensure that all employees that work in laboratories are provided information and training in accordance with the provisions of Subsection 301.07 of this section. ()
- e. Laboratories that ship chemicals and materials shall be considered to be either a manufacture or a distributor under this section, and thus must ensure that any containers leaving the laboratory are labeled in accordance with Subsection 301.05, and that a material safety data sheet is provided in accordance with Subsection 301.06 of this section. ()
- f. Compounds, mixtures, and materials developed or produced in the laboratory for use within the laboratory, such as the products of experimentation, need not have a material safety data sheet developed, however internal procedures shall be developed to ensure employees that could come in contact with these materials are adequately informed and protected. ()
09. Cargo Handling, Warehousing, and Retail Sales. ()
- a. Employers shall ensure that labels on incoming containers of chemicals and materials are not removed or defaced. ()
- b. Employers shall maintain copies of material safety data sheets for incoming shipments of hazardous chemicals and materials, shall obtain a material safety data sheet as soon as possible for sealed containers of hazardous chemicals and materials received without a material safety data sheet, and shall ensure that the material safety sheets are available during each work shift to employees when they are in their work areas. ()
- c. Employers shall ensure that employees are provided with information and training in accordance with Subsection 301.07 to the extent necessary to protect them in the event of a spill or leak of a hazardous chemical or material from a sealed container. ()
10. Exempted Chemicals and Materials. ()
- a. Any pesticide as the term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act, when properly labeled in accordance with that act and the regulations of the Environmental Protection Agency. ()
- b. Any chemical substance or mixture as such terms are defined in the Toxic Substances Control Act, when properly labeled in accordance with that act and the regulations of the Environmental Protection Agency. ()
- c. Any food, food additive, color additive, drug, cosmetic, or medical or veterinary device or product, including materials intended for use as ingredients in such products as such terms are defined in the Federal Food, Drug, and Cosmetic Act or the Virus-Serum-Toxin Act, when properly labeled in accordance with those acts and the regulations of the Food and Drug Administration or the Department of Agriculture. ()
- d. Any distilled spirits (beverage alcohols), wine, or malt beverage intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act, when properly labeled in accordance with that act and the regulations of the Bureau of Alcohol, Tobacco, and Firearms. ()
- e. Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act and the Federal Hazardous Substances Act, when properly labeled in accordance with those acts and the regulations of the Consumer Product Safety Commission. ()

f. Agricultural or vegetable seed treated with pesticides and labeled in accordance with the Federal Seed Act and the regulations of the Department of Agriculture. ()

g. Any hazardous waste as such term is defined by the Solid Waste Act, as amended by the Resource Conservation and Recovery Act (RCRA) and the regulations of the Environmental Protection Agency. ()

h. Any hazardous substance as such term is defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA and the regulations of the Environmental Protection Agency. ()

i. Tobacco or tobacco products. ()

j. Wood or wood products, including lumber which will not be processed, where it can be established that the only hazard posed to employees is the potential for flammability or combustibility. Wood or wood products which have been treated with a hazardous chemical and wood which may be subsequently sawed or cut, generating dust, are not exempted. ()

k. Articles as defined in Subsection 301.02. ()

l. Over the counter drugs and first aid supplies. ()

m. Nuisance particulates where it can be established that they do not pose any physical or health hazard. ()

n. Ionizing and nonionizing radiation. ()

o. Biological hazards. ()

11. Trade Secrets. ()

a. The chemical manufacturer, importer, or employer may withhold the specific chemical name or other specific identification of a hazardous chemical or material, from the material safety data sheet, provided that: the claim that the information withheld is a trade secret can be supported; information contained in the material safety data sheet concerning the properties and effects of the hazardous chemical or material is disclosed; the material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and the specific chemical identity is made available to health professionals, employees, designated representatives in accordance with the provisions of this section and 29CFR1910.1200. ()

b. Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of a written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and confidentiality agreement as soon as circumstances permit. ()

c. In non-emergency situations, a chemical manufacturer, importer, or employer shall upon request, disclose a specific chemical identity, otherwise permitted to be withheld if the request complies with the provisions of 29CFR1910.1200. ()

302. -- 319. (RESERVED).

320. BLASTING AND USE OF EXPLOSIVES.

01. Scope. ()

a. Blasting and use of explosives shall conform to all other applicable requirements of this standard,

as well as the following provisions. Nothing in this standard shall be construed to prohibit better or otherwise safer conditions than specified herein. ()

- 02. Definitions Applicable to this Section. ()
 - a. Approved Storage Facility is a facility for the storage of explosive materials conforming to the requirements of this section. ()
 - b. Blast Area is the area in which explosive loading and blasting operations are being conducted. ()
 - c. Blasting Agent is any material or mixture consisting of a fuel and oxidizer used for blasting, but not classified as an explosive and in which none of the ingredients is classified as an explosive provided the furnished (mixed) product cannot be detonated with a number eight (8)-test blasting cap when confined. ()
 - d. Blasting Cap is a metallic tube closed at one (1) end, containing a charge of one (1) or more detonating compounds. ()
 - e. Block Holing is the breaking of boulders by firing a charge of explosives that has been loaded in a drill hole. ()
 - f. Bus Wire is an expendable wire, used in parallel or series, in parallel circuits, to which are connected the leg wires of electric blasting caps. ()
 - g. Class A Explosives is an explosive possessing a detonating hazard, such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, blast powder, blasting caps, and detonating primers. ()
 - h. Class B Explosives is an explosive possessing a flammable hazard, such as propellant explosives, including some smokeless powders. ()
 - i. Class C Explosives includes certain types of manufactured articles which contain Class A or Class B explosives, or both, as components, but in restricted quantities. ()
 - j. Connecting Wire is an insulated expendable wire used between electric blasting caps and the leading wires or between the bus wire and the leading wires. ()
 - k. Conveyance is any unit for transporting explosives or blasting agents, including but not limited to trucks, trailers, rail cars, barges, and vessels. ()
 - l. Detonating Cord is a flexible cord containing a center core of high explosive which when detonated, will have sufficient strength to detonate another cap. ()
 - m. Detonator is any of the following: blasting caps, electric blasting caps, delay electric blasting caps, non-electric blasting caps, and non-electric delay blasting caps. ()
 - n. Electric Blasting Cap is a blasting designed for and capable of detonating by means of an electric current. ()
 - o. Electric Delay Blasting Caps are caps designed to detonate at a predetermined period of time after energy is applied to the ignition system. ()
 - p. Explosives are any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion; that is, with substantially instantaneous release of gas and heat. ()
 - q. Fuse Lighters are special devices for the purpose of igniting safety fuse. ()
 - r. Leading Wire is an insulated wire used between the electric power source and the electric blasting

- cap circuit. ()
- s. Magazine is any building or structure, other than an explosives manufacturing building, used for the storage of explosives. ()
- t. Misfire is an explosive charge which failed to detonate. ()
- u. Mud Capping is the blasting of boulders by placing a quantity of explosives against a rock, bolder, or other object without confining the explosive in a drill hole. (Sometimes known as bulldozing, adobe blasting, or dobying) ()
- v. Non-Electric Blasting Cap is a blasting cap designed for and capable of detonation from the sparks or flame from a safety fuse inserted and crimped into the open end. ()
- w. Non-Electric Delay Blasting Cap is a blasting cap with an integral delay element in conjunction with and capable of being detonated by a detonation impulse or signal from detonating cord. ()
- x. Permanent Blasting Wire is a permanently mounted insulated wire used between the electric power source and the electric blasting cap circuit. ()
- y. Primary Blasting is a blasting operation by which the original rock formation is dislodged from its natural location. ()
- z. Primer is a cartridge or container of explosives into which a detonator or detonating cord is inserted or attached. ()
- aa. Safety Fuse is a flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate for the purpose of firing blasting caps. ()
- bb. Secondary Blasting is the reduction of oversize material by the use of explosives to the dimension required for handling, including mud-capping and block-holing. ()
- cc. Stemming is a suitable inert incombustible material or device used to confine or separate explosive in a drill hole, or to cover explosives in mud-capping. ()
- dd. Springing is the creation of a pocket in the bottom of a drill hole by use of a moderate quantity of explosives in order that larger quantities or explosives may be inserted therein. ()
- ee. Water Gels or slurry Explosives are a wide variety of materials used for blasting. They all contain substantial preparations of water and high preparations of ammonium nitrate. ()
03. General Requirements. ()
- a. The employer shall permit only authorized and qualified persons to handle and use explosives. ()
- b. Smoking, firearms, matches, open flame lamps, and other fires, flame or heat producing devices and sparks shall be prohibited in or near explosive magazines or while explosives are being handled, transported, or used. EXCEPTION: Law enforcement officials and persons carrying firearms for the protection of the explosives or explosive operation. ()
- c. No person shall be allowed to handle or use explosive while under the influence of intoxicating liquors, narcotics, or other dangerous drugs. ()
- d. All explosives shall be accounted for at all times. Explosives not being used shall be kept in a locked magazine, unavailable to persons not authorized to handle them. The employer shall maintain an inventory and use record of all explosives. Appropriate authorities shall be notified of any loss, theft, or unauthorized entry into a

- magazine. ()
- e. No explosives or blasting agents shall be abandoned. ()
- f. No fire shall be fought where the fire is in imminent danger of contact with explosives. All explosives shall be removed to a safe area and the fire area guarded against intruders. ()
- g. Original containers or Class II magazines, shall be used for taking detonators and other explosives from storage magazines to the blasting area. ()
- h. When blasting is done in congested areas or in proximity to a structure, railway, highway, or any other installation that may be damaged, the blaster shall take special precautions in the loading, delaying, initiation, and confinement of each blast with mats or other methods so as to control the throw of fragments, and thus prevent bodily injury to employees. ()
- i. Employees authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution including, but not limited to, visual and audible warning signals, flags, or barricades, to ensure employee safety. ()
- j. Blasting operations shall be conducted between sunup and sundown. ()
- k. Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radar, radio transmitters, lightning, adjacent power lines, dust storms, or other sources of extraneous electricity. ()
- l. Electric detonators shall be short-circuited/shunted until wired into the blasting circuit. The blasting wire shall be short-circuited/shunted until ready to be fired. ()
- m. The suspension of all blasting operations and removal of persons from the blasting area when an electric storm is within three (3)-miles and during the progress of an electric storm. ()
- n. Adequate signs shall be prominently displayed warning against the use of mobile radio transmitters, on all roads within one-thousand (1,000)-feet of blasting operations. Whenever adherence to the one thousand (1,000)-foot distance would create an operational handicap, a competent person shall be consulted to evaluate the particular situation, and alternative provisions may be made which are adequately designed to prevent any premature firing of electric blasting caps. A description of any such alternatives shall be reduced to writing and shall be certified as meeting the purposes of this section by the competent person consulted. The description shall be kept at the job site during the duration of the blasting operations and shall be available to representatives of the Department upon request. See Figure 320.03-A+B for signs. ()

FIGURE 320.03-A



FIGURE 320.03-B



- o. Mobile radio transmitters which are less than one-hundred (100)-feet away from electric blasting caps, in other than original containers, shall be deenergized and effectively locked. ()
- p. Empty boxes, paper, and fiber packing materials, which have previously contained high explosives, shall not be used again for any purpose, but shall be destroyed by burning at an approved location. ()
- q. Explosives, blasting agents, and blasting supplies that are obviously deteriorated or damaged shall not be used. ()
- r. Delivery and issue of explosives shall only be made by and to authorized persons and into authorized magazines or approved temporary storage or handling areas. ()
- s. Blasting operations in the proximity of overhead power lines, communication lines, utility services, or other services and structures shall not be carried on until the operators and/or owners have been notified and measures for safe control have been taken. ()
- t. The use of black powder shall be prohibited. ()
- u. All loading and firing of explosives shall be directed and supervised by competent persons thoroughly experienced in this field. ()
- v. All blasts shall be fired electrically with an electric blasting machine or properly designed electric power source, except as provided in Subsection 320.08 of this section. ()
- w. Warning signs, indicating a blast area, shall be maintained at all approaches to the blast area. Additionally, permanent blasting areas shall have signs at three-hundred (300)-foot intervals around the perimeter of the blasting area. The sign shall meet the requirements for Danger signs in Section 170 of this standard. The words Blasting Area shall be in four (4)-inch black letters. See Figure 320.03-C. ()

FIGURE 320.03-C



04. Blaster Qualifications. ()
- a. A blaster shall be able to understand and give written and oral orders. ()
 - b. A blaster shall be in good physical condition and not be addicted to narcotics, intoxicants, or similar types of drugs. ()
 - c. A blaster shall be qualified, by reason of training, knowledge, or experience, in the field of transporting, storing, handling, and use of explosives, and have a working knowledge of Federal and State laws and regulations which pertain to explosives. ()
 - d. Blasters shall be required to furnish satisfactory evidence of competency in the handling explosives and performing in a safe manner the type of blasting that will be required. ()
 - e. Blasters shall be required to receive training, at least annually, in the handling of explosives and performing in a safe manner the type of blasting that will be required. ()
 - f. The blaster shall be knowledgeable and competent in the use of each type of blasting method used. ()
 - g. Persons destroying unserviceable explosives and explosive devices shall be required to furnish satisfactory evidence of competency and maintain currency through annual training. ()
05. Transporting of Explosives. ()
- a. Transporting of explosives shall meet the provisions of department of Transportation regulations contained in 49CFR. ()
 - b. Motor vehicles or conveyances transporting explosives shall only be driven by, and be in charge of, a licensed driver who is physically fit. The driver shall be familiar with the local, State, and Federal regulations governing the transportation of explosives. The driver shall be at least twenty-one (21)-years of age. ()
 - c. No person shall smoke, or carry matches or any other flame producing device, nor shall firearms or loaded cartridges be carried while in or near a motor vehicle or conveyance transporting explosives. EXCEPTION: Law enforcement officials and persons carrying firearms for the protection of the explosives. ()
 - d. Explosives, blasting agents, and blasting supplies shall not be transported with other materials or cargoes. Blasting caps (including electric) shall not be transported in the same vehicle with explosives. ()
 - e. Explosives, blasting agents, and blasting supplies shall not be transported in the same compartment with people. Blasting caps (including electric) shall not be transported in the passenger compartment of a vehicle. ()

()

f. Vehicles used for transporting explosives shall be strong enough to carry the load without difficulty, and shall be in good mechanical condition. Vehicles used to transport explosives shall be inspected by the person in charge of the vehicle in order to determine that: electric wires are insulated and securely fastened; the engine, chassis, and body are reasonably clean and free of excessive grease and oil; the fuel tanks and fuel lines are securely fastened and not leaking; breaks, lights, horn, windshield wipers, and steering mechanism are functioning properly; tires are properly inflated and free from defects; and the vehicle is in proper condition for transporting explosives. ()

g. When explosives are transported by a vehicle with an open body, a Class II magazine or original manufacturer's container shall be securely mounted on the bed to contain the cargo. Open bodied vehicles transporting explosives shall have the cargo area covered with a flameproof and moistureproof tarpaulin or other effective protection against moisture and sparks. Packages of explosives shall not be loaded above the sides of an open body vehicle. ()

h. All vehicles used for the transportation of explosives shall have tight floors and any exposed spark producing metal on the inside of the body shall be covered with wood, or other nonsparking material, to prevent contact with raw explosives or electrically initiated explosive devices. ()

i. Every motor vehicle or conveyance used for transporting explosives shall be marked or placard on both sides, the front, and the rear with D.O.T placards. ()

j. Each vehicle used for transportation of explosives shall be equipped with two (2) fully charged ten (10)-ABC rated fire extinguishers, in good condition. The driver shall be trained in the use of the extinguisher on the vehicle. ()

k. Motor vehicles or conveyances carrying explosives, blasting agents, or blasting supplies, shall not be taken inside a garage or shop for repairs or servicing. ()

l. No motor vehicle transporting explosives shall be left unattended. ()

m. Every vehicle transporting explosives shall at all times be attended by the driver or other attendant. However, an explosive laden vehicle may be left unattended if parked within a securely fenced or wall area with all gates locked where parking of such vehicle is otherwise permissible, or at a magazine site established solely for the purpose of storing explosives. ()

n. Vehicles transporting explosives shall avoid congested areas and heavy traffic. Where routes through congested areas have been designated by local authorities such routes shall be followed. ()

06. Storage of Explosives and Blasting Agents. ()

a. Explosives and related materials shall be stored in approved facilities. ()

b. Blasting caps, electric blasting caps, detonating primers, and primed cartridges shall not be stored in the same magazine with other explosives or blasting agents. ()

c. Smoking and open flames shall not be permitted within fifty (50)-feet of explosives and detonator storage magazines. ()

d. Ground around magazines shall slope away for drainage. The land surrounding magazines shall be kept clear of brush, dried grass, leaves, and other materials for a distance of at least twenty-five (25)-feet. Combustible materials shall not be stored within fifty (50)-feet of magazines. ()

e. Class I magazines shall be required where the quantity of explosives stored is more than fifty (50)-pounds. Class II magazines may be used where the quantity of explosives stored is fifty (50)-pounds or less. ()

f. Class I magazines shall be located away from inhabited buildings, passenger railways, and public

highways and from other magazines in conformity with Table 320.06-A

()

TABLE 320.06-A				
MINIMUM DISTANCES FOR BUILDINGS CONTAINING EXPLOSIVE MATERIALS				
QUANTITY OF EXPLOSIVE MATERIAL ¹		MINIMUM DISTANCE (feet)		
		X 304.8 for mm		
Pounds Over	Pounds Not Over	Property Lines ² and Inhabited Buildings ³		Separation of Magazines ^{4,5,6}
X 0.4536 for kg		Barricaded ⁴	Unbarricaded	
2	5	70	140	12
5	10	90	180	16
10	20	110	220	20
20	30	125	250	22
30	40	140	280	24
40	50	150	300	28
50	75	170	340	30
75	100	190	380	32
100	125	200	400	36
125	150	215	430	38
150	200	235	470	42
200	250	255	510	46
250	300	270	540	48
300	400	295	590	54
400	500	320	640	58
500	600	340	680	62
600	700	355	710	64
700	800	375	750	66
800	900	390	780	70
900	1,000	400	800	72
1,000	1,200	425	850	78
1,200	1,400	450	900	82
1,400	1,600	470	940	86
1,600	1,800	490	980	88
1,800	2,000	505	1,010	90
2,000	2,500	545	1,090	98

TABLE 320.06-A				
MINIMUM DISTANCES FOR BUILDINGS CONTAINING EXPLOSIVE MATERIALS				
2,500	3,000	580	1,160	104
3,000	4,000	635	1,270	116
4,000	5,000	685	1,370	122
5,000	6,000	730	1,460	130
6,000	7,000	770	1,540	136
7,000	8,000	800	1,600	144
8,000	9,000	835	1,670	150
9,000	10,000	865	1,730	156
10,000	12,000	875	1,750	164
12,000	14,000	885	1,770	174
14,000	16,000	900	1,800	180
16,000	18,000	940	1,880	188
18,000	20,000	975	1,950	196
20,000	25,000	1,055	2,000	210
25,000	30,000	1,130	2,000	224
30,000	35,000	1,205	2,000	238
35,000	40,000	1,275	2,000	248
40,000	45,000	1,340	2,000	258
45,000	50,000	1,400	2,000	270
50,000	55,000	1,460	2,000	280
55,000	60,000	1,515	2,000	290
60,000	65,000	1,565	2,000	300
65,000	70,000	1,610	2,000	310
70,000	75,000	1,655	2,000	320
75,000	80,000	1,695	2,000	330
80,000	85,000	1,730	2,000	340
85,000	90,000	1,760	2,000	350
90,000	95,000	1,790	2,000	360
95,000	100,000	1,815	2,000	370
100,000	110,000	1,835	2,000	390
110,000	120,000	1,855	2,000	410
120,000	130,000	1,875	2,000	430
130,000	140,000	1,890	2,000	450

TABLE 320.06-A				
MINIMUM DISTANCES FOR BUILDINGS CONTAINING EXPLOSIVE MATERIALS				
140,000	150,000	1,900	2,000	470
150,000	160,000	1,935	2,000	490
160,000	170,000	1,965	2,000	510
170,000	180,000	1,990	2,000	530
180,000	190,000	2,010	2,010	550
190,000	200,000	2,030	2,030	570
200,000	210,000	2,055	2,055	590
210,000	230,000	2,100	2,100	630
230,000	250,000	2,155	2,155	670
250,000	275,000	2,215	2,215	720
275,000	300,000	2,275	2,275	770
¹ The number of pounds (kg) of explosives listed is the number of pounds of trinitrotoluene (TNT) or the equivalent pounds (kg) of other explosive.				
² The distance listed is the distance to property line, including property lines at public ways.				
³ Inhabited building is any building on the same property which is regularly occupied by human beings. When two or more buildings containing explosives or magazines are located on the same property, each building or magazine shall comply with the minimum distances specified from inhabited buildings, and, in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosive materials contained in detonator buildings or magazines shall govern in regard to the spacing of said detonator buildings or magazines from buildings or magazines containing other explosive materials. If any two or more buildings or magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such two or more buildings or magazines, as a group, shall be considered as one building or magazine, and the total quantity of explosive materials stored in such group shall be treated as if the explosive were in a single building or magazine located on the site wall of any building or magazine of the group, and shall comply with the minimum distance specified from other magazines or inhabited buildings.				
⁴ Barricades shall effectively screen the building containing explosives from other buildings, public ways or magazines. When mounds or revetted walls of earth are used for barricades, they shall not be less than 3 feet (914 mm) in thickness. A straight line from the top of any side wall of the building containing explosive materials to the eave through the barricades.				
⁵ Magazine is a building or structure approved for storage of explosive materials. In addition to the requirements of the standard, magazines shall comply with the Fire Code and Building Code.				
⁶ The distance listed may be reduced by 50 percent when approved natural or artificial barriers are provided in accordance with the requirements in Footnote 4.				

()

g. Except as provided in Subsection 320.06.h of this section, Class II magazines shall be located in

conformity with Table 320.06-A. ()

h. When used for temporary storage at a site for blasting operations, Class II magazines shall be located away from other magazines. A distance of at least one-hundred fifty (150)-feet shall be maintained between Class II magazines and work in progress when the quantity of explosives kept therein is in excess of twenty-five (25)-pounds, and at least fifty (50)-feet when the quantity of explosives is twenty-five (25)-pounds, or less. ()

i. Magazines for the storage of explosives and blasting caps shall be bullet resistant, weather resistant, fire resistant, and ventilated sufficiently to protect the explosive in the specific locality. ()

j. The property upon which magazines are located shall be posted with Danger signs stating Explosives - Keep Off, See Figure 320.06-A. ()

FIGURE 320.06-A



k. At the entrance to explosives storage sites, all access roads shall be posted with the following danger sign, see Figure 320.06-B. ()

FIGURE 320.06-B



l. Magazines requiring heat shall be heated by either hot water radiant heating within the magazine building; or air directed into the magazine building over either hot water or low pressure steam (fifteen (15)-p.s.i.g.) coils located outside the magazine building. ()

m. Magazine heating systems shall meet the following requirements: The radiant heating coils within the magazine shall be installed in such a manner that the explosives or explosives containers cannot contact the coils and air is free to circulate between the coils and the explosives or explosives containers. The heating ducts shall be installed in such a manner that the hot air discharge from the duct is not directed against the explosives or explosives containers. The heating device used in connection with a magazine shall have controls which prevent the ambient magazine temperature from exceeding one-hundred thirty (130)-degrees Fahrenheit. The electric fan or pump used in the heating system for a magazine shall be mounted outside and separate from the wall of the magazine and shall be

grounded. The electric fan motor and controls for electrical heating devices used in heating water or steam shall have overloads and disconnects. All electrical switch gear shall be located a minimum distance of twenty-five (25)-feet from the magazine. The heating source for water or steam shall be separated from the magazine by a distance of not less than twenty-five (25)-feet when electrical and fifty (50)-feet when fuel fired. The area between the heating unit and the magazine shall be cleared of all combustible materials. The storage of explosives and explosives containers in the magazine shall allow uniform air circulation so the temperature of explosives and explosives containers can be uniformly maintained. ()

n. When lights are necessary inside the magazine, electric safety flashlight, or electric lanterns shall be used. ()

o. Class I magazines shall be of masonry, wood, metal, or a combination of these types. Thickness of masonry units shall not be less than eight (8)-inches. Hollow masonry units used in construction required to be bullet resistant shall have all hollow spaces filled with weak cement or well tamped sand. Wood constructed walls shall be bullet resistant, shall have at least a six (6)-inch space between interior and exterior sheathing and the space between sheathing shall be filled with well tamped sand. Metal wall construction shall be bullet resistant, shall be lined with brick at least four (4)-inches in thickness or shall have at least a six (6)-inch sand fill between interior and exterior walls. Floors and roofs of masonry magazines may be of wood construction. Wood floors shall be tongue and groove lumber having a nominal thickness of one (1)-inch. Roofs shall be bullet resistant and shall be protected by a sand tray located at the line of eaves and covering the entire area except that necessary for ventilation. Sand in the sand tray shall be maintained at a depth of not less than four (4)-inches. All wood at the exterior of magazines, including eaves, shall be protected by being covered with black or galvanized steel or aluminum metal of thickness of not less than Number twenty-six (26)-gauge. All nails exposed to the interior of magazines shall be well countersunk. Foundations for magazines shall be of substantial construction and arranged to provide good cross ventilation. Magazines shall be ventilated sufficiently to prevent dampness and heating of stored explosives. Ventilating openings shall be screened to prevent the entrance of sparks. Openings to magazines shall be restricted to that necessary for the placement and removal of stocks of explosives. Doors for openings in magazines shall be bullet resistant. Provisions shall be made to prevent the piling of stocks of explosives directly against masonry walls, brick lined or sand filled metal walls and single thickness metal walls; such protection shall not interfere with proper ventilation at the interior of side and end walls. ()

p. Class II magazines shall be of wood or metal construction, or a combination thereof. Wood magazines of this class shall have sides, bottom, and cover constructed of two (2)-inch hardwood boards well braced at corners and protected by being entirely covered with sheet metal of not less than Number twenty (20)-gauge. All nails exposed to the interior of the magazine shall be well countersunk. All metal magazines of this class shall have sides, bottom, and cover constructed of sheet metal, and shall be lined with three eighths (3/8)-inch plywood or equivalent. Edges of metal covers shall overlap sides at least one (1)-inch. Covers for both wood and metal constructed magazines of this class shall be provided with substantial strap hinges and shall be provided with substantial means for locking. Magazines of this class shall be painted red and shall bear lettering in white, on all sides and top, at least three (3)-inches high stating Explosives - Keep Fire Away. Class II magazines where necessary due to climatic conditions shall be ventilated. ()

q. Packages of explosives shall be laid flat with top side up. Black powder when stored in magazines with other explosives shall be stored separately. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down. Corresponding grades and brands of explosives shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked. Packages of explosives shall be piled in a stable manner. When any kind of explosive is removed from a magazine for use, the oldest explosive of that particular kind shall always be taken first. ()

r. Packages of explosives shall not be unpacked or repacked in a magazine nor within fifty (50)-feet of a magazine or in close proximity to other explosives. Tools used for opening packages of explosives shall be constructed of nonsparking materials, except that metal slitters may be used for opening fiberboard boxes. A wood wedge and a fiber, rubber, or wood mallet shall be used for opening or closing wood packages of explosives. Opened packages of explosives shall be securely closed before being returned to a magazine. ()

s. Magazines shall not be used for the storage of any metal tools nor any commodity except explosives, but this restriction shall not apply to the storage of blasting agents and blasting supplies. ()

t. Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages, and rubbish. Brooms and other cleaning utensils shall not have any spark producing metal parts. Sweepings from floors of magazines shall be properly disposed of. Magazine floors stained with nitroglycerin shall be cleaned according to instructions of the manufacturer. ()

u. When any explosive has deteriorated to an extent that it is an unstable or dangerous condition, or if nitroglycerin leaks from any explosives, then the person in possession of such explosive shall immediately proceed to destroy such explosive in accordance with the instructions of the manufacturer. Only experienced persons shall be allowed to do the work of destroying explosives. ()

v. When magazines need inside repairs, all explosives shall be removed therefrom and the floors cleaned. In making outside repairs, if there is a possibility of causing sparks or fire the explosives shall be removed from the magazine. Explosives removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine where they shall be properly guarded and protected until repairs have been completed, then they shall be returned to the magazine. ()

w. Smoking, matches, open flames, spark producing devices, and firearms (except firearms carried by guards and law enforcement officers) shall not be permitted inside of or within fifty (50)-feet of magazines. ()

x. Magazines shall be in the charge of a competent person at all times and who shall be held responsible for the enforcement of all safety precautions. This person shall be at least twenty-one (21)-years of age. ()

y. Explosives recovered from blasting misfires shall be placed in a separate magazine until competent personnel has determined from the manufacture the method of disposal. Caps recovered from blasting misfires shall not be reused. Such explosives and caps shall then be disposed of in the manner recommended by the manufacturer. ()

z. Magazines containing explosives shall be inspected at intervals of not greater than seven (7)-days to determine whether there has been an unauthorized entry or attempted entry into a magazine, or unauthorized removal of a magazine or its contents. ()

aa. Magazine doors shall be kept locked when the magazine is unattended. ()

bb. Magazines for the storage of explosives shall be kept locked with two (2) separate locks meeting the following requirements: mortise locks; padlocks fastened in separate hasps and staples; or a combination of a mortise lock and a padlock. Locks shall be steel having at least five (5)-tumblers. Padlocks shall be steel and have at least a three-eighths (3/8)-inch diameter case hardened shackle. Padlocks shall be protected by not less than one-quarter (1/4)-inch steel hoods constructed in a manner which prevents sawing or lever action on the locks, hasps, and staples. ()

07. Loading of Explosives or Blasting Agents. ()

a. Procedures that permit safe and efficient loading shall be established before loading is started. ()

b. All drill holes shall be sufficiently large to admit freely the insertion of the cartridges of explosives. ()

c. Tamping shall be done only with wood rods or plastic tamping poles without exposed metal parts, but nonsparking metal connectors may be used for jointed poles. Violent tamping shall be avoided. The primer shall never be tamped. ()

d. No holes shall be loaded except those to be fired in the next round of blasting. After loading, all remaining explosives and detonators shall be immediately returned to an authorized magazine. ()

- e. Drilling shall not be started until all remaining butts of old holes are examined for unexploded charges, and if any are found, they shall be refired before work proceeds. ()
- f. No person shall be allowed to deepen drill hole which have contained explosives or blasting agents. ()
- g. No explosives or blasting agents shall be left unattended at the blast site. ()
- h. Machines and all tools not used for loading explosives into bore holes shall be removed from the immediate location of holes before explosives are delivered. Equipment shall not be operated within fifty (50)-feet of loaded holes. ()
- i. No activity of any nature other than that which is required for loading holes with explosives shall be permitted in a blast area. ()
- j. Plower lines and portable electric cables for equipment being used shall be kept a safe distance from explosives or blasting agents being loaded into drill holes. Cables in the proximity of the blast area shall be deenergized and locked out by the blaster. ()
- k. Holes shall be checked prior to loading to determine depth and conditions. Where a hole has been loaded with explosives but the explosives have failed to detonate, there shall be no drilling within fifty (50)-feet of the hole. ()
- l. When loading a long line of holes with more than one (1) loading crew, the crews shall be separated by practical distance consistent with efficient operation and supervision of crews. ()
- m. All blast holes in open work shall be stemmed to the collar or to a point which will confine the charge. ()
- n. A bore hole shall never be sprung when it is adjacent to or near a hole that is loaded. Flashlight batteries shall not be used for spring holes. ()
- o. Drill holes which have been sprung or chambered, and which are not water filled, shall be allowed to cool before explosives are loaded. ()
- p. No loaded holes shall be left unattended or unprotected. ()
- q. The blaster shall keep an accurate, up to date record of explosives, blasting agents, and blasting supplies used in a blast and shall keep an accurate running inventory of all explosives and blasting agents stored on the operation. ()
08. Electric Blasting. ()
- a. Electric blasting caps shall not be used where sources of extraneous electricity make the use of electric blasting caps dangerous. Blasting cap leg wires shall be kept short circuited (shunted) until they are connected into the circuit for firing. Electric firing lines shall be kept short circuited (shunted) until they are connected into the circuit for firing. ()
- b. Before adopting any system of electrical firing, the blaster shall conduct a thorough survey for extraneous currents, and all dangerous currents shall be eliminated before any holes are loaded. ()
- c. In any single blast using electric blasting caps, all caps shall be of the same style or function, and of the same manufacture. ()
- d. Electric blasting shall be carried out by using blasting circuits or power circuits in accordance with the electric blasting cap manufacturer's recommendations, or the calculations of a competent person. ()

- e. When firing a circuit of electric blasting caps, care shall be exercised to ensure that an adequate quantity of delivered current is available, in accordance with the manufacturer's recommendations. ()
- f. When firing electrically, the insulation on all firing lines shall be adequate and in good condition. ()
- g. A power circuit used for firing electric blasting caps shall not be grounded. ()
- h. When firing from a power circuit, the firing switch shall be locked in the open or OFF position at all times, except when firing. It shall be so designed that the firing lines to the cap circuit are automatically short circuited when the switch is in the OFF position. Keys to this switch shall be entrusted only to the blaster. ()
- i. Blasting machines shall be in good condition and the efficiency of the machine shall be tested periodically to make certain that it can deliver power at its rated capacity. ()
- j. When firing with blasting machines, the connections shall be made as recommended by the manufacturer of the electric blasting caps used. ()
- k. The number of electric blasting caps connected to a blasting machine shall not be in excess of its rated capacity. Furthermore, in primary blasting, a series circuit shall contain no more caps than the limits recommended by the manufacturer of the electric blasting caps in use. ()
- l. The blaster shall be in control of the blasting machines, and no other person shall connect the firing lead wires to the blasting machine. ()
- m. Blasters, when testing circuits shall use only blasting galvanometers equipped with a silver chloride cell especially designed for this purpose. ()
- n. Electric blasting caps shall be tested for electric continuity before use. ()
- o. The entire electric blasting circuit shall be tested for electric continuity before the firing lines are connected to the firing power circuit or blasting machine. ()
- p. Whenever the possibility exists that a firing line or blasting wire might be thrown over a live power line by the force of an explosion, care shall be taken to see that the total length of wires are kept too short to hit the lines, or that the wires are securely anchored to the ground. If neither of these requirements can be satisfied, a nonelectric system shall be used. ()
- q. In electrical firing, only the person making firing wire connections shall fire the shot. All connections shall be made from the bore hole back to the source of firing current, and the firing wires shall remain shorted (shunted) and not be connected to the blasting machine or other source of current until the charge is to be fired. ()
- r. After firing an electric blast from a blasting machine, the firing wires shall be immediately disconnected from the blasting machine, the firing wires shall be immediately disconnected from the machine and short circuited (shunted). ()
09. Use of Safety Fuse. ()
- a. Safety fuse shall only be used where sources of extraneous electricity makes the use of electric blasting caps dangerous. The use of safety fuse that has been hammered or injured in any way shall be forbidden. ()
- b. The hanging of a fuse on nails or other projections which will cause a sharp bend to be formed in the fuse is prohibited. ()
- c. Before attaching a blasting cap to safety fuse, a six (6)-inch length of safety fuse shall be cut from

the end of the supply reel so as to assure a fresh cut in each blasting cap. ()

d. After a six (6)-inch length of safety fuse has been cut, a three (3)-foot length of safety fuse shall be cut from each new roll of safety fuse and test burned and timed to determine its rate of burning. ()

e. Only a cap crimper of approved design shall be used for attaching blasting caps to safety fuse. Crimpers shall be kept in good repair and accessible for use. ()

f. No unused caps or short capped fuse shall be placed in any hole to be blasted; such unused detonators shall be removed from the working place and destroyed. ()

g. No fuse shall be capped, or primers made up, in any magazine or near any possible source of ignition. ()

h. No one shall be permitted to carry detonators or primers of any kind on their person. ()

i. The minimum length of safety fuse to be used in blasting shall be not less than six (6)-feet. ()

j. At least two (2)-qualified persons shall be present when multiple cap and fuse blasting is done by hand lighting methods. ()

k. Not more than twelve (12)-fuses shall be lighted by each blaster when hand lighting devices are used. However, when two (2) or more safety fuses in a group are lighted as one (1) by means of igniter cord, or other similar fuse lighting devices, they may be considered as one (1)-fuse. ()

l. The so called drop fuse method of dropping or pushing a primer or any explosive with a lighted fuse attached is forbidden. ()

m. Cap and fuse shall not be used for firing mudcap charges or any other charges unless the charges are separated sufficiently to prevent one (1) charge from dislodging other shots/charges. ()

n. When blasting with safety fuses, consideration shall be given to the length and burning rate of the fuse. Sufficient time, with a margin of safety, shall always be provided for the blaster to reach a place of safety. ()

10. Use of Detonating Cord. ()

a. Care shall be taken to select a detonating cord consistent with the type and physical condition of the bore hole and stemming and type of explosives used. ()

b. Detonating cord shall be handled and used with the same respect and care given other explosives. ()

c. The line of detonating cord extending out of a bore hole or from a charge shall be cut from the supply spool before loading the remainder of the bore hole or placing additional charges. ()

d. Detonating cord shall be handled and used with care to avoid damaging or severing the cord during and after loading and hooking up. ()

e. Detonating cord connections shall be competent and positive in accordance with approved and recommended methods. Knot type or other cord to cord connections shall be made only with detonating cord in which the explosive core is dry. ()

f. All detonating cord trunk-lines and branch-lines shall be free of loops, kinks, or angles that direct the cord back toward the oncoming line of detonation. ()

g. All detonating cord connections shall be inspected before firing the blast. ()

h. When detonating cord millisecond delay connectors or short interval delay electric blasting caps are used with detonating cord, the practice shall conform strictly to the manufacturer's recommendations. ()

i. When connecting a blasting cap or an electric blasting cap to detonating cord, the cap shall be taped or otherwise attached securely along the side or the end of the detonating cord, with the end of the cap containing the explosive charge pointing in the direction in which the detonation is to proceed. ()

j. Detonators for firing the trunk line shall not be brought to the loading area nor attached to the detonating cord until everything else is in readiness for the blast. ()

11. Firing the Blast. ()

a. A code of blasting signals equivalent to Table-320.11-A, shall be posted on one (1) or more conspicuous places at the operation, and all employees shall be required to familiarize themselves with the code and conform to it. Danger signs shall be placed at suitable locations. See Subsection 320.03 and Figure 320.03-C of this section. ()

TABLE 320.11-A	
Warning Signal	A 1-minute series of long blasts 5-minutes prior to blast signal.
Blast Signal	A series of short blasts 1-minute prior to the shot.
All Clear Signal	A prolonged blast following the inspection of the blast area

b. Before a blast is fired, "Fire In The Hole" shall be shouted, a loud warning signal shall be given by the blaster in charge, who has made certain that all surplus explosives are in a safe place and all employees, vehicles, and equipment are at a safe distance, or under sufficient cover. ()

c. Flaggers shall be safely stationed on highways which pass through the danger zone so as to stop traffic during blasting operations. ()

d. It shall be the duty of the blaster to fix the time of blasting. ()

12. Inspection After Blasting. ()

a. Immediately after the blast has been fired, the firing line shall be disconnected from the blasting machine, or where power switches are used, they shall be locked open or in the OFF position. ()

b. Sufficient time shall be allowed for fumes to leave the blasted area before returning to the shot. ()

c. The person who initiated the shot shall inspect the blast site for explosives or explosive residue. ()

13. Misfires. ()

a. If a misfire is found, the blaster shall provide proper safeguards for excluding all employees from the danger zone. ()

b. No other work shall be done except that necessary to remove the hazard of the misfire and only those employees necessary to do the work shall remain in the danger zone. ()

c. No attempt shall be made to extract explosives from any charged or misfired hole; a new primer

shall be put in and the hole reblasted. If refiring of the misfired hole presents a hazard, the explosives shall be removed by washing out with water or, where the misfire is under water, blown out with air. ()

d. Where the misfire involves a cap and fuse, all persons shall remain away from the charge for at least one (1)-hour. ()

e. Misfires shall be handled under the direction of the person in charge of the blasting. ()

f. All wires shall be carefully traced and a search made for unexploded charges. ()

g. No drilling, digging, or picking shall be permitted until all missed holes have been detonated or the authorized representative has approved that work can proceed. ()

321. -- 329 (RESERVED).

330. BLOOD BORNE PATHOGENS.

01. Scope. ()

a. Blood Borne pathogen exposure shall conform to all other applicable requirements of this standard, as well as the following provisions. Nothing in this standard shall be construed to prohibit better or otherwise safer conditions than specified herein. ()

b. This section applies to all occupational exposure to blood or other potentially infectious materials as defined in Subsection 330.02 of this section. ()

02. Definitions Applicable to this Section. ()

a. Blood refers to human blood, human blood components, and products made from human blood. ()

b. Blood Borne Pathogens are pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to hepatitis B virus (HBV) and human immunodeficiency virus (HIV). ()

c. Clinical Laboratory is a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials. ()

d. Contaminated is the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface. ()

e. Contaminated Laundry is laundry which has been soiled with blood or other potentially infectious materials or may contain Sharps. ()

f. Contaminated Sharps are any contaminated object that can penetrate the skin, but not limited to needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires. ()

g. Decontamination is the use of physical or chemical means to remove, inactivate, or destroy blood borne pathogens on a surface or item where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal. ()

h. Engineering Controls are controls that isolate or remove the blood borne pathogens hazard from the workplace (e.g., Sharps disposal containers, self sheathing needles). ()

i. Exposure Incident is a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties. ()

- j. Hand Washing Facilities is a facility providing an adequate supply of running potable water, soap, and single use towels or hot air drying machines. ()
- k. Licensed Health Care Professional is a person whose legally permitted scope of practice allows them to independently perform activities required by Subsection 330.09 of this section for hepatitis B vaccination and post exposure evaluation and follow-up. ()
- l. HBV is hepatitis B virus. ()
- m. HIV is human immunodeficiency virus. ()
- n. Occupational Exposure is the reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. ()
- o. Other Potentially Infectious Materials are the following human body fluids: semen, vaginal secretions, cerebra spinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids; any unfixed tissue or organ (other than intact skin) from a human (living or dead); HIV containing cell or tissue cultures, organ cultures, and HIV or HBV containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV. ()
- p. Parenteral is the piercing of mucous membranes` or the skin barrier through such events as needle sticks, human bites, cuts, and abrasions. ()
- q. Personal Protective Equipment is specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be protective equipment. ()
- r. Regulated Waste is liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated Sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials. ()
- s. Research Laboratory is a laboratory producing or using research laboratory scale amounts of HIV or HBV. Research laboratories may produce high concentrations o HIV or HBV but not the volume found in a production facility. ()
- t. Source Individual is any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions; trauma and accident victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components. ()
- u. Sterilize is the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores. ()
- v. Universal Precautions is an approach to infection control. According to the concept all human blood and certain human body fluids are treated as if known to be infectious for HIV. HBV, and other blood borne pathogens. ()
- w. Work Practice Controls are controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two (2) handed technique). ()
03. General Requirements. ()

- a. The employer shall take all steps necessary to control the spread of blood borne pathogens. ()
 - b. Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which a determination between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials. ()
 - c. Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall be also used. ()
 - d. Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness. ()
 - e. Employers shall provide hand washing facilities which are readily accessible to employees. ()
 - f. When the provision of hand washing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible. ()
 - g. Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment. ()
 - h. Employers shall ensure that employees wash hands and any other skin with soap and water, of flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials. ()
 - i. Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure. ()
 - j. Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets, or on countertops or benchtops where blood or other potentially infectious materials are present. ()
04. Exposure Control. ()
- a. Each employer having an employee(s) with occupational exposure as defined in Subsection 330.02.n. of this section shall establish a written exposure control plan designed to eliminate or minimize employee exposure. ()
 - b. The exposure control plan shall contain at least the following elements: the exposure determination; the schedule and method of implementation for methods of compliance; HIV and HBV research laboratory procedures; hepatitis B vaccination, post exposure, and follow-up procedures; communication of hazards to employees; and the procedure for the evaluation of circumstances surrounding exposure incidents. ()
 - c. The exposure control plan shall accessible to employee's, their representatives, and representatives of the Department. ()
 - d. The exposure control plan shall be reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures which effect occupational exposure and to reflect new or revised employee positions with occupational exposure. ()
 - e. Each employer who has an employee(s) with occupational exposure shall prepare an exposure determination. This exposure determination shall contain the following: a list of job classifications in which all employees in those job classifications have occupational exposure; a list of job classifications in which some employees have occupational exposure; and a list of all tasks and procedures or groups of closely related tasks and procedures in which occupational exposure occurs and that are performed by employees in the listed job

classifications. ()

f. The exposure determination shall be made without regard to the use of personal protective equipment. ()

05. Methods of Compliance. ()

a. Contaminated needles and other contaminated Sharps shall not be bent, recapped, or removed. Shearing or breaking of contaminated needles is prohibited. EXCEPTION: Contaminated needles and other Sharps may be bent, recapped, or removed if the employer can demonstrate that no alternative is feasible or that such action is required by a specific medical or dental procedure. Such bending, recapping, or needle removal must be accomplished through the use of a mechanical device or a one (1) handed technique. ()

b. Immediately or as soon as possible after use, contaminated reusable Sharps shall be placed in appropriate containers until properly processed. These containers shall be: puncture resistant; labeled or color coded in accordance with this section; leak proof on the sides and bottom; and shall not be stored or processed in a manner that requires employees to reach by hand into the containers where Sharps have been placed. ()

c. All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances. ()

d. Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited. ()

e. Specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, or shipping. ()

f. The container for the storage, transport, or shipping of blood or other potentially infectious materials shall be labeled or color coded in accordance with this section. ()

g. If outside contamination of the primary container occurs, the primary container shall be placed within a second container which prevents leakage during handling, processing, storage, transport, or shipping. Secondary over-pack containers shall be marked or color coded in accordance with this section. ()

h. If the specimen could puncture the primary container, the primary container shall be placed within a secondary container which is puncture resistant in addition to meeting the requirements of Subsection 330.05.p above. ()

i. Equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the employer can demonstrate that decontamination of such equipment is not feasible. A readily observable label that complies with the requirements of this section shall be attached to the equipment stating which portions remain contaminated. The employer shall ensure that this information is conveyed to all effected employees, the servicing representative, and/or the manufacture, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken. ()

06. Personal Protective Equipment. ()

a. When there is potential occupational exposure, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered appropriate only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used. ()

b. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when,

under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services would have posed an increased hazard to the safety or co-worker. When the employee makes this judgment, the circumstances shall be investigated in order to determine whether changes can be instituted to prevent such occurrences in the future. ()

c. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided. ()

d. The employer shall supply personal protective equipment that is for a single employee only. Personal protective equipment is not to be for community use. ()

e. The employer shall clean, launder, and dispose of required personal protective equipment at no cost to the employee. ()

f. The employer shall repair or replace protective equipment as needed to maintain its effectiveness, at no cost to the employee. ()

g. If a garment(s) is penetrated by blood or potentially infectious materials, the garment(s) shall be removed immediately or as soon as feasible. ()

h. All personal protective equipment shall be removed prior to leaving the work area. ()

i. When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination, or disposal. ()

j. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood or other potentially infectious materials, mucous membranes, and non-intact skin; when performing vascular access procedures except as specified in Subsection 330.06.n. below; and when handling or touching contaminated items or surfaces. ()

k. Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised. ()

l. Disposable (single use) gloves shall not be washed or decontaminated for reuse. ()

m. Utility gloves may be decontaminated for reuse if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised. ()

n. If an employer in a blood donation center judges that routine gloving for all phlebotomies is not necessary then the employer shall: periodically reevaluate this policy; make gloves available to all employees who wish to use them for phlebotomy; and not discourage the use of gloves for phlebotomy. The employer shall require that gloves be used for phlebotomy in the following circumstances: when the employee has cuts, scratches, or other breaks in the skin; when the employee judges that hand contamination with blood may occur, for example, when performing phlebotomy on an uncooperative source individual; and when the employee is receiving training in phlebotomy. ()

o. Masks in conjunction with eye protection devices, such as goggles or glasses with solid side shields, or chin length face shields, shall be worn whenever splashes, spray, splatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated. ()

p. Appropriate protective clothing such as , but not limited to, gowns, aprons, laboratory coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will

depend upon the task and degree of exposure anticipated. ()

q. Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g. autopsies, orthopedic surgery). ()

07. Housekeeping. ()

a. Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area. ()

b. All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials. ()

c. Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning. ()

d. Protective coverings such as plastic wrap, aluminum foil, or imperviously backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the workshift if they may have become contaminated during the shift. ()

e. All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood for becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination. ()

f. Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps. ()

08. Regulated Waste. ()

a. Contaminated Sharps shall be discarded immediately or as soon as feasible in containers that are: closable; puncture resistant; leak proof on the sides and bottom; and labeled or color coded in accordance with this section. ()

b. During use, containers for contaminated Sharps shall be: easily accessible to personnel and located as close as is feasible to the immediate area where Sharps are used or can be reasonably anticipated to be found (e.g., laundries); maintained upright throughout use; and replaced routinely and not allowed to overfill. ()

c. When moving containers of contaminated Sharps from the area of use, the containers shall be: closed immediately prior to removal or replacement to prevent spillage or protrusion of the contents during handling, storage, transport, or shipping; placed in a secondary container if leakage is possible. The second container shall meet the requirements of Subsection 330.08.a. above. ()

d. Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of percutaneous injury. ()

e. Regulated waste shall be placed in containers which are: closable; constructed to contain all contents and prevent leakage of fluids during handling, storage, transport, or shipping; labeled or color coded in accordance with this section; and closed prior to removal to prevent spillage or protrusion of the contents during handling, storage, transport, or shipping. ()

f. If contamination of the regulated waste container occurs, it shall be placed in a second container

that meets the requirements of Subsection 330.08.e. above. ()

g. Disposal of all regulated waste shall either be incinerated or decontaminated by a method such as autoclaving in accordance with the applicable regulations of the United States and the State of Idaho to effectively destroy blood borne pathogens. ()

09. Laundry. ()

a. Contaminated laundry shall be handled as little as possible with minimum of agitation before the actual washing process. ()

b. Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use (these operations may take place at the laundry). ()

c. Contaminated laundry shall be placed and transported in bags or containers labeled or color coded in accordance with this section. When a facility used universal precautions in the handling of all soiled laundry, alternative labeling or color coding is sufficient if it permits all employees to recognize the containers as requiring compliance with universal precautions. ()

d. The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other appropriate personal protective equipment. ()

e. When a facility ships contaminated laundry off site to a second facility which does not utilize universal precautions in the handling of all laundry, the facility generating the contaminated laundry shall place such laundry in bags or containers which are labeled or color coded in accordance with this section. ()

10. HIV and HBV Research Laboratories. ()

a. This subsection applies to research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV. It does not apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs. These requirements apply in addition to the other requirements of this section and this standard. ()

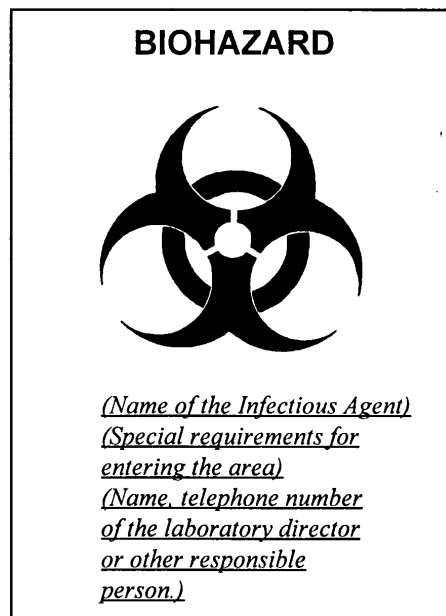
b. Laboratory doors shall be kept closed when work involving HIV or HBV is in progress. ()

c. Contaminated materials that are to be decontaminated at a site away from the work area shall be placed in durable, leak proof, labeled or color coded container that is closed before being removed from the work area. ()

d. Access to the work area shall be limited to authorized persons. Written policies and procedures shall be established whereby only persons who have been advised of the potential biohazard, who meet any specific requirements, and who comply with all entry and exit procedures shall be allowed to enter the laboratory, specimen areas, and work areas. ()

e. When other potentially infectious materials, specimens, or infected animals are present in the work area or containment module, a hazard warning sign incorporating the universal biohazard symbol shall be posted on all access doors, see Figure 330.10-A. ()

FIGURE 330.10-A



See Section 170 of this standard for color coding (orange or red orange background with contrasting symbol and letters).

f. All activities involving other potentially infectious materials shall be conducted in biological safety cabinets or other physical containment devices within the containment module. No work with these other potentially infectious materials shall be conducted on the open bench. ()

g. Laboratory coats, gowns, smocks, uniforms, or other appropriate protective clothing shall be used in the work area and animal rooms. Protective clothing shall not be worn outside of the work area and shall be decontaminated before being laundered. ()

h. Special care shall be taken to avoid skin contact with other potentially infectious materials. Gloves shall be worn when handling infected animals, specimens, and when making hand contact with other potentially infectious materials is unavoidable. ()

i. Before disposal all waste from work areas and from animal rooms shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy blood borne pathogens. ()

j. Vacuum lines shall be protected with liquid disinfectant traps and high efficiency particulate air (HEPA) filters or filters of equivalent or superior efficiency and which are checked routinely and maintained and replaced as necessary. ()

k. Hypodermic needles and syringes shall be used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle locking syringes or disposable syringe needle units (i.e., the needle is integral to the syringe) shall be used for the injection or aspiration of other potentially infectious materials. Extreme caution shall be used when handling needles and syringes. A needle shall not be bent, sheared, replaced in the sheath or guard, or removed from the syringe following use. The needle and syringe shall be promptly placed in a puncture resistant container and autoclaved or decontaminated before reuse or disposal. ()

l. All spills shall be immediately contained and cleaned up by appropriate professional staff or others

properly trained and equipped to work with potentially concentrated infectious materials. ()

m. A spill or accident that results in an exposure incident shall be immediately reported to the laboratory director or other responsible person. ()

n. A biosafety manual shall be prepared and periodically reviewed and updated at least annually or more often if necessary. Personnel shall be advised of potential hazards, shall be required to read instructions on practices and procedures, and shall be required to follow them. ()

o. Certified biological safety cabinets (Class I, II, or III) or other appropriate combinations of personal protection or physical containment devices, such as special protective clothing, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals, shall be used for all activities with other potentially infectious materials that pose a threat of exposure to droplets, splashes, spills, or aerosols. ()

p. Biological safety cabinets shall be certified when installed, whenever they are moved and at least annually. ()

q. HIV and HBV research laboratories shall meet the following criteria: each laboratory shall contain a facility for hand washing and an eye wash facility which is readily available within the work area; an autoclave for decontamination of regulated waste shall be available. ()

11. Hepatitis B Vaccination. ()

a. The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have potential occupational exposure, and post exposure evaluation and follow-up to all employees who have had an exposure incident. ()

b. The employer shall ensure that all medical evaluations and procedures including the hepatitis B vaccine and vaccination series and post exposure evaluation and follow-up, including prophylaxis, are: made available at no cost to the employee; made available to the employee at a reasonable time and place; performed by or under the supervision of a licensed physician or by or under the supervision of other licensed health care professional; and provided according to recommendations of the U.S. Public Health Service current at the time these evaluations and procedures take place, except as specified by Subsection 330.11. ()

c. The employer shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee. ()

d. Hepatitis B vaccination shall be made available after the employee has received the training required in Subsection 330.14 of this section and within ten (10)-working days of initial assignment to all employees who have potential occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody tested has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons. ()

e. The employer shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination. ()

f. If the employee initially declines hepatitis B vaccination but at a later, while still covered under this standard, decides to accept the vaccination, the employer shall make available hepatitis B vaccination at that time. ()

g. The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the following statement: "I understand that due to my potential exposure to blood or other potentially infectious materials I may run the risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have potential occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no

charge to me.” ()

h. If a routine booster dose(s) of hepatitis B vaccine is recommended by the U.S. Public Health Service at a future date, such booster dose(s) shall be made available in accordance with Subsection 330.11.b. of this section. ()

12. Post-Exposure Evaluation and Follow-Up. ()

a. Following a report of an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow up, including at least the following elements. ()

b. Identification of the source individual. ()

c. Testing of the source individual’s blood as soon as feasible and after consent is obtained in order to determine HIV and HBV infectivity, when the source individual is already known to be infected with HBV or HUV, testing for the source individual’s known HBV or HIV status need not be repeated. ()

d. The results of the source individual’s testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual. ()

e. The exposed employee’s blood shall be collected as soon as feasible and tested after consent is obtained. ()

f. If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least ninety (90)-days. If, within ninety (90)-days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible. ()

g. The employer shall provide post exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service. ()

h. The employer shall provide counseling and evaluation of reported illness. ()

i. The employer shall ensure that the health care professional responsible for the employee’s hepatitis B vaccination is provided a copy of this section. ()

j. The employer shall ensure that the health care professional evaluating an employee after an exposure incident is provided the following information: a copy of this section; a description of the exposed employee’s duties as they relate to the exposure incident; documentation of the route(s) of exposure and circumstances under which exposure occurred; results of the source individual’s blood testing, if available; and all medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer’s responsibility to maintain. ()

k. The employer shall obtain and provide the employee with a copy of the evaluating health care professional’s written opinion within fifteen (15)-days of the completion to the evaluation. ()

l. The health care professional’s written opinion for hepatitis B vaccination shall be limited to whether hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination. ()

m. The health care professional’s written opinion for post exposure evaluation and follow-up shall be limited to the following information: that the employee has been informed of the results of the evaluation; and that the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment. ()

n. All other findings or diagnoses shall remain confidential and shall not be included in the written

- report. ()
13. Labels, Color Coding, and Signs. ()
- a. Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material; and other containers used to store, transport, or ship blood or other potentially infectious materials, except as provided in Subsection 330.13.e below. ()
- b. Labels required by this section shall include the following legend, see Figure 330.13-A. ()

FIGURE 320.13-A



- c. These labels shall be fluorescent orange or orange-red or predominantly so, with lettering and symbols in a contrasting color. ()
- d. Labels shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal. ()
- e. Red bags or red containers may be substituted for labels. ()
- f. Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of Subsection 330.13 of this section. ()
- g. Labels required for contaminated equipment shall be in accordance with Subsection 330.13 and shall also state which portions of the equipment remain contaminated. ()
- h. Regulated waste that has been decontaminated need not be labeled or color coded. ()
14. Information and Training. ()
- a. Employers shall ensure that all employees with potential occupational exposure participate in a training program which must be provided at no cost to the employee and during working hours. ()
- b. Training shall be provided as follows: at the time of initial assignment to tasks where potential occupational exposure may take place and at least annually thereafter. ()
- c. Annual training for all employees shall be provided within one (1) year of their previous training. ()
- d. Employers shall provide additional training when changes such as modifications of tasks or procedures or institution of new tasks or procedures affect the employee's potential occupational exposure. The additional training may be limited to addressing the new exposures created. ()
- e. Material appropriate in content and vocabulary to educational level, literacy, and language of

employees shall be used. ()

f. The training program shall contain at a minimum the following elements: An accessible copy of this section and an explanation of its contents; A general explanation of the epidemiology and symptoms of blood borne diseases; An explanation of the modes of transmission of blood borne pathogens; An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan; an explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials; An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment; Information on the types, proper use, location, removal, handling, decontamination, and disposal of personal protective equipment; An explanation of the basis for selection of personal protective equipment; Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge; Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials; An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and medical follow-up that will be made available; Information on the post exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident; An explanation of the signs and labels and/or color coding; An opportunity for interactive questions and answers with the person conducting the training session. ()

g. The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address. ()

h. Employees in HIV or HBV research laboratories and production facilities shall receive, in addition to the required training in Subsection 330.14.f., the following training: The employer shall assure that employees demonstrate proficiency in standard microbiological practices and techniques and in the practices and operations specific to the facility before being allowed to work with HIV or HBV; The employer shall assure that employees have prior experience in the handling of human pathogens or tissue cultures before working with HIV or HBV; The employer shall provide a training program to employees who have no prior experience in handling human pathogens. Initial work activities shall not include the handling of infectious agents. A progression of work activities shall be assigned as techniques are learned and proficiency is developed; The employer shall assure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated. ()

331. -- 349.. (RESERVED).

350. ASBESTOS.

01. Scope. ()

a. Asbestos exposure and work procedures shall conform to all other applicable requirements of this standard, as well as the following provisions. Nothing in this standard shall be construed to prohibit better or otherwise safer conditions than specified herein. ()

b. This standard establishes the requirements which must be followed during asbestos abatement projects by employers of State of Idaho and Local government employees not covered by the Asbestos Standard of the Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1001. The standard also covers every person in the service of a public entity who may be exposed to airborne asbestos. ()

02. Definitions Applicable to this Section. ()

a. Administrator is the State of Idaho Industrial Commission or their appointed representative. ()

b. Asbestos is the asbesti form varieties of chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonitgrunerite); tremolite; anthophyllite; and actinolite. ()

c. Asbestos Abatement Project is any activity involving the removal, enclosure, or encapsulation, or repair of friable asbestos material. ()

d. Authorized Person is any person authorized by the employer and required by work duties to be present in regulated areas. ()

e. Competent Person is a person who is capable of identifying existing asbestos hazards in the work place and who has the authority to take prompt corrective measures to eliminate them. The duties of the competent person include at least the following: establishing the negative pressure enclosure, ensuring its integrity, and controlling entry to and exit from the enclosure; supervising any employee exposure monitoring required by this rule; ensuring that all employees working within such an enclosure wear the appropriate personal protective equipment, are trained in the use of appropriate methods of exposure control, and use the hygiene facilities and decontamination procedures specified in this rule; and ensuring that engineering controls in use are in proper operating condition and are functioning properly. In addition is trained in a training course which meets the criteria of the Environmental Protection Agency Model Accreditation Plan for supervisors. ()

f. Demolition is the wrecking or taking out of any load-supporting structural member and any related razing, removing, or stripping of asbestos products. ()

g. Emergency Project is a project involving the removal, enclosure, or encapsulation of friable asbestos-containing material that was not planned but resulted from a sudden unexpected event. ()

h. Employee Exposure means that exposure to airborne asbestos would occur if the employee were not using respiratory protective equipment. ()

i. Employer is the public department, agency, or entity which hires an employee. The term includes, but is not limited to, any departments or agencies of the State, Counties, Cities, School Districts or other political subdivisions of the state which operate or administer a fire department, police department, a library or similar public service agencies. ()

j. Encapsulation is the treatment of asbestos containing material with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant). ()

k. Enclosure is an airtight, impermeable, permanent barrier around asbestos containing material to prevent the release of asbestos fibers into the air. ()

l. Fiber is a particulate form of asbestos, five (5)-micrometers or longer, with a length-to-diameter ratio of at least three (3) to one (1). ()

m. Friable Asbestos Material is any material containing more than one (1%)-percent asbestos by weight which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure. ()

n. High-Efficiency Particulate Air (HEPA) Filter is a filter capable of trapping and retaining at least ninety-nine point ninety-seven (99.97%)-percent of all monodispersed particles of zero point three (0.3)-micrometer in diameter or larger. ()

o. Regulated Area is an area established by the employer to demarcate areas where airborne concentrations of asbestos exceed or can reasonably be expected to exceed the permissible exposure limit. The regulated area may be a temporary enclosure or an area demarcated in any manner that minimizes the number of employees exposed to asbestos. ()

p. Removal is the taking out or stripping of asbestos or materials containing asbestos. ()

q. Renovation is modification of any existing structure, or portion thereof, where exposure to airborne asbestos may result. ()

r. Repair is overhauling, rebuilding, reconstructing, or reconditioning of structures or substrates

where asbestos is present. ()

s. Small-Scale/Short Duration are activities not to exceed three (3)-linear feet or three (3)-square feet, that are involving: Repairs, encapsulation, enclosure, or removal, of small amounts of friable asbestos containing materials only if required in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. ()

03. General Requirements. ()

04. Permissible Exposure Limit (PEL). ()

a. The employer shall ensure that no employee is exposed to an airborne concentration of asbestos in excess of zero point one (0.1)-fiber per cubic centimeter of air as an eight (8)-hour time-weighted average (TWA), as approved by the Environmental Protection Agency and prescribed in 40 CFR Part 763, Appendix A. or by an equivalent method. ()

b. No employee shall be exposed at any time to airborne concentrations of asbestos in excess of one point zero (1.0)-fiber per cubic centimeter of air during any fifteen (15)-minute period, as determined by the methods prescribed in 40 CFR Part 763, Appendix A, or by an equivalent method. ()

05. Communications Among Employers. ()

a. On multi-employer work sites, an employer performing asbestos work requiring the establishment of a regulated area shall inform other employers (as defined in Subsection 350.02.o. of this section) on the site of the nature of the employer's work with asbestos and of the existence of and requirements pertaining to regulated areas. ()

06. Regulated Areas. ()

a. The employer shall establish a regulated area in work areas where airborne concentrations of asbestos exceed or can reasonably be expected to exceed the permissible exposure limit as described in Subsection 350.04.a. of this section. ()

b. The regulated area shall be demarcated in any manner that minimizes the number of persons within the area and protects persons outside the area from exposure to airborne concentrations of asbestos in excess of the permissible exposure limit and/or ceiling concentration. ()

c. Access to regulated areas shall be limited to authorized persons. ()

d. All persons entering a regulated area shall be supplied with a respirator, selected in accordance with Subsection 350.10 of this section. ()

e. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in the regulated area. ()

f. Asbestos, repair, removal, demolition, and renovation operations shall be conducted in accordance with nationally recognized industry standards. ()

07. Friable Asbestos Material. ()

a. All friable or damaged asbestos materials shall be repaired, encapsulated, enclosed, or removed to the extent that the airborne fiber hazard has been abated. ()

08. Identification. ()

a. The employer shall make reasonable efforts to determine if building materials contain asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals. Reasonable efforts would include, but not be

limited to, obtaining manufacturer's information, laboratory analysis of bulk samples, or records indicating the age and composition of building materials. A determination shall not be required when an employer assumes that the suspect material contains asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals and performs the construction work involving these materials in accordance with the provisions of all applicable regulations. ()

09. Exposure Monitoring. ()

a. Each employer who has a work place or work operation covered by this rule shall perform monitoring to determine accurately the airborne concentrations of asbestos to which employees may be exposed. ()

b. Determinations of employee exposure shall be made from breathing zone air samples that are representative of the eight (8)-hour TWA of each employee. ()

c. Representative eight (8)-hour TWA employee exposure shall be determined on the basis of one (1) or more samples representing full shift exposure for employees in each work area. (A) TWA shall be determines as follows $TWA = ((C1 \times T1) + (C2 \times T2) + (C3 \times T3) + \dots + (Cn \times Tn)) / (T1 + T2 + T3 + \dots + Tn)$ where C= Concentration in fibers per cubic centimeters and T= time in minutes. ()

d. Representative employee ceiling exposure shall be determined on the basis of one (1) or more samples representing exposure for employees in each work area. Sampling periods for ceiling concentration evaluations shall not exceed fifteen minutes. ()

e. All samples taken to satisfy the monitoring requirements of Subsection 350.08 shall be personal samples collected following the procedures specified in 40 CFR Part 763, Appendix A. ()

f. All samples taken to satisfy the monitoring requirements of Subsection 350.08 of this section shall be evaluated using the EPA/OSHA Reference Method (ORM) specified in 40 CFR Part 763, Appendix A. ()

g. Monitoring shall be performed by persons having a thorough understanding of monitoring principles and procedures and who can demonstrate proficiency in sampling techniques. ()

h. The employer shall notify in writing (either individually or by posting at a centrally located place) affected employees of the monitoring results that represent the employees' exposure as soon as possible following receipt of monitoring results. ()

10. Methods of Compliance. ()

a. The employer shall use one (1) or any combination of the following control methods to achieve compliance with the permissible exposure limit and/or ceiling concentration: local exhaust ventilation equipped with HEPA filter dust collection systems; general ventilation systems; vacuum cleaners equipped with HEPA filters; enclosure or isolation of processes producing asbestos dust; use of wet methods, wetting agents, or removal encapsulant to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup; prompt disposal of wastes contaminated with asbestos in leak-tight containers; or use of work practices or other engineering controls that the employer can show to be feasible. ()

b. Whenever the feasible engineering and work practice controls described in this paragraph are not sufficient to reduce employee exposure to or below the permissible exposure limit and/or ceiling level, the employer shall use them to reduce employee exposure to the lowest levels attainable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of Subsection 050.05 of this standard. ()

c. The employer shall not use employee rotation as a means of compliance with the permissible exposure limit prescribed in Subsection 350.04. ()

11. Respiratory Protection. ()

a. General. The employer shall provide respirators, and ensure that they are used, where required by this rule. Respirators shall be used in the following circumstances: during the interval necessary to install or implement feasible engineering and work practice controls; in work operations such as maintenance and repair activities, or other activities for which engineering and work practice controls are not feasible; in work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the exposure limit; in emergencies; and in areas where friable asbestos containing materials exists. ()

b. Where respiratory protection is used, the employee shall institute a respirator program, which shall include all requirements of the respirator program of Subsection 050.05 of this standard. ()

c. The employer shall provide a powered, air purifying respirator in lieu of any negative-pressure respirator whenever: an employee chooses to use this type of respirator; and this respirator will provide adequate protection to the employee. ()

12. Protective Clothing. ()

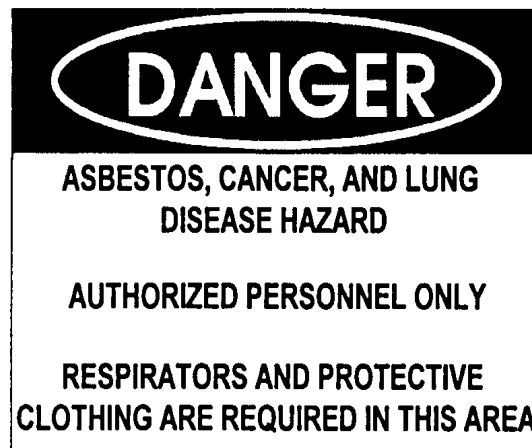
a. The employer shall provide and require the use of protective clothing, such as coveralls or similar whole-body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos that exceed the permissible exposure limit and/or ceiling concentration. ()

13. Communication of Hazards to Employees. ()

a. Warning signs that demarcate the regulated area shall be provided and displayed at each location where airborne concentrations of asbestos may be in excess of the permissible exposure limit. Signs shall be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. ()

b. The warning signs required by Subsection 350.13.a. of this section shall bear the following information: (see Figure 350.13-A) ()

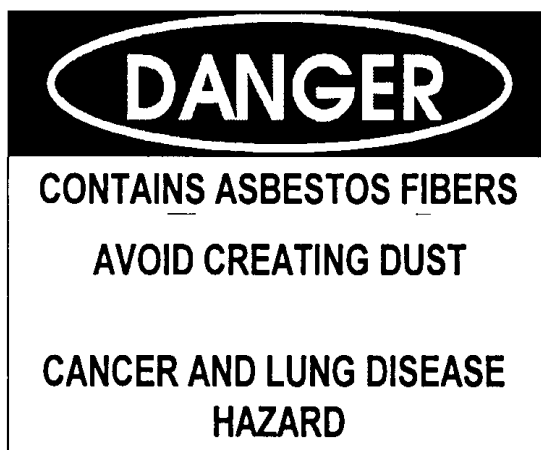
FIGURE 350.13-A



c. Labels shall be affixed to all products containing asbestos and to all containers containing such products, including waste containers. Where feasible, installed asbestos products shall contain a visible label. ()

- d. Labels shall be printed in large, bold letters on a contrasting background. ()
- e. Labels shall be used and shall contain the following information: (see Figure 350.13-B) ()

FIGURE 350.13-B



- f. Labels shall contain a warning statement against breathing airborne asbestos fibers. ()
- g. The employer shall institute a training program for all employees exposed to asbestos and shall ensure their participation in the program. ()
- h. Training shall be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve (12)-months. ()
- i. The training program shall be conducted in a manner that the employee is able to understand. ()
- j. Maintenance and custodial staff (custodians, electricians, heating/air conditioning engineers, plumbers, etc.) who may work in a building that contains asbestos containing materials receive awareness training of at least two (2) hours whether or not they are required to work with the asbestos containing materials. Training shall include, but not be limited to: information regarding asbestos and its various uses and forms; information on the health effects associated with asbestos exposure; and locations of asbestos containing materials identified throughout each building in which they work. ()
- k. Maintenance and custodial staff who conduct any activities that will result in the disturbance of asbestos containing materials shall receive the training described in subsection (previous paragraph) of this section and fourteen (14)-hours of additional training. Additional training shall include, but not be limited to: descriptions of the proper methods of handling asbestos containing materials; information on the use of respiratory protection as contained in Section 050.05 of this standard, and other personal protection measures; the provisions of this section of this standard, and in 40 CFR Part 61, Subpart M, and 40 CFR Part 763, Subpart G; and hands-on training in the use of respiratory protection, other personal protection measures, glovebag techniques, and good work practices. ()
- l. Workers who do removal of asbestos, other than small-scale short-duration, shall attend an Environmental Protection Agency approved thirty-two (32)-hour worker course, and eight (8)-hours Worker refresher

course annually thereafter. ()

m. Supervisors shall attend an Environmental Protection Agency approved forty (40)-hour Contractor/Supervisor course, and eight (8)-hour Contractor/Supervisor refresher course annually thereafter. ()

n. The employer shall make readily available to all affected employees without cost all written materials relating to the employee training program, including a copy of this rule. ()

o. The employer shall provide to the Industrial Commission, upon request, all information and training materials relating to the employee information and training program. ()

14. Housekeeping. ()

a. Where vacuuming methods are selected. HEPA filtered vacuuming equipment must be used. The equipment shall be used and emptied in a manner that minimizes the reentry of asbestos into the workplace. ()

b. Asbestos waste, scrap, debris, bags, containers, equipment, and contaminated clothing consigned for disposal shall be collected and disposed of in sealed, labeled, impermeable bags or other closed, labeled, impermeable containers. ()

15. Medical Surveillance. ()

a. The employer shall institute a medical surveillance program for all employees engaged in work involving levels of asbestos at or above the action level and/or ceiling concentration for thirty (30)-or more days per year, or who are required by this section to wear negative pressure respirators. ()

b. The employer shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and are provided at no cost to the employee and at a reasonable time and place. ()

c. The employer shall make available asbestos medical examinations and consultations to each employee covered on the following schedules: prior to assignment of the employee to an area where negative pressure respirators are worn; when the employee is assigned to an area where exposure to asbestos may be at or above the permissible exposure limit and/or ceiling concentration for thirty (30)-or more days per year, a medical examination must be given within ten (10)-working days following the thirtieth (30th) day of exposure; no medical examination is required of any employee if adequate records show that the employee has been examined in accordance with this subsection with the past one (1)-year period; at least annually thereafter; and if the examining physician determines that any of the examinations should be provided more frequently than specified, the employer shall provide such examinations to affected employees at the frequencies specified by the physician. ()

16. Record Keeping. ()

a. The employer shall maintain an accurate record of but not limited to: Employees exposure measurements, Employee medical surveillance, and training records. ()

b. Records shall be maintained for the duration of the employment plus thirty (30)-years. The employer may utilize the services of competent organizations such as employee associations to maintain the records required by this subsection. ()

c. The employer upon request, shall make all records required by this subsection available to the affected employees, former employees, designated representatives, and the Administrator. ()

17. Reporting. ()

a. Employers subject to this rule must report to the Idaho Division of Building Safety at least ten (10)-days before they begin any asbestos abatement project, except one that involves less than either three (3)-linear feet or three (3)-square feet of friable asbestos material, and an emergency project. Employers must report any emergency

project covered by this rule as soon as possible but in no case more than forty-eight (48)-hours after the project begins. ()

b. The report shall be on the Environmental Protection Agency's National Emission Standard of Hazardous Air Pollutants notification form. ()

c. If a report is mailed to the Division of Building Safety, the report must be postmarked at least ten (10)-days before the asbestos abatement project begins unless the report is for an emergency project. In such a case, the report must be postmarked as soon as possible but in no case more than forty-eight (48)-hours after the project begins. ()

18. Appendices. ()

a. Appendices A, C, D, and E of 40 CFR Part 763; Environmental Protection Agency; Asbestos Abatement Projects Worker Protection; Final Rule are incorporated by reference into this regulation and are mandatory. Appendix B of 40 CFR Part 763 is informational and is not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations. ()

351. -- 999. (RESERVED).

IDAPA 22 - IDAHO STATE BOARD OF MEDICINE
22.01.06 - RULES GOVERNING THE CERTIFICATION OF ADVANCED
EMT-A AND EMT-P PERSONNEL

DOCKET NO. 22-0106-9601

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective July 1, 1996.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency is adopting a temporary rule and proposing rule making. The rules for the Certification of Advanced EMT-A and EMT-P Personnel, IDAPA 22, Title 01, Chapter 06, are hereby repealed in their entirety.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 28, 1996.

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

DESCRIPTIVE SUMMARY: The Idaho Board of Medicine has adopted temporary rules governing EMS Personnel, thereby repealing in its entirety Rules for the Certification of Advanced EMT-A and EMT-P Personnel IDAPA 22, Title 01, Chapter 06. The adoption of the temporary rules for EMS Personnel is to comply with the statutory changes and amendments to Idaho Code relating to Emergency Medical Services which become effective July 1, 1996. The amendments repealed sections 39-131 through 39-136, Idaho Code, which removed the Board of Medicine's authority to certify Advanced EMS Personnel and authorize the Board of Medicine to adopt rules defining the allowable scope of practice, acts and duties which can be performed by persons certified by the department of Health and Welfare and the required level of supervision by a licensed physician.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Gloria Pedersen, at (208) 334-2822.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 28th day of June, 1996.

Gloria Pedersen
Idaho State Board of Medicine
280 North 8th Street
PO Box 83720
Boise, ID 83720-0058
Phone: (208) 334-2822 Fax: (208) 334-2801

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

It is being replaced by Docket No. 22-0106-9602
as published in the Bulletin immediately following this notice.

IDAPA 22 - IDAHO STATE BOARD OF MEDICINE
22.01.06 - RULES GOVERNING EMS PERSONNEL
DOCKET NO. 22-0106-9602
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These rules are effective July 1, 1996.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency is adopting a temporary rule and is proposing rule-making. The action is authorized pursuant to Section 39-145, Idaho Code, that this agency has adopted temporary rules and is proposing to adopt regular rules governing EMS Personnel, IDAPA 22, Title 01, Chapter 06.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 28, 1996.

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

DESCRIPTIVE SUMMARY: The Idaho Board of Medicine has proposed these temporary rules effective July 1, 1996, which define the allowable scope of practice and acts and duties which can be performed by persons certified as emergency services personnel by the Department of Health and Welfare Emergency Services Bureau and define the required level of supervision by a physician.

TEMPORARY RULE JUSTIFICATION: The adoption of the temporary rules for EMS Personnel is to comply with the statutory changes and amendments to Idaho Code relating to Emergency Medical Services which become effective July 1, 1996. The amendments repealed sections 39-131 through 39-136, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Gloria Pedersen, at (208) 334-2822.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 28th day of June, 1996.

Gloria Pedersen
Idaho State Board of Medicine
280 North 8th Street
PO Box 83720
Boise, ID 83720-0058
Phone: (208) 334-2822 Fax: (208) 334-2801

TEXT OF DOCKET NO. 22-0106-9602

IDAPA 22
TITLE 01
Chapter 06

RULES FOR EMS PERSONNEL

000. LEGAL AUTHORITY.

Pursuant to the provisions of Title 54, Chapter 18, Idaho Code, and pursuant to Idaho Code, Section 39-145, the Idaho

State Board of Medicine is authorized to promulgate these rules. (7-1-96)T

001. TITLE AND SCOPE.

The Idaho State Board of Medicine is authorized to define the allowable scope of practice and acts and duties which can be performed by persons certified as emergency medical services personnel by the Department of Health and Welfare Emergency Medical Services Bureau and to define the required level of supervision by a physician. (7-1-96)T

002. -- 009. (RESERVED).

010. DEFINITIONS.

The applicable definitions are those set forth in Idaho Code Section 39-140. (7-1-96)T

011. SCOPE OF PRACTICE.

01. General Duties. General duties include the following: (7-1-96)T
 - a. All certified emergency medical services personnel may only provide emergency medical services. (7-1-96)T
 - b. Such emergency medical services must be rendered under the responsible supervision and control of a physician licensed in Idaho. (7-1-96)T
 - c. An Advanced EMT-A and EMT-P may not act without the written or oral authorization of a physician licensed in Idaho. (7-1-96)T
 - d. EMS personnel except for the certified first responder must maintain active affiliation with a licensed emergency medical service in order to perform emergency medical services. (7-1-96)T
 - e. EMS personnel may not perform a task or tasks beyond their competence and training. (7-1-96)T
 - f. EMS personnel may not furnish medications to any person other than for the purpose of rendering emergency medical services. (7-1-96)T
02. First Responder. First responders may perform the following acts and duties: (7-1-96)T
 - a. Obtain vital signs; (7-1-96)T
 - b. Obtain a medical history; (7-1-96)T
 - c. Assess mechanism of injury; (7-1-96)T
 - d. Assess nature of illness; (7-1-96)T
 - e. Perform an initial (primary) patient assessment; (7-1-96)T
 - f. Perform a detailed (secondary) physical examination; (7-1-96)T
 - g. Perform patient reassessments; (7-1-96)T
 - h. Perform manual techniques to assure a patent airway; (7-1-96)T
 - i. Insert airway adjuncts in the oral and nasal cavity; (7-1-96)T
 - j. Provide ventilatory support for a patient; (7-1-96)T
 - k. Attempt to resuscitate a patient in cardiac arrest and provide post-resuscitative care; (7-1-96)T

- l. Use of oxygen delivery system components; (7-1-96)T
- m. Provide treatment for a patient in respiratory distress or experiencing chest pain-discomfort; (7-1-96)T
- n. Provide care for external and internal bleeding, hypoperfusion (shock), a penetrating chest injury, soft tissue injury, open abdominal injury, impaled object, or an acute amputation; (7-1-96)T
- o. Provide care to a patient with an altered mental status, a history of diabetes, experiencing a seizure, having an allergic reaction, possibly exposed to a poisoning, suspected of overdosing on a substance, experiencing a behavioral problem, or has been exposed to cold or heat; (7-1-96)T
- p. Provide care to a patient who is involved in a near-drowning incident, has been bitten or stung by an animal or insect, sustained a burn injury, has a suspected head or spinal injury, and has a painful, swollen, deformed extremity; (7-1-96)T
- q. Provide care for the obstetric and the gynecological patient and assist with the delivery of an infant; (7-1-96)T
- r. Cardiac defibrillation utilizing a semi-automated external defibrillator; and (7-1-96)T
- s. Extricate a patient from entrapment. (7-1-96)T
- 03. Emergency Medical Technician-Basic. An EMT-B may perform the following acts and practices: (7-1-96)T
 - a. All scope of practice activities for the First Responder; (7-1-96)T
 - b. Use of the pneumatic anti-shock garment; (7-1-96)T
 - c. Assist patients with administration of prescribed medications; and (7-1-96)T
 - d. Assist patients with the administration of over-the-counter medications for poisoning and hypoglycemia. (7-1-96)T
- 04. Advanced Emergency Medical Technician-Ambulance. An Advanced EMT-A may perform the following acts and practices: (7-1-96)T
 - a. All scope of practice activities for the First Responder and Emergency Medical Technician-Basic; (7-1-96)T
 - b. Advanced airway management of the esophagus and/or trachea; (7-1-96)T
 - c. Peripheral venous puncture; (7-1-96)T
 - d. Initiate and maintain peripheral intravenous fluid therapy lines using simple crystalloid solutions; (7-1-96)T
 - e. Initiate and maintain intraosseous infusions; (7-1-96)T
 - f. Draw peripheral blood specimens; and (7-1-96)T
 - g. Assess blood glucose with automated glucometry. (7-1-96)T
- 05. Emergency Medical Technician-Paramedic. An EMT-P may perform the following acts and practices: (7-1-96)T

- a. All scope of practice activities for the First Responder, Emergency Medical Technician-Basic, and Advanced Emergency Medical Technician-Ambulance; (7-1-96)T
- b. Manual cardiac defibrillation; (7-1-96)T
- c. Synchronized cardioversion; (7-1-96)T
- d. Electrocardiogram rhythm monitoring and interpretation; (7-1-96)T
- e. Transcutaneous cardiac pacing; (7-1-96)T
- f. Advanced airway management using invasive procedures, suctioning, and gastric tubes; (7-1-96)T
- g. Initiate heparin locks; (7-1-96)T
- h. Monitor and maintain intravenous fluid therapy lines containing medications; (7-1-96)T
- i. Initiate and maintain central intravenous fluid therapy lines; (7-1-96)T
- j. Administer medications used in cardiovascular, respiratory, endocrine, metabolic, neurological, obstetrical, gynecological, toxicological, and behavioral emergencies; (7-1-96)T
- k. Administer medications via routes indicated for that medication; and (7-1-96)T
- l. Thoracic decompression. (7-1-96)T

012. SUPERVISION BY A LICENSED PHYSICIAN.

01. Medical Control Plan. A satisfactory "medical control plan" must be developed and implemented. The essential elements of a medical control plan include: (7-1-96)T

a. Off-line (retrospective review) physician direction: At least twenty-five percent (25%) of the Advanced EMT-A and EMT-P services's emergency responses must be critiqued by the physician medical director or other physicians designated by the physician medical director. One hundred percent (100%) of intubations performed by Advanced EMT-A personnel must be retrospectively reviewed by the physician medical director. Documentation of all critiques shall be maintained by the organization chief administrative officer. The educational role of the physician and any other quality improvement duties should be defined in the initial and annual application for emergency medical service licensure. (7-1-96)T

b. On-line (concurrent) physician direction: On-line medical control shall be provided with voice radio communications capability per the following options: (7-1-96)T

i. Physician on-duty continuously in a designated emergency department on a twenty-four (24) hour basis; (7-1-96)T

ii. Designated on-call medical control physician available continuously by telephone, portable two (2) way radio, or cellular phone with a written back-up agreement for alternate on-line medical control with a twenty-four (24) hour in-house physician staffed emergency department; (7-1-96)T

iii. A physician capable of directing prehospital care present in the ambulance for the duration of treatment/transportation; and (7-1-96)T

iv. Any combination of the above. (7-1-96)T

02. Final Set of Protocols. A final set of medical treatment protocols consistent with the allowable scope of practice defined for the level of certification must be submitted with the initial and annual application for

emergency medical service licensure.

(7-1-96)T

03. Standing Written Orders. Protocols, which include "Standing written orders" shall be submitted and approved by the EMS Bureau for the Advance EMT-A, EMT-Paramedic, and other advanced level personnel, for use when radio or telephone contact is not possible or in cases when radio communications delays may compromise expedient patient care.

(7-1-96)T

013. EFFECTIVE DATE.

An emergency was found to exist and the emergency rules became effective June 30, 1996. These rules now promulgated pursuant to the rule-making procedures of the Administrative Procedures Act shall become effective upon adoption by the legislature or other date specified in this rule.

(7-1-96)T

014. -- 999. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.10.01 - RULES GOVERNING THE STATE BOARD OF OPTOMETRY

DOCKET NO. 24-1001-9501

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5442 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1509, Idaho Code.

DESCRIPTIVE SUMMARY: There are no substantive changes from the proposed text published December 6, 1995 Administrative Bulletin, Volume 95-12, pages 140 through 143.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dee Ann Randall, at (208) 334-3233.

DATED this 19th day of June, 1996.

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

IDAPA 24
TITLE 10
Chapter 01

RULES GOVERNING THE STATE BOARD OF OPTOMETRY

There are no substantive changes
from the proposed rule text

The original text was published in the Idaho
Administrative Bulletin, Volume 95-12, December 6, 1995
Pages 140 through 143

This rule has been adopted as Final by the Agency
and is now pending review by the
1997 Idaho State Legislature
for final adoption

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.16.01 - STATE BOARD OF DENTURITRY

DOCKET NO. 24-1601-9601

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective April 12, 1996.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho State Board of Denturtry has adopted a temporary rule and is proposing rule-making. The action is authorized pursuant to Section 54-3309, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

1. Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made in writing and be within fourteen (14) days of the date of publication of the notice of proposed rule-making in the bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

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

DESCRIPTIVE SUMMARY: The following is the required finding and a concise statement of the supporting reasons for temporary rule making: This rule making is reasonably necessary to protect the public welfare by clarifying the obligation of denturists with respect to consumer complaints, defining the requirements of the 90 day guarantee, and setting forth the registration requirements for denturtry businesses.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Dee Ann Randall, at (208) 334-3233.

Anyone may submit written comments regarding these rules. All written comments and data concerning these rules must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 26th day of June, 1996.

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

TEXT OF DOCKET NO. 24-1601-9601

010. DEFINITIONS (Rule 10).

01. Board. The State Board of Denturtry, as prescribed in Section 54-3303(a), Idaho Code. (7-1-93)

02. Denturist Services. For purposes of the unconditional ninety (90) day guarantee prescribed in Section 54-3320(c), Idaho Code, denturist services include any and all prosthetic dental appliances and materials and/or services related to the furnishing or supplying of such a denture, including preparatory work, construction, fitting, furnishing, supplying, altering, repairing or reproducing any prosthetic dental appliance or device. (4-12-96)T

(BREAK IN CONTINUITY OF SECTIONS)

451. -- ~~499~~474. (RESERVED).

475. REGISTRATION STATEMENT (Rule 475).

To enable the board to examine or inspect the place of business of any licensed denturist as referred to in Section 54-3314(5)(b), Idaho Code, the filing of an annual statement shall be required of all licensed denturists. (4-12-96)T

01. Statement. Shall list the name and principal place of business of the denturist who is responsible for the practice of dentistry at that location. (4-12-96)T

02. Other Business Locations. Any other business locations maintained by the principal denturist and all denturists employed at the business. (4-12-96)T

03. Date of Filing. Shall be filed with the board no later than August 15th of each year or within ten (10) days of any change in either location, identity of principal denturist or denturist employees. (4-12-96)T

04. Failure to Timely File. Failure to timely file or update this statement will constitute grounds for discipline pursuant to Section 54-3314(a), Idaho Code. (4-12-96)T

476. GUARANTEE OF DENTURIST SERVICES.

As prescribed in Section 54-3320(c), Idaho Code, unconditional guarantee of denturist services will require that the licensee refund, in full, any monies received in connection with the providing of denturist services, if demanded by the purchaser within ninety (90) days of delivery of the dentures, or the providing of services for which a fee is charged. (4-12-96)T

01. Ninety (90) Day Period. The ninety (90) day period shall be tolled for any period in which the denturist has taken possession or control of the dentures after original delivery. (4-12-96)T

02. Written Contract. By written contract signed by the purchaser, the denturist may specify the amount of the purchase price of the dentures, if any, that is nonrefundable should the consumer choose to cancel the purchase within the guarantee period. (4-12-96)T

03. Nonrefundable Amount. Under no circumstances shall the nonrefundable amount exceed twenty five percent (25%) of the total purchase price of the dentures. (4-12-96)T

04. Limitation. There is no limitation on the consumer's right to cancel. (4-12-96)T

05. Cancellation of Agreement. If the licensee elects to cancel the agreement or refuses to provide adjustments or other appropriate services to the consumer, the consumer will be entitled to a complete refund. (4-12-96)T

IDAPA 33 - IDAHO REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-9601

NOTICE OF PENDING AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: This pending rule will become final only after review by the 1997 legislature. The pending rule may be rejected, amended or modified by concurrent resolution of the legislature. The effective date of any of these final rules shall be upon the conclusion of the 1997 legislative session, or, if earlier, upon adoption of a concurrent resolution. The fee increase below will only become final if affirmatively approved by the legislature.

AURHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule pending legislative review. The action is authorized pursuant to Section 54-2027 and Section 54-2074, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise statement of the reasons for adopting the rule. One nonsubstantive change was made to the text of the proposed rules, Section 408.05 and is addressed below.

1. Amendments were adopted throughout Chapter 01, Title 01, IDAPA 33 to clarify the ability of a designated broker to act for more than one licensed entity and under what circumstances; to make technical changes in terminology; to make some changes in office trust account and record keeping procedures for clarification; and to make needed technical and housekeeping corrections. Affected are Sections 102.07, 200, 010.18, 416.04 and throughout Chapter 01, Title 01, IDAPA 33.

2. Amendments were adopted to Sections 408 - 410, and throughout Chapter 01, Title 01, IDAPA 33, to implement the Idaho Real Estate Brokerage Representation Act, which was passed by the 1996 legislature, and which will define and structure legal relationships between real estate licensees and consumers. Minor changes were made to the text of the proposed rule in Section 408.05 to clarify intent of the rule in response to questions presented at public hearing.

3. Amendments were adopted to Section 100 to increase the license examination fees from fifty dollars (\$50) to sixty-five dollars (\$65) for preregistered candidates, and from sixty (\$60) to seventy-five (\$75) for exam candidates who are not preregistered. The reason for the fee increase is that the testing contract had to be rebid, and results in this increase.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeri Pyeatt, Executive Director, at (208) 334-3285, TRS 1 (800) 377-3529.

DATED this 26th day of June, 1996.

Jeri Pyeatt, Executive Director
Idaho Real Estate Commission
PO Box 83720
Boise ID 83720-0077
(208) 334-3285 FAX (208) 334-2050
TRS 800 377-3529

IDAPA 33
TITLE 01
Chapter 01

RULES GOVERNING THE IDAHO REAL ESTATE COMMISSION

**There are substantive changes
from the proposed rule text**

**Only those sections that have changed from the
original proposed text are printed in this
Bulletin following this notice**

**The complete original text was published in the
Idaho Administrative Bulletin, Volume 96-6, June 5, 1996
Pages 197 through 225**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1997 Idaho State Legislature
for final adoption**

TEXT OF DOCKET NO. 33-0101-9601

408. DISCLOSURE REQUIREMENTS.

Licensed real estate brokers and sales associates must comply with all disclosure requirements required by the Idaho Real Estate Brokerage Representation Act. (7-1-96)T

01. Commission-approved Brochure. Licensees shall give a Commission-approved agency relationship brochure to prospective buyers and sellers at the first substantial business contact. "Substantial business contact" occurs when the contacts and communications between the licensee and the potential buyer or seller, taken as a whole, would create a distinct probability that the person dealing with the licensee could reasonably believe that they were dealing with the licensee on a business level. The designated broker in each office is responsible for making these brochures available for use by the broker's licensed associates. (7-1-96)T

02. Selection of Representation. The agreed business relationship between the licensee and the buyer or seller must be determined no later than at the time of preparation of a purchase and sale agreement, and any and all necessary agreements and/or written consents to dual representation must be executed by this time. (7-1-96)T

03. Confirming Representation. The level of representation between the broker and the customer or client must be correctly stated, confirmed and signed by all parties to the real estate transaction. The written confirmation, in the form contained in the statute, must be attached to or be included on any real estate purchase and sale agreement. (7-1-96)T

04. Disclosure of Representation to Others in a Transaction. A licensee representing a buyer/client or working with a buyer/customer shall disclose to the seller or seller's agent in what capacity the selling licensee will be acting for or with the prospective buyer (customer or client) prior to presenting a purchase and sale agreement. Disclosure to the seller's agent, if any, is sufficient under this rule. (7-1-96)T

05. Limited Disclosed Dual Agency. Each designated broker acting as a limited dual agent under Section 54-2066, Idaho Code, must obtain the prior written consent of all parties to the transaction in statutory format. The required consent and disclosure form must be signed by each buyer and seller in the transaction or their attorney in fact. Facsimile transmissions containing the signatures and multiple originals comply with the requirements of this rule. (Signed statutory consents to limited disclosed dual agency which were obtained at the time of executing a written brokerage agreement also comply with this rule.) (7-1-96)T

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - RULES GOVERNING AD VALOREM PROPERTY TAXATION
DOCKET NO. 35-0103-9603
NOTICE OF VACATION OF PROPOSED RULE-MAKING

ACTION: The action, under Docket No 35-0103-9603, concerns the vacation of proposed rule-making of IDAPA 35, Title 01, Chapter 03, Rules Governing Ad Valorem Property Taxes.

AUTHORITY: In compliance with Section 67-5226 and 67-5221(1), Idaho Code, notice is hereby given that this agency is vacating the proposed rule-making portion of Docket No. 35-0103-9603. The temporary rule adopted under Docket No. 35-0103-9603 is unaffected by this action. The action is authorized pursuant to Sections 63-513 and 63-3624, Idaho Code.

DESCRIPTIVE SUMMARY: Rule 180 was published as a temporary and proposed rule in Volume 96-5, May 1, 1996 edition of the Idaho Administrative Bulletin, pages 84 through 87. The proposed rule is hereby being vacated and is being amended now as a proposed rule under Docket No. 35-0103-9607, which would apply the 1996 benefit brackets. This is a result of the passage of House Bill 398 and the benefit portion of the circuit breaker income/benefit brackets needs to be revised.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this action, contact Alan Dornfest, at (208) 334-7530.

DATED this 26th day of July 1996.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

This Docket vacates the proposed rule only.
The temporary rule is still effective.

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - RULES GOVERNING AD VALOREM PROPERTY TAXATION
DOCKET NO. 35-0103-9606
NOTICE OF PROPOSED RULES

ACTION: The action, under Docket No 35-0103-9606, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA 35, Title 01, Chapter 03, Rules Governing Ad Valorem Property Taxes.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 63-513 and 63-3624, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rule-making will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or any agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

The hearing site will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days' notice. For arrangements contact the undersigned.

DESCRIPTIVE SUMMARY:

RULE 126 - The implement procedures to comply with House Bill 700 which relates to the property tax relief for recycling equipment. Rule 126 will establish the process for the application and declaration of personal property qualifying for this exemption.

RULE 250, 329, and 350 - Rules 250 and 329 require the value of new property tax exemptions provided by House Bills 700 and 790, and Senate Bill 1516 to be shown by category on county and school district abstracts of value. Determination of increases in property value within urban renewal areas is addressed in Rule 350, which, also, requires these values to be reported by category on county and school district abstracts.

RULE 327 - To explain the categorization of residential uses in commercially zoned properties for assessment record keeping purposes. Language will be added to clarify residential, commercial/industrial lands in Category 26 and Category 27.

RULE 480 - RULE 500 - The proposed rule change is needed to clarify portions of the rules that pertain to the administration of Idaho Code, Section 63-1701 through 63-1708 concerning the taxation of forest land. The changes to Rule 480 will clarify the identification of forest land for tax purposes. Changes to Rule 488 will delete the reference to the reforestation law, Section 38-201 through 38-233, Idaho Code, which was repealed in the 1995 legislative session. Rules 492 and 496 were changed to accommodate the printing of the equations for assessing forest land. Other changes were made to bring habitat types into use to identify the productive potential forest land in compliance with Section 63-1705, Idaho Code.

RULE 525 - This rule will be deleted and added to Rule 329.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 26th day of June, 1996.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

TEXT OF DOCKET NO. 35-0103-9606

126. PROPERTY EXEMPT FROM TAXATION -- QUALIFIED EQUIPMENT UTILIZING POST CONSUMER OR POST INDUSTRIAL WASTE.

01. Qualified Personal Property. Only that qualified personal property, located in Idaho, which utilizes postconsumer waste or post industrial waste in the production of a "product", shall be exempt from taxation as personal property. The owner of the equipment shall, annually, petition the assessor for exemption. ()

02. Application. The exemption shall be allowed only if the owner files the form prescribed by the State Tax Commission, which reports for the previous calendar year, the actual time each piece of qualified equipment is in the use in the production of qualified and non-qualified "product". ()

03. Exempt Petition's Definitions. Petition for exemption shall be filed in the following manner: ()

a. Forms. Declaration forms for the reporting of personal property qualifying for exemption may be obtained from the county assessor or State Tax Commission. ()

b. Declaration - Qualified Equipment. The declaration shall contain an itemized listing of all machines or equipment qualifying for exemption. Each component part of the system must be identified by a brief description, the date of original acquisition, the dollar amount of the original cost, and the percentage of production time the component is devoted exclusively to the production of "product". The petition must be signed by the owner or duly authorized agent. Lack of required information shall be grounds for denial. ()

c. Declaration - Non-Qualifying Equipment. The declaration shall contain an itemized listing of all non-qualifying machines or equipment used in the production of "product". This declaration shall list all non-qualifying taxable personal property as described in Section 63-203, Idaho Code. Lack of required information shall be grounds for denial. ()

d. Timing. The completed declarations must be filed with the county assessor by March 15th of each year. ()

e. Inspection. The county or State Tax Commission representative may inspect the property or the owner's records to identify components petitioned for exemption. Those components listed on the declaration must be identifiable as qualifying personal property assets of the claimant. ()

~~126~~**127. - 133. (RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

250. RATIO STUDIES.

01. Use of "Ratio Study Manual." Procedures to be used in the ratio study and computation of adjusted market value shall be described in the Tax Commission's "Ratio Study Manual." (3-23-94)

02. Assessor to Identify School Districts. ~~Beginning with the 1994 annual ratio study,~~ Each county assessor will provide to the Tax Commission the school district in which each sale submitted for the ratio study is located. (3-23-94)()

03. Abstracts of Value by School District. ~~Beginning in 1994,~~ Each county auditor shall provide to the Tax Commission abstracts of the taxable value of all property within the portion of each school district in each county. These abstracts shall be submitted in the same manner and at the same time as provided for county abstracts of value. (3-23-94)()

04. Urban Renewal Increment and Exemption to Be Subtracted. The taxable value of each category of property within each school district shall not include the value of that exceeds the value on the base assessment roll in any urban renewal district pursuant to chapter 29, title 50, and shall not include the value any exemption pursuant to Sections 63-105T, 63-105BB, 63-105CC, 63-105DD, 63-105EE, 63-105HH, and 63-105II, Idaho Code. (4-24-96)F()

(BREAK IN CONTINUITY OF SECTIONS)

327. EQUALIZATION BY CATEGORY--IDENTIFICATION AND REAPPRAISAL.

01. Identification of Property. Property shall be identified for assessment purposes in the categories outlined below. These categories are to be used on the assessment notice and on the abstract of assessment. Categories segregate properties into groups of like status and function. (7-1-93)

a. CATEGORY 1. Irrigated Agricultural Land. Irrigated land capable of and normally producing machine harvestable crops. (3-23-94)

b. CATEGORY 2. Irrigated Pasture Land. Irrigated land used for pasture and not normally capable of producing machine harvestable crops. (3-23-94)

c. CATEGORY 3. Non-irrigated Agricultural Land. Land capable of and normally producing machine harvestable crops without man-made irrigation. (3-23-94)

d. CATEGORY 4. Meadow Land. Land capable of lush production of grass. (3-23-94)

e. CATEGORY 5. Dry Grazing Land. Land capable of supporting grasses and browse, but incapable of supporting crops on regular rotation. (3-23-94)

f. CATEGORY 6. Productivity Forestland. Forestland assessed under the productivity option. (3-23-94)

g. CATEGORY 7. Bare Forestland. Forestland assessed as bare land with the yield tax option. (3-23-94)

h. CATEGORY 8. Reforestation Land. Land for which the owner agrees to carry on specified reforestation practices. (3-23-94)

i. CATEGORY 9. Patented Mineral Land. (3-23-94)

j. CATEGORY 10. Homesite Land. Land being utilized for homesites on categories 1 through 9. (3-23-94)

k. CATEGORY 11. Recreational Land. Land used in conjunction with recreation but not individual

- homesites. (3-23-94)
- l. subdivision. CATEGORY 12. Rural Residential Tracts. Rural residential land not in a properly recorded (3-23-94)
- m. subdivision. CATEGORY 13. Rural Commercial Tracts. Rural commercial land not in a properly recorded (3-23-94)
- n. subdivision. CATEGORY 14. Rural Industrial Tracts. Rural industrial land not in a properly recorded (3-23-94)
- o. subdivision. CATEGORY 15. Rural Residential Subdivisions. Rural residential land in a properly recorded (3-23-94)
- p. subdivision. CATEGORY 16. Rural Commercial Subdivisions. Rural commercial land in a properly recorded (3-23-94)
- q. subdivision. CATEGORY 17. Rural Industrial Subdivisions. Rural industrial land in a properly recorded (3-23-94)
- r. CATEGORY 18. Other Land. Land not compatible with other categories. (4-5-95)
- s. CATEGORY 19. Waste. Public Rights-of-Way includes roads, ditches, and canals. Use this category to account for total acres of land ownership. Acres in this category shall be listed on the abstract. (4-5-95)
- t. CATEGORY 20. Residential Lots or Acreages. Land INSIDE city limits zoned residential. (3-23-94)
- u. CATEGORY 21. Commercial Lots or Acreages. Land INSIDE city limits zoned commercial. (3-23-94)
- v. CATEGORY 22. Industrial Lots or Acreages. Land INSIDE city limits zoned industrial. (3-23-94)
- w. assessments. CATEGORY 25. Common Areas. Land and improvements not included in individual property (4-5-95)
- x. CATEGORY 26. Residential Condominiums ~~or Townhouses~~. Land and improvements included in individual assessments of condominiums ~~or townhouses~~ in areas zoned residential or in areas zoned commercial or industrial but maintained as residences. (~~3-23-94~~)()
- y. CATEGORY 27. Commercial or Industrial Condominiums. Land and improvements included in individual assessments of condominiums in areas zoned commercial or industrial. (3-23-94)
- z. CATEGORY 30. Improvements. Other than residential, located on category 20. (3-23-94)
- aa. circuit breaker programs. CATEGORY 31. Improvements. Residential improvements located on category 10 that qualify for (3-23-94)
- bb. CATEGORY 32. Improvements. Other than residential, located on categories 1 through 12 and 15. (3-23-94)
- cc. CATEGORY 33. Improvements. Located on category 11. (3-23-94)
- dd. CATEGORY 34. Improvements. Residential in nature, located on category 12. (3-23-94)
- ee. CATEGORY 35. Improvements. Commercial in nature, located on category 13. (3-23-94)

- ff. CATEGORY 36. Improvements. Industrial in nature, located on category 14. (3-23-94)
- gg. CATEGORY 37. Improvements. Residential in nature, located on category 15. (3-23-94)
- hh. CATEGORY 38. Improvements. Commercial in nature, located on category 16. (3-23-94)
- ii. CATEGORY 39. Improvements. Industrial in nature, located on category 17. (3-23-94)
- jj. CATEGORY 40. Improvements. Located on category 18. (3-23-94)
- kk. CATEGORY 41. Improvements. Residential in nature, located on category 20. (3-23-94)
- ll. CATEGORY 42. Improvements. Commercial in nature, located on category 21. (3-23-94)
- mm. CATEGORY 43. Improvements. Industrial in nature, located on category 22. (3-23-94)
- nn. CATEGORY 44. Improvements. Taxable improvements located on otherwise exempt property under the same ownership. (3-23-94)
- oo. CATEGORY 45. Utility Systems. Locally assessed utility systems not under the jurisdiction of the Commission. (3-23-94)
- pp. CATEGORY 46. Manufactured Housing. Structures transportable in one or more sections, built on a permanent chassis, for use with or without permanent foundation. (3-23-94)
- qq. CATEGORY 47. Improvements to Manufactured Housing. Additions not typically moved with manufactured housing. (3-23-94)
- rr. CATEGORY 48. Manufactured Housing. Manufactured housing on which a statement of intent to declare as real property has been filed. (3-23-94)
- ss. CATEGORY 55. Boats or Aircraft. Unlicensed watercraft or unregistered aircraft. (3-23-94)
- tt. CATEGORY 56. Construction Machinery, Tools, and Equipment. Unlicensed equipment such as cranes, tractors, scrapers, and rock crushers, used in the building trade or road construction. (3-23-94)
- uu. CATEGORY 57. Equities in State Property. Property purchased from the state under contract. (4-5-95)
- vv. CATEGORY 58. Farm Machinery, Tools, and Equipment. Unlicensed farm or ranch machinery, shop tools, or equipment not assessed as real property. (3-23-94)
- ww. CATEGORY 59. Furniture, Fixtures, Libraries, Art, and Coin Collections. Trade articles used commercially for convenience, decoration, service, storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease. (3-23-94)
- xx. CATEGORY 60. Improvements on Railroad Rights-of-Way. Improvements located on railroad rights-of-way under separate ownership. (3-23-94)
- yy. CATEGORY 61. Improvements by Lessee Other Than Category 62. Improvements made by the tenant or lessee to landlord's property. (3-23-94)
- zz. CATEGORY 62. Improvements on Exempt or Public Land. Taxable improvements which are owned separately from exempt or public land on which they are located. (3-23-94)
- aaa. CATEGORY 63. Logging Machinery, Tools, and Equipment. Unlicensed logging machinery, shop

- tools, and equipment not assessed as real property. (3-23-94)
- bbb. CATEGORY 64. Mining Machinery, Tools, and Equipment. Unlicensed mining machinery, shop tools, and equipment not assessed as real property. (3-23-94)
- ccc. CATEGORY 65. Manufactured Housing. Manufactured housing not considered real property located on exempt land. (3-23-94)
- ddd. CATEGORY 66. Net Profits of Mines. That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses as defined in Section 63-2802, Idaho Code, or by Commission rule. (3-23-94)
- eee. CATEGORY 67. Operating Property. Property assessed by the Commission. (3-23-94)
- fff. CATEGORY 68. Other Miscellaneous Machinery, Tools, and Equipment. Unlicensed machinery, tools, and equipment not used in agriculture, construction, logging, or mining. (3-23-94)
- ggg. CATEGORY 69. Recreational Vehicles. Unlicensed recreational vehicles. (3-23-94)
- hhh. CATEGORY 70. Reservations and Easements. Reservations, including mineral rights reserved divide ownership of property rights. Easements convey use but not ownership. (3-23-94)
- iii. CATEGORY 71. Signs and Signboards. Signs and signboards, their bases and supports. (3-23-94)
- jjj. CATEGORY 72. Tanks, Cylinders, Vessels. Containers. (3-23-94)
- kkk. CATEGORY 81. Exempt Property. For county use in keeping an inventory, including acreage, of exempt real and personal property. (3-23-94)

(BREAK IN CONTINUITY OF SECTIONS)

329. IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL EXEMPTION VALUES ON COUNTY AND SCHOOL DISTRICT ABSTRACTS OF VALUE.

01. County and School District Abstracts to Balance. The taxable value of property in each category as shown on the abstracts prepared and submitted pursuant to sections 63-412 and 63-413, Idaho Code, shall equal the sum of the taxable value of property in each category as shown on the school district abstracts, required pursuant Section 250, for the portion of each school district located within each given county. ()

02. Identification of Increment. The value that exceeds the value on the base assessment roll in any urban renewal district, pursuant to Chapter 29, Title 50, Idaho Code, and Rule 350 shall be identified as the "increment." ()

03. Increment and Exemption Values to be Indicated. Beginning in 1997, in addition to the value of exemptions required pursuant to section 63-412, Idaho Code, any increment value and the value of any exemption provided under sections 63-105EE and 63-105II, Idaho Code, shall be indicated and subtracted from the taxable value shown for each category of property on each county and school district abstract. ()

~~329~~330. -- 349. (RESERVED).

350. TAX LEVY ~~DETERMINED IN DOLLARS~~--CERTIFICATION ~~DATE~~ -- URBAN RENEWAL DISTRICTS.

01. Budget Certification ~~To Be Expressed in Dollars~~. The certification required shall be made to each board of county commissioners representing each county in which the district is located. The certification shall be on

a form prescribed by the Tax Commission.

(3-23-94)()

~~02. Use of "Budget and Levy Procedure Manual." Information required to comply with this section shall be submitted by each county clerk to the Tax Commission in accordance with procedures found in the current year's "Budget and Levy Procedure Manual" prepared by the Tax Commission. The county auditor is not required to certify to the tax commission a budget for irrigation and drainage districts, forest protection associations, and other taxing districts which require no money from property tax sources.~~

(3-23-94)

~~0302. Cross Reference. Additional certification of full market value by taxing district is required as specified in PTR 635.~~

(3-23-94)

03. Levy Computation for Taxing Districts Encompassing Revenue Allocation Areas within Urban Renewal Districts. Beginning in 1997, the property tax levy for any taxing district or unit which includes all or part of a revenue allocation area (RAA) in an urban renewal district, as defined in Chapter 29, Title 50, Idaho Code shall be computed as described in the following subsections.

()

a. The current base value of each parcel in a taxing district or unit shall be the value of that parcel on the current base assessment roll as defined under section 50-2903, Idaho Code. The taxable value of each category of property in a parcel for the year immediately preceding the year the RAA is established is to be summed to establish initial base year value for each parcel. If a parcel's legal description has changed prior to computing initial base year value, the value that best reflects the prior year's taxable value of the parcel's current legal description must be determined and will constitute the initial base year value for such parcel.

()

b. The dollar amount certified for the property tax portion of the budget of the taxing district or unit shall be divided by the market value for assessment purposes of all taxable property within the taxing district or unit, including the value of each parcel on the current base assessment roll (base value), but excluding the increment value. The "increment value" is the difference between the current equalized value of each parcel of taxable property in the taxing district or unit and that parcel's current base value. Each parcel's current base value shall be adjusted by category. Adjustments to base values for any real, personal, or operating property shall establish new base values from which future adjustments may be made.

()

c. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel's legal description. This adjustment shall be calculated as described in the following subsections.

()

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure that the new total equals the most recent base year value.

()

ii. When a parcel has been combined with another parcel, the most recent base year values are added together.

()

iii. When a parcel has been split and combined with another parcel in the same year, the value of the split shall be calculated as set forth in Subsection 350.03.i and then the value of the combination will be calculated as set forth in Subsection 350.03.ii.

()

d. For operating property, the original base value shall be allocated to the RAA on the same basis as is used to allocate operating property to taxing districts and units. The operating property base value shall be adjusted as required under section 50-2903, Idaho Code.

()

e. Base values are to be adjusted downward when the current taxable value of any parcel in the RAA is less than the most recent base value for such parcel. Base values are to be adjusted downward for properties becoming exempt and upwards for exempt properties becoming taxable. Adjustments to base values will be calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment.

()

f. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA. Property shall be considered removed only under the conditions described in the following subsections.

()

i. For real property, all of the improvement is physically removed from the RAA, provided that there is no replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0). ()

ii. For personal property, all of the personal property associated with one parcel is physically removed from the RAA. ()

iii. For operating property, any of the property under a given ownership is removed from the RAA. ()

g. The increment value shall not be included in the calculation of the levy of any taxing district or unit. ()

(BREAK IN CONTINUITY OF SECTIONS)

480. DEFINITIONS.

~~01. Forest land shall include parcels currently classified or eligible for classification under ISTC 44.~~ (7-1-93)

~~0201. Present Use.~~ Present use shall mean that the land contains ~~actively growing~~ trees of a marketable species which ~~are being actively managed to produce a forest crop for eventual harvest and which may be accepted by a commercial mill in the forest value zone.~~ (7-1-93)()

~~0302. Silvicultural Treatment.~~ Silvicultural treatment shall include the following activities: site preparation, planting, vegetation control, precommercial thinning, commercial thinning, fertilization, mechanical or chemical pest and disease control, pruning, inventorying, cruising, or regeneration surveys, fencing ~~established to protect seedlings, and genetic tree improvement.~~ (7-1-93)()

~~0403. Forest Land Management Plan.~~ Forest land management plan shall mean a written management plan ~~reviewed performed and submitted~~ by a professional consulting forester, Idaho Department of Lands ~~private forestry specialist woodland forester, professional industry forester, or federal government forester,~~ to include eventual harvest of the forest crop. Professional forester is defined as an individual holding at least a ~~B.S.~~ Bachelor of Science degree in forestry from an accredited four (4) year institution. ~~The forest land management plan shall include as a minimum:~~ (7-1-93)()

- a. Date of the plan preparation; ()
- b. Name, address, and phone number of the land owner, and person preparing and/or reviewing the plan; ()
- c. The legal description of the property; ()
- d. A map of the property of not less than 1:24,000 scale; ()
- e. A general description of the forest stand(s) including species and age classes; ()
- f. A general description of the potential insect, disease, and fire hazards that may be present and the management systems which shall be used to control them; ()
- g. The forest management plans of the landowner over the next twenty (20) years. ()

~~0504.~~ Bare Forest Land. Bare forest land shall qualify as forest land only if, within five (5) years after harvest or initial assessment, they are planted or regenerated naturally to minimum stocking levels as specified by the Idaho Forest Practices Act. (Title 38, Chapter 13, Idaho Code). (7-1-93)(____)

~~0605.~~ Joint Ownership. Joint ownership as used in ~~ISTC 62 IDAPA 35.01.03.488.01 and 489.01~~ includes ownership of a single parcel of forest land by two or more legal entities irrespective of their proportionate ownership interests in the parcel, but shall not include the community property interests of a spouse. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

488. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER--LIMITATIONS.

01. Designation of Forest Parcels. A forest landowner may choose to have the total acreage of forest land parcels owned within the state designated under the provisions of either Section 63-1705 or 63-1706, Idaho Code. The forest landowner cannot have parcels in both designations. If the new owner owns no forest land in the state designated under Section 63-1705 or 63-1706, Idaho Code, he may choose the option of forest taxation he desires. Designation shall be made by on or before December 31st, of the year preceding assessment and will be effective for the following year. Where forest property is held in joint ownership, all co-owners must mutually agree on a property designation under Section 63-1703(a) and (b), Idaho Code. Each co-owner must make a timely designation. Where co-owners are unable to agree on a mutual designation or fail to make a designation, the forest land shall be subject to appraisal and assessment as provided in ~~ISTC 484 of these rules~~ Section 63-1702, Idaho Code. (7-1-93)(____)

~~02. Reforestation lands shall be eligible for designation at time of contract expiration or when declassified by the state, so long as the land qualifies for classification as forest land. (7-1-93)~~

~~03. If the forest landowner fails to make a designation by December 31st of the year preceding assessment, the forest lands shall be assessed under Section 63-1702, Idaho Code, until a timely designation is made. (7-1-93)~~

~~04. After January 1st and by December 31st of the tenth (10th) year of designation, a landowner may change designations for the upcoming ten (10) year period, subject to any recapture of deferred taxes caused by such choice. Failure to make a new designation shall cause an automatic renewal for ten (10) years of the existing designation. (7-1-93)~~

~~0502. Change in Use.~~ Failure to notify the assessor of the change in use when lands have been designated shall cause forfeiture of the designation as to the changed acres, and the property shall be appraised, assessed and taxed, as provided in Section 63-1702, Idaho Code, from the date of latest designation or renewal. (7-1-93)(____)

~~0603. Certain Lands With No Deferred Taxes.~~ There are no deferred taxes on lands designated under Section 63-1705, Idaho Code. (7-1-93)(____)

~~07. Recapture of deferred taxes on lands designated under Section 63-1706, Idaho Code, shall be handled as follows: (7-1-93)~~

489. RECAPTURE OF DEFERRED TAXES ON LANDS DESIGNATED UNDER 63-1706, IDAHO CODE.

~~a01. Ownership Interest/Deferred Taxes.~~ Upon removal of the designation, a substantial change in use, or ownership transfer and subsequent change in designation, forest land designated under Section 63-1706, Idaho Code, shall be subject to a recapture of deferred taxes. Where forest land is held in joint ownership, a transfer of ownership for purposes of recapturing deferred taxes shall occur when any one of the legal entities holding an ownership interest in the subject property shall convey, transfer, or otherwise dispose of their ownership interest or portion thereof. Any such transfer of ownership shall subject the entire parcel to recapture of deferred taxes, unless

the new owner timely redesignates their ownership interest under Section 63-1706, Idaho Code. ~~the parcel.~~ (7-1-93)(____)

~~b02.~~ Deferred Tax Responsibility. Recaptured deferred taxes shall be the responsibility of the selling landowner. Deferred taxes shall constitute a lien on the land. (7-1-93)(____)

~~e.~~ All deferred tax amounts shall be due and payable to the treasurer on demand and subject to the provisions of Sections 63-1102 and 63-1117, Idaho Code, from date of delinquency. (7-1-93)

~~d03.~~ Delinquent Deferred Taxes. All deferred tax amounts shall be certified to the real property roll immediately following delinquency. (7-1-93)(____)

~~e04.~~ Change in Use/Deferred Taxes. Forest lands designated under Section 63-1706, Idaho Code, and subsequently removed from the designation by change in use with no ownership transfer, ~~unless such transfer is a parcel less than five (5) acres in size,~~ to any taxing category other than designation under Section 63-1705, Idaho Code, shall cause a recapture of deferred taxes calculated in the following manner: (a.) the difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current market value for assessment purposes of the property during the current year, (b.) multiplied by the current levy for the tax code area or areas in which the parcel lies, (c.) multiplied by the number of years, including the entire current year, the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. A credit shall be allowed for any yield tax paid up to the amount of the deferred taxes. (7-1-93)(____)

~~f05.~~ Transfer of Ownership/Deferred Taxes. Forest land designated under Section 63-1706, Idaho Code, upon transfer of ownership or removal to designation under Section 63-1705, Idaho Code, ~~provided the transfer is a parcel equal to or greater than five (5) acres in size,~~ shall be subject to a recapture of deferred taxes calculated in the following manner: (a.) the difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current productivity value for the correct class of land in the forest value zone in which the parcel lies, ~~during for~~ the current year, (b.) multiplied by the current levy for the tax code area or areas in which the parcel lies, (c.) multiplied by the number of years, including the entire current year, which the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. A credit shall be allowed for any yield tax paid up to the amount of the deferred taxes. (7-1-93)(____)

~~g.~~ In the event of nonpayment, the yield taxes due shall constitute a lien on all real and personal property of the landowner. (7-1-93)

~~0806.~~ Investment lands. Investment lands are defined as those in categories 1, 2, 3, 4, 5, and 9, as defined in ~~ISTC 044~~ Rule 327 of these rules. (7-1-93)(____)

~~489490.~~ - 491. (RESERVED).

492. TAXATION OF LARGE SIZE FOREST TRACTS.

01. Productivity Formula. Taxation under the provisions of Section 63-1705, Idaho Code, shall not include timber inventory in addition to the productivity value since the value of timber growing on the land is included in the productivity formula. The productivity formula used to determine the forest value shall be as follows:

- STEP 1 : (MAI) MEAN ANNUAL GROWTH INCREMENT MULTIPLIED BY THE (SV) STUMPAGE VALUE
- STEP 2 : ADD OTHER AGRICULTURAL RELATED INCOME
- STEP 3 : MINUS COSTS _____
- STEP 4 : THE SUM OF STEPS 1 - 3 DIVIDED BY THE CAPITALIZATION RATE
- STEP 5 : EQUALS THE PRODUCTIVITY VALUE

MAI x SV + other agricultural related income - costs

Capitalization Rate

KEY:

MAI = Mean Annual growth Increment, board feet/acre/year

SV = Stumpage Value, preceding five (5) year rolling average of timber harvested within the forest value zone from state timber sales or the best available data for the same five (5) year period.

Other Agricultural Related Income = Grazing income from the forest land.

Costs = Annualized expenses directly related to producing the forest crop, including, but not limited to the establishment, maintenance, improvement, and management of the crop over the rotation period, including the forest protection fee currently charged by the Idaho Department of Lands.

Capitalization Rate = Shall be the five (5) year rolling average from the Spokane ~~Federal Land Bank~~ office of the Farm Credit Service determined in accordance with the procedures described for the determining of the capitalization rate for agricultural lands in Section ~~63-105CC~~ 63-602k, Idaho Code.

(7-1-96)()

02. The state shall be divided into four (4) forest valuation zones: ()
- a. ZONE 1 - Boundary, Bonner, Kootenai counties. ()
 - b. ZONE 2 Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, Idaho counties. ()
 - c. ZONE 3 Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka counties. ()
 - d. ZONE 4 - The remaining nineteen (19) counties. ()

03. Classification of Forest Lands. Forest valuation Zones 1 and 2: There shall be three separate productivity classes of forest land poor, medium, and good. These broad classes are related in the following manner by definition to the MEYER AND HAIG TABLES. These classes apply to forest land which may or may not be stocked with commercial or young growth timber. (7-1-93)

a. Poor productivity class is defined as forest land having a mean annual increment, MAI, of one hundred (100) board feet per acre per year, based on an eighty (80) year rotation and sixty-five percent (65%) of normal stocking by the end of the rotation period. This productivity class includes western white pine site index 35-45 and ponderosa pine site index 45-80. One hundred (100) board feet per acre MAI shall be used in the productivity formula. (7-1-93)

b. Medium productivity class is defined as forest land having a mean annual increment, MAI, of two hundred twenty-five (225) board feet per acre per year, based on an eighty (80) year rotation and sixty-five percent (65%) of normal stocking by the end of the rotation period. This productivity class includes western white pine site index 46-60 and ponderosa pine site index 81-110. Two hundred twenty-five (225) board feet per acre MAI shall be used in the productivity formula. (7-1-93)

c. Good productivity class is defined as forest land having a mean annual increment, MAI, of three hundred fifty (350) board feet per acre per year, based on an eighty (80) year rotation and sixty-five percent (65%) of normal stocking by the end of the rotation period. This productivity class includes western white pine site index 61 and above and ponderosa pine site index 111 and above. Three hundred fifty (350) board feet per acre MAI shall be used in the productivity formula. (7-1-93)

d. Forest land shall be stratified into areas of similar productive potential using the habitat typing methodology described in Forest Habitat Types of Northern Idaho: A Second Approximation, 1991 edition. Within these stratified areas, site index trees will be selected and measured that will identify the site index to be used to place the land in one (1) of the three (3) productivity classes listed above. ()

de. Forest valuation Zones 3 and 4: Criteria shall be the same as that used in Zones 1 and 2 with the following adjustments made for lower moisture levels. Poor productivity class, one hundred (100) board feet per acre MAI shall be used in the productivity formula. Medium productivity class, two hundred thirteen (213) board feet per acre MAI shall be used in the productivity formula. Good productivity class, three hundred twenty (320) board feet per acre MAI shall be used in the productivity formula. (7-1-93)

04. The recommended MAI's to be used in the productivity formulas for the appropriate forest valuation zones are according to the best available information and subject to change upon receipt of updated information. The MAI's shall be considered as midpoints of a class in the following manner:

<u>MP</u> MIDPOINT	
Zones 1 and 2:	
Poor	38 - 100 - 162 board feet per acre
Medium	163- 225 - 286 board feet per acre
Good	287 - 350 and greater board feet per acre
<u>MP</u> Zones 3 and 4:	
Poor	44 - 100 - 156 board feet per acre
Medium	157 - 213 - 268 board feet per acre
Good	269 - 320 and greater board feet per acre

(7-1-93)()

05. ~~The Commission shall provide a field appraisal manual on forest valuation as deemed necessary.~~ (7-1-93)

0605. Deficient Areas. Lakes, solid rock bluffs, talus slopes, and continuously flooded swampy areas, larger than five contiguous acres in size which can be identified on aerial photos shall be valued at forty percent (40%) of the poor bare land ~~and yield value in accordance with~~ as defined in Section 63-1706, Idaho Code. These areas are defined as being incapable of growing trees. (7-1-93)()

493. - 495. (RESERVED)

496. YIELD TAX ON APPLICABLE FOREST PRODUCTS.

01. The formula shown below will be used to update the bare forest land value for tax assessment purposes on an annual basis: (7-1-93)

- STEP 1: SUBTRACT T_n FROM T_{n+1}
- STEP 2: MULTIPLY THE ANSWER IN STEP 1 BY .5
- STEP 3: ADD 1 TO THE ANSWER IN STEP 2
- STEP 4: MULTIPLY THE ANSWER IN STEP 3 BY BLV_y

STEP 5 : DIVIDE THE ANSWER IN STEP 4 BY T_n TO GET BLV_{y+1}

KEY:

BLV_{y+1} = Bare land value for next year

BLV_y = Bare land value for current year

T_{n+1} = Five year average stumpage value (\$/MBF) for the period ending in the current year

T_n = Five year average stumpage value (\$/MBF) for the period ending one year ago

EQUATION: See Forms, Appendices, Charts etc., Page 35-159

The stumpage value used in the formula shall be the same as that used in the productivity formula by zone, and the bare forest land values shall be reviewed by the Commission periodically.

(7-1-93)(____)

02. Previous calendar year's delinquent yield taxes owing shall be certified to the real roll for collection no later than November 1. (7-1-93)

0302. Landowner's Report. By ~~December 31~~June 1, of each year the county treasurer shall make a written report to include the forest landowner's name, legal description of forest property owned, and yield taxes paid for the current assessment year. This report shall be submitted to the county auditor and shall be kept on file. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

500. ~~PROPERTY EXEMPT FROM TAXATION.~~ VALUATION OF CHRISTMAS TREE FARMS.

Christmas tree farms shall be categorized on the tax rolls under the applicable agricultural category. Section 63-1708, Idaho Code, shall only apply to Christmas trees harvested from designated lands. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

525. ~~MEETING OF COMMISSIONERS AS BOARD OF EQUALIZATION.~~

01. ~~Subsequent Roll Required.~~ The assessor shall prepare a subsequent roll of all assessable property not included on the current year's rolls which were equalized between the fourth (4th) Monday of June and the second (2nd) Monday of July. (7-01-93)

02. ~~Adjournment of County Board of Equalization.~~ Boards of Equalization may RECESS and meet as business warrants but must meet and adjourn on the second Monday of July and on the first Monday of December. Early adjournment of the Board shall not preclude taxpayer appeals. (7-01-93)

03. ~~Missed Property Roll.~~ Real and personal property not previously assessed during the current year shall be assessed between the fourth (4th) Monday of November and December 31, and listed on the missed property roll which shall be equalized at the first regular meeting of the Board of Equalization in January. (7-01-93)

04. ~~Additional Abstract Required.~~ An abstract shall be prepared for the assessment roll that includes any property discovered and assessed, for the current year, and equalized by the county commissioners during their monthly meeting, as a Board of Equalization in January of the following year. This abstract shall be forwarded to the Tax Commission no later than the 4th Monday of January. (3-23-94)

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - RULES GOVERNING AD VALOREM PROPERTY TAXATION
DOCKET NO. 35-0103-9607
NOTICE OF PROPOSED RULES

ACTION: The action, under Docket No. 35-0103-9607, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA 35, Title 01, Chapter 03, Rules Governing Ad Valorem Property Taxes.

AUTHORITY: In compliance with Section 67-5226 and 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule and has proposed rule-making. The action is authorized pursuant to Sections 63-513 and 63-3624, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rule-making will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or any agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

The hearing site will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days' notice. For arrangements contact the undersigned.

DESCRIPTIVE SUMMARY: Rule 180 being adopted as a temporary rule (See Bulletin 96-5) and being amended now as a proposed rule, which would apply the 1996 benefit brackets. As a result of the passage of House Bill 398, and the benefit portion of the circuit breaker income/benefit brackets needs to be revised.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 26 th day of July 1996.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

TEXT OF DOCKET NO. 35-0103-9601

180. AMOUNT OF TAX REDUCTION.

01. Adjustment. The adjustment effective January 1, ~~1995~~ 1996, is two and ~~eight~~ six tenths percent (~~2.8~~ 2.6%). ~~(3-22-96)~~(____)

02. Effective Date. Effective January 1, ~~1996~~ 1997, the brackets in Section 63-120(4), Idaho Code, are adjusted as follows: ~~(6-30-95)~~F(____)

income is \$7,220 or under	\$800, or actual taxes, whichever is less
\$7,221, but not more than \$7,510	\$780, or actual taxes, whichever is less;
\$7,511, but not more than \$7,830	\$760, or actual taxes, whichever is less;
\$7,831, but not more than \$8,140	\$740, or actual taxes, whichever is less;
\$8,141, but not more than \$8,430	\$720, or actual taxes, whichever is less
\$8,431, but not more than \$8,750	\$700, or actual taxes, whichever is less
\$8,751, but not more than \$9,050	\$680, or actual taxes, whichever is less
\$9,051, but not more than \$9,350	\$660, or actual taxes, whichever is less
\$9,351, but not more than \$9,660	\$640, or actual taxes, whichever is less
\$9,661, but not more than \$9,970	\$620, or actual taxes, whichever is less
\$9,971, but not more than \$10,270	\$600, or actual taxes, whichever is less
\$10,271, but not more than \$10,590	\$580, or actual taxes, whichever is less
\$10,591, but not more than \$10,880	\$560, or actual taxes, whichever is less
\$10,881, but not more than \$11,190	\$540, or actual taxes, whichever is less
\$11,191, but not more than \$11,500	\$520, or actual taxes, whichever is less
\$11,501, but not more than \$11,810	\$500, or actual taxes, whichever is less
\$11,811, but not more than \$12,100	\$480, or actual taxes, whichever is less
\$12,101, but not more than \$12,410	\$460, or actual taxes, whichever is less
\$12,411, but not more than \$12,720	\$440, or actual taxes, whichever is less
\$12,721, but not more than \$13,030	\$420, or actual taxes, whichever is less
\$13,031, but not more than \$13,330	\$400, or actual taxes, whichever is less
\$13,331, but not more than \$13,630	\$380, or actual taxes, whichever is less
\$13,631, but not more than \$13,950	\$360, or actual taxes, whichever is less
\$13,951, but not more than \$14,250	\$340, or actual taxes, whichever is less
\$14,251, but not more than \$14,550	\$320, or actual taxes, whichever is less
\$14,551, but not more than \$14,870	\$300, or actual taxes, whichever is less
\$14,871, but not more than \$15,160	\$280, or actual taxes, whichever is less
\$15,161, but not more than \$15,480	\$260, or actual taxes, whichever is less
\$15,481, but not more than \$15,770	\$240, or actual taxes, whichever is less
\$15,771, but not more than \$16,090	\$220, or actual taxes, whichever is less
\$16,091, but not more than \$16,390	\$200, or actual taxes, whichever is less
\$16,391, but not more than \$16,700	\$180, or actual taxes, whichever is less

\$16,701, but not more than \$17,000	\$160, or actual taxes, whichever is less
\$17,001, but not more than \$17,300	\$140, or actual taxes, whichever is less
\$17,301, but not more than \$17,620	\$120, or actual taxes, whichever is less
\$17,621, but not more than \$17,910	\$100, or actual taxes, whichever is less

income is \$7410 or under	\$1,000, or actual taxes, whichever is less
\$7,411 but not more than \$7,710	\$980, or actual taxes, whichever is less;
\$7,711, but not more than \$8,030	\$950, or actual taxes, whichever is less;
\$8,031, but not more than \$8,350	\$930, or actual taxes, whichever is less;
\$8,351, but not more than \$8,650	\$900, or actual taxes, whichever is less
\$8,651, but not more than \$8,970	\$880, or actual taxes, whichever is less
\$8,971, but not more than \$9,290	\$850, or actual taxes, whichever is less
\$9,291, but not more than \$9,590	\$830, or actual taxes, whichever is less
\$9,591, but not more than \$9,910	\$800, or actual taxes, whichever is less
\$9,911, but not more than \$10,230	\$780, or actual taxes, whichever is less
\$10,231 but not more than \$10,540	\$750, or actual taxes, whichever is less
\$10,541, but not more than \$10,860	\$730, or actual taxes, whichever is less
\$10,861, but not more than \$11,170	\$710, or actual taxes, whichever is less
\$11,171, but not more than \$11,480	\$690, or actual taxes, whichever is less
\$11,481, but not more than \$11,800	\$660, or actual taxes, whichever is less
\$11,801, but not more than \$12,110	\$640, or actual taxes, whichever is less
\$12,111, but not more than \$12,420	\$610, or actual taxes, whichever is less
\$12,421, but not more than \$12,730	\$590, or actual taxes, whichever is less
\$12,731, but not more than \$13,050	\$560, or actual taxes, whichever is less
\$13,051, but not more than \$13,370	\$540, or actual taxes, whichever is less
\$13,371, but not more than \$13,680	\$510, or actual taxes, whichever is less
\$13,681, but not more than \$13,980	\$490, or actual taxes, whichever is less
\$13,981, but not more than \$14,310	\$460, or actual taxes, whichever is less
\$14,311, but not more than \$14,620	\$440, or actual taxes, whichever is less
\$14,621, but not more than \$14,930	\$420, or actual taxes, whichever is less
\$14,931, but not more than \$15,260	\$400, or actual taxes, whichever is less
\$15,261, but not more than \$15,560	\$370, or actual taxes, whichever is less
\$15,561, but not more than \$15,880	\$350, or actual taxes, whichever is less
\$15,881, but not more than \$15,190	\$320, or actual taxes, whichever is less
\$16,191, but not more than \$16,500	\$300, or actual taxes, whichever is less
\$16,501, but not more than \$16,820	\$270, or actual taxes, whichever is less

<u>\$16,821, but not more than \$17,130</u>	<u>\$250, or actual taxes, whichever is less</u>
<u>\$17,131, but not more than \$17,450</u>	<u>\$220, or actual taxes, whichever is less</u>
<u>\$17,451, but not more than \$17,750</u>	<u>\$200, or actual taxes, whichever is less</u>
<u>\$17,751, but not more than \$18,070</u>	<u>\$170, or actual taxes, whichever is less</u>
<u>\$18,071 but not more than \$18,380</u>	<u>\$150, or actual taxes, whichever is less</u>

(3-22-96)()

IDAPA 35 - STATE TAX COMMISSION
35.01.05 - RULES GOVERNING MOTOR FUELS TAXATION
DOCKET NO. 35-0105-9602
NOTICE OF PROPOSED RULES

ACTION: The action, under Docket No 35-0105-9602, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA 35, Title 01, Chapter 05, Rules Governing Motor Fuel Taxes.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 63-513 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rule-making will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or any agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

The hearing site will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days' notice. For arrangements contact the undersigned.

DESCRIPTIVE SUMMARY:

Rule 130 is being deleted because it repeats the gasoline tax rate already denoted in Idaho Motor Fuels Tax Code.

Rule 310 is being modified to allow distributors an option to provide either a credit report from an independent commercial credit rating company or the company's financial statements. Previously both were required as part of the information needed to establish financial solvency for those distributors seeking exemption from bonding requirements. When a distributor does chooses the option to submit financial statements, the financial statements must be certified by a certified public accountant for a publicly held company or reviewed by a certified public accountant or licensed public accountant for a privately held company. In both cases, when financial statements are submitted, a responsible company officer must now certify that the financial statements provided present fairly the financial position of their company. The rule also specifies the requirements for the yearly renewal of the bond exemption.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Randy Nilson, at (208) 334-7530.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 29, 1996.

DATED this day the 26th day of June, 1996.

Randy Nilson, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

TEXT OF DOCKET NO. 35-0105-9602

~~130. RATE OF TAX. (Rule 130.)~~

~~01. The rate of taxation imposed on all motor fuels subject to taxation under Chapter 24, Title 63, Idaho Code, on and after April 1, 1991, is twenty-one cents (\$0.21) per gallon, except gasohol that is taxed stated in subsection 02 of this rule. (6-23-94)~~

~~02. Before April 30, 1993, gasohol was taxed at seventeen cents (\$0.17) per gallon. Between May 1, 1992, and July 1, 1994 the tax rate on gasohol is twenty-one cents (\$0.21) per gallon. On and after July 1, 1994, the excise tax rate set forth in section 63-2405, Idaho Code, shall, when applied to gasohol or to special fuels designed for use in diesel engines, be reduced by the same percentage that the quantity of denatured anhydrous ethanol contained in the gasoline or, in the case of special fuels the quantity of such special fuel that is derived from agricultural products or the wastes of such products, bears to the total fuel subject to tax. Provided however, in no event shall the rate set forth in this section be reduced more than ten percent (10%). (6-23-94)~~

~~131-130. -- 139. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

310. EXEMPTION FROM REQUIREMENT FOR BONDS, DETERMINATION OF FINANCIAL RESPONSIBILITY. (Rule 310.)

01. Exemption to Bond Requirements for Licensed Distributors. Bonds, as referred to in Rule 010 of these rules are required of all licensed distributors unless the distributor is found financially responsible. A licensed distributor seeking exemption from the bonding requirement must apply for the exemption by filing a written petition with the Commission. The petition must contain information relating to the requirements of Section 63-2428, Idaho Code, for establishing financial solvency and responsibility. Together with the petition, the distributor must submit any information required in the following ~~s~~Subsections 310.01.a. through 01.f.e. (6-23-94)()

a. If all or any part of the unencumbered property offered to show financial solvency is real property, the petition must include both a title report from an independent title company reporting on the state of the title of the real property as of a time not more than fifteen (15) days before the filing of the petition and a copy of the most recent valuation notice issued by the county assessor for ad valorem property tax purposes. (6-23-94)

b. If all or any part of the unencumbered property is licensed motor vehicles, the petition must include copies of the titles of the vehicles and evidence of the value of the vehicles from a source independent from the distributor. (6-23-94)

c. If all or any part of the unencumbered property is personal property other than motor vehicles, the petition must include a description of the property, evidence of ownership of the property, an independent appraisal of the property, and evidence that the property is unencumbered. Copies of all documents relating to all of the distributor's current and long-term liabilities, including contingent liabilities, lawsuits or potential lawsuits to which the distributor is or may become a party, are required to establish that no security interests or other encumbrances exist. (6-23-94)

~~d. In all cases, t~~The petitioner must arrange, at the petitioner's expense, for an established, independent commercial credit rating company to submit directly to the Commission a current and complete credit report about the licensed distributor; or, the distributor must include with the petition its most recent financial statements, including a current income statement, balance sheet, and statement of cash flows. If the petitioner is a publicly held company, the financial statements must be certified by an independent certified public accountant and a responsible company officer must certify that the financial statements provided present fairly the financial position of the company. If the petitioner is a privately held company, the financial statements must be reviewed by a certified public accountant or licensed public accountant and a responsible company officer must certify that the financial statements provided present fairly the financial position of the company. (6-23-94)()

~~e. In all cases, the distributor must include with the petition financial statements certified by a certified public accountant, including a current income statement and balance sheet. (6-23-94)~~

~~f.e.~~ The Commission may require the distributor to supplement its petition with such further

information as the Commission, in its discretion, finds necessary to determine financial responsibility. (6-23-94)

02 Conditions for Termination of Exemption. If granted, the exemption from the bonding requirement shall terminate: (6-23-94)

- a. One (1) year after the date on which it was granted. (6-23-94)
- b. Upon the occurrence of any delinquency in motor fuels tax. (6-23-94)
- c. Upon the occurrence of any encumbrance of any of the property upon which the finding of financial responsibility was based. (6-23-94)
- d. Upon the occurrence of any change in the business activity of the distributor that would cause the amount of bond required to be increased to an amount greater than the value of the distributor's unencumbered assets. (6-23-94)
- e. Upon the occurrence of any event prejudicing the distributor's solvency or financial responsibility. (6-23-94)

03. Bond Requirement upon Termination of Exemption. Immediately upon any termination of the exemption from the requirement for a bond the distributor must supply the required bond according to Section 63-2408, Idaho Code. (6-23-94)

04. Pending Application Does Not Excuse the Bond Requirement. Having an application pending for exemption from the requirement for a bond does not excuse the bond. If a bond exemption is due to expire, the distributor must submit a new petition applying for a continuation of the exemption no later than ninety (90) days before the day the exemption is due to expire to prevent a lapse in the exemption. The petition must meet all of the requirements of this rule. (6-23-94)

05. Conditions for Renewal of Bond Exemption. The following must be submitted to renew a bond exemption: ()

- a. A written request for renewal of waiver; ()
- b. The information required in Subsections 310.01.a. through 01.e. of this rule. ()

IDAPA 35 - STATE TAX COMMISSION
35.01.05 - RULES GOVERNING MOTOR FUELS TAXATION
DOCKET NO. 35-0105-9603

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective from July 1, 1996.

ACTION: The action, under Docket No 35-0105-9603, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA 35, Title 01, Chapter 05, Rules Governing Motor Fuel Taxes.

AUTHORITY: In compliance with Section 67-5226(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 63-513 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rule-making will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or any agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

The hearing site will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days' notice. For arrangements contact the undersigned.

DESCRIPTIVE SUMMARY: Rule 261 - In Idaho Code, Section 63-2424, requires the commission to provide by rule the method to be used for converting an increase in the fuels tax rate to an equivalent increase in the annual gaseous fuels permit fees. The gaseous fuels permits are valid for a one-year period from 7/1 through 6/30.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Randy Nilson, at (208) 334-7530.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 29, 1996.

DATED this day the 26th day of June, 1996.

Randy Nilson, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

TEXT OF DOCKET NO. 35-0105-9603

261. WHEN THE GASOLINE TAX RATE INCREASES, USE CONVERSION FACTOR TO ADJUST ANNUAL GASEOUS FUELS PERMIT FEES.

01. Gasoline Tax Rate Increase Conversion Factors. When the gasoline tax rate increases, the following conversion factors for each vehicle weight class should be multiplied by the new tax rate for gasoline found in Idaho Code, Section 63-2405 and rounded to nearest dollar to adjust the annual gaseous fuels permit fees.

(7-1-96)T

a. A conversion factor of two hundred thirty eight (238) for vehicles weighing zero (0) to eight thousand (8,000) lbs.

(7-1-96)T

b. A conversion factor of three hundred fifty-seven (357) for vehicles weighing eight thousand and one (8,001) to sixteen thousand (16,000) lbs. (7-1-96)T

c. A conversion factor of seven hundred fourteen (714) for vehicles weighing sixteen thousand and one (16,001) to twenty-six thousand (26,000) lbs. (7-1-96)T

d. A conversion factor of eight hundred thirty-three (833) for vehicles weighing twenty-six thousand and one (26,001) lbs. and above. (7-1-96)T

~~261~~262. - 299. (RESERVED).

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
37.02.02 - RULES GOVERNING IDAHO WATER RESOURCE BOARD FUNDING PROGRAMS
DOCKET NO. 37-0202-9601
NOTICE OF PROPOSED RULES

ACTION: The action under Docket No. 37-0202-9601, concerns the proposed amendment of rules governing the Water Resource Funding Programs, IDAPA 37, Title 02, Chapter 02, Rules Governing Idaho Water Resource Board Funding Programs.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to sections 42-1758 and 42-1734, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

The hearing site(s) will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five days' notice. For arrangements contact the undersigned at (208) 327-7966.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule changes:

Proposed changes reorganize existing rules, clarify instructions to loan and grant applicants, remove outdated application requirements, allow loan application fee (2% of the loan amount) to be refunded if the loan is not approved, and provide for a loan reserve account (equivalent of one year's loan payment), or one early annual payment as a loan requirement.

ASSISTANCE IN TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact William Graham at (208) 327-7966. Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 26th day May, 1996

Karl Dreher, Director
Department of Water Resources
1301 N. Orchard Street
P.O. Box 82720
Boise, ID 83720-0098

TEXT OF DOCKET NO. 37-0202-9601

IDAPA 37
TITLE 02
Chapter 02

37.02.02 - FUNDING PROGRAMS RULES IDAHO WATER RESOURCE BOARD

000. LEGAL AUTHORITY (Rule 0).

The purpose of these rules is to define the administration of the Water Management Account established by Section 42-1760, Idaho Code, and the Revolving Development Account established by Section 42-1750, Idaho Code. This chapter is adopted by the Idaho Water Resource Board under the legal authority of sections 42-1734 and 42-1758, Idaho Code. (7-1-93)()

001. TITLE, SCOPE AND CITATION (Rule 1).

These rules shall be cited as IDAPA 37.02.02, Rules of the Idaho Water Resource Board, Title 02, Chapter 02, "Funding Programs Rules." These rules implement sections 42-1750 to 42-1758, Idaho Code, providing for the establishment and use of the Revolving Development Account, and section 42-2760, Idaho Code, providing for the establishment and use of the Water Management Account. These rules set forth the purposes for which moneys may be allocated from the two (2) accounts and the procedures to be followed in applying for and processing requests for money from the accounts. ()

002. ADMINISTRATIVE APPEALS (Rule 2).

Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to section 67-5270, Idaho Code, and IDAPA 37.01.01, Rules of Procedure of the Idaho Department of Water Resources. ()

003. WRITTEN INTERPRETATIONS (Rule 3).

The Water Resource Board may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements can be inspected and copied at cost at the Department of Water Resources, 1301 N. Orchard, Boise, Idaho 82706. ()

004. CATCHLINES (Rule 4).

Catchlines within this chapter are not to be used in the interpretation of the rules. ()

~~001~~**005. -- 024. (RESERVED).**

025. PURPOSE OF WATER MANAGEMENT ACCOUNT (Rule 25).

01. Purpose. The Idaho Water Resource Board (Board) may make loans or grants from the Water Management Account for new water projects or the rehabilitation of existing water projects limited to the following purposes: (7-1-93)()

- a. Reclamation; (7-1-93)
- b. Upstream storage; (7-1-93)
- c. Offstream storage; (7-1-93)
- d. Aquifer recharge; (7-1-93)
- e. Reservoir site acquisition and protection; (7-1-93)
- f. Water supply; ()
- g. Water quality; ()
- h. Recreation; and ()
- i. Water resource studies, including feasibility studies for qualifying projects. (7-1-93)()

02. Expenditures. Expenditures may be made from the account to provide public monies for participation in any project constructed with funds from the Revolving Development Account. (7-1-93)

03. Grants and Loans. Grants and loans may be made by the Board from the account for any project in the public interest that satisfies the criteria of Subsection 025.01, authorized by this section. No grant for a single

project shall exceed fifty-thousand dollars (\$50,000) ~~without unless legislative approval has been obtained.~~ (7-1-93)(____)

04. Investigations and Studies. The Board may make grants and loans for investigations and studies related to qualified water projects. A commitment for a grant or loan to conduct an investigation or study carries no guarantee of further financial assistance from the Board. (____)

05. Matching Grants. The Board may require matching funds or specify other conditions on any grant or loan from the Account. (____)

026. -- 029. (RESERVED).

030. PURPOSE OF REVOLVING DEVELOPMENT ACCOUNT (Rule 30).

The Board may make loans from the Revolving Development Account to financially assist and support the development of the water resources of this state through the construction of water projects, including the rehabilitation, improvement, or extension of existing systems. No loans can be made from the Revolving Development Account to finance feasibility studies except as part of the overall project cost. (7-1-93)(____)

01. Major Items. Major items to be considered by the Board in setting loan priorities include the following: (____)

~~a~~01. Emergency Nature. The emergency nature of the project; (7-1-93)

~~b~~02. Utilization. The utilization of unappropriated surface and ground waters; (7-1-93)

~~c~~03. Benefits. The economic, environmental, and water conservation benefits of the project compared to the cost of the project; and (7-1-93)(____)

~~d~~04. Public Nature and Benefits. The public nature and benefits of the project. (7-1-93)

02. Maximum Loan Amount. No loan for a single project shall exceed five hundred thousand dollars (\$500,000) without legislative approval. (____)

031. -- 034. (RESERVED).

035. LETTER OF INTENT (Rule 35).

01. Notification. Any ~~sponsor~~ applicant desiring a loan or grant should notify the Idaho Water Resource Board by a letter of intent. This letter should include the following information: (7-1-93)(____)

a. Name, address, and telephone number of requesting group and principal representative; (7-1-93)

b. Project title or name, location, and brief description (including maps or plans); (7-1-93)

c. Preliminary estimate of project costs and approximate financial requirements; (7-1-93)

d. Brief justification for project or general benefits to be realized; (7-1-93)

e. Statement of ~~sponsor's~~ applicant's willingness to provide project data and information and to prepare engineering and economic feasibility studies of the project if deemed necessary by the Board; and (7-1-93)(____)

f. Additional information as needed to fully explain the intent of the ~~request~~ project or study. (7-1-93)(____)

02. Receipt of Letter of Intent. The letter of intent must be received twenty-eight (28) ~~twenty-one~~ calendar days before the Board meeting at which action is to be taken and should be addressed to: Chairman, Idaho

Water Resource Board, 1301 North Orchard Street, Boise, Idaho 83706. The Chairman can waive the twenty-eight (28) ~~twenty-one~~ day period upon a determination showing by the applicant an extreme need exists and that the public interest is best served by the early consideration of the request application. (7-1-93)()

03. Method of Review. The Director of the Department of Water Resources shall review the applicant's letter for the Board to determine if: (7-1-93)

a. Preliminary analysis indicates that the applicant has the ability to repay a loan if granted; (7-1-93)

b. The project is in conformance with the State Water Plan and all applicable provisions of law; (7-1-93)

c. Preliminary analysis indicates that project benefits, including social and environmental, outweigh project costs. (7-1-93)

04. ~~Assistance~~ Request Application. ~~In the event that~~ If the Director finds that the applicant and the project meet ~~these the above~~ criteria, ~~he the Director~~ may assist request that the applicant ~~in preparing the necessary~~ submit additional information for a final loan or grant application. (7-1-93)()

05. Inform in Writing. ~~In the event that~~ If the Director finds that the applicant or the project does not meet the ~~above conditions~~ necessary criteria, ~~he the Director~~ shall inform the applicant in writing, listing ~~his the~~ reasons for finding against the applicant. (7-1-93)()

06. Hearing. The applicant may seek a hearing before the Board to review the Director's decision by filing a petition for review pursuant to the Rules for Practice and Procedure, before the Department of Water Resources. The petition shall be filed with the Director within ~~fifteen (15)~~ twenty-eight (28) days of the date of mailing of the decision to the applicant. (7-1-93)()

036. -- 039. (RESERVED).

040. FIELD REVIEW (Rule 40).

After receipt and evaluation of the letter of intent, ~~the Board~~ the Director may, ~~at the discretion of the Chairman,~~ contact the ~~sponsor~~ applicant to schedule a field review of the project. ~~At such field review~~ Department staff, and, when deemed necessary by the Chairman, a Board member ~~selected by the Chairman,~~ will ~~meet~~ visit the site with the ~~sponsor~~ applicant or their representative and other interested parties ~~and visit the site.~~ (7-1-93)()

041. -- 044. (RESERVED).

045. APPLICATION REQUIREMENTS (Rule 45).

01. Preparation. The applicant shall be responsible for ~~preparing~~ providing the necessary data for ~~presentation or feasibility studies for presentation of the project to the Board for approval.~~ The ~~sponsor~~ applicant may apply for a loan or grant from the Water Management Account to conduct necessary investigations or feasibility studies separate from the funding request for the proposed project. ~~However, no loans shall be made from the Revolving Development Account to finance feasibility studies except as part of the overall project costs.~~ (7-1-93)()

02. Investigations. ~~The Board will consider applications for grants to conduct investigations on qualified water projects on a matching dollar for dollar basis up to twenty five thousand dollars (\$25,000). A commitment for a grant to conduct an investigation carries no further guarantee of financial assistance from the Idaho Water Resource Board.~~ (7-1-93)

03. ~~Not Used for Refinancing.~~ It is Board policy that funds are not to be used for refinancing ~~except when deemed necessary to prevent default.~~ (7-1-93)

04. Contents. Application for project or study funding shall include all or part of the following: (7-1-93)

- a. Project data or a feasibility study for the construction, operation and maintenance of the proposed project, ~~providing~~including information as to its expected costs and benefits; (7-1-93)(____)
- b. A ~~complete and legible~~ legal description of the ~~entire~~ project area, including a map showing the layout of the project, and the location and number of acres, residences, or other points served by the project (e.g. ~~assessors' maps, aerial photographs or other similar maps~~); (7-1-93)(____)
- c. A ~~complete and legible~~ copy of the legal description of the property being offered as security for the loan, together with ~~any assessor's plat~~ a map on which the proposed security ~~may be~~ identified; (7-1-93)(____)
- d. A ~~review~~discussion of the water required to satisfy project needs; including a description of the source and amounts of the supply, rights to the water, and water quality; ~~and a schedule of flows to meet project requirements~~; (7-1-93)(____)
- e. A ~~complete and~~ An itemized cost estimate of the proposed project (an estimate from a commercial supplier, ~~or contractor, or engineer~~ is preferred); (7-1-93)(____)
- f. Proof of ownership, easements or agreements, showing that the applicant holds or can acquire all lands, ~~other than public lands, and interest therein~~ rights-of-way and water rights necessary for the construction and operation of the proposed project. ~~Copies of deeds to lands served, easements or agreements and water right permits would constitute the required proof~~; (7-1-93)(____)
- g. Information that demonstrates that the project complies with applicable local land use regulations and other applicable regulations and ordinances, including permits or letters of authorization; (7-1-93)
- h. A description of the ~~Organization~~ sponsoring the project - including the name, type of organization, brief history of organization, powers and authority under state law, taxing or assessing authority, financial status, organization by-laws, articles of incorporation and physical assets; (7-1-93)(____)
- i. For municipal borrowers, a letter from the borrowers' legal counsel affirming that the constitutional issue of borrowing has been satisfactorily resolved; (7-1-93)(____)
- j. An application fee of two percent (2%) of the loan amount; ~~or a minimum of one hundred dollars (\$100.00), whichever is more~~, to cover initial costs of application review will be charged for loans. This fee must be received before Board action ~~and is non-refundable~~. The fee may be financed in the loan ~~and it is refundable in part or in total if the loan is not approved~~. ~~In addition, the Board shall charge the applicant the amount required to reimburse the Board for costs that exceed the application fee incurred in connection with the application. The applicant shall be advised of these additional costs before they are incurred. Costs may include, but are not limited to, any of the following: appraisal fees, site visit, copying, field survey, personnel costs, drafting graphics and other costs incurred in the processing of the application. The Board will provide a checklist of items to assist the applicant.~~ (7-1-93)(____)
- k. Project authorization by the applicant's governing body as required by law or as required by the applicant's by-laws. (____)

046. -- 049. (RESERVED).

050. BOARD ACTION (Rule 50).

01. Prepare Resolution. If a or grant is to be ~~committed~~ obligated, the Board will prepare a resolution committing the funds, ~~which~~. The resolution may includes findings of fact with respect to: (7-1-93)(____)
- a. The ~~plan~~ project or study does not conflict with the Idaho State Water Plan; (7-1-93)(____)
- b. The proposed project or study is feasible from an engineering and legal standpoint and is ~~economically~~ and financially justified; (7-1-93)(____)

- e. The plan for development of the proposed project is satisfactory; (7-1-93)
- ~~cd.~~ The applicant is qualified ~~and responsible~~; (7-1-93)(____)
- ~~de.~~ There is reasonable assurance that the ~~borrower~~ applicant can and will repay ~~any the~~ loan; (7-1-93)(____)
- f. The loan does not exceed \$500,000 if the loan is to be made from state appropriations. (7-1-93)

~~02. Analysis and Consideration. During the board meeting, the director's analysis will be given and the Board will then consider the resolution. The Board may approve, deny, or approve with conditions, or refer the application to the Director for further study. (7-1-93)~~

~~0302. Other. The board's resolution will also identify the applicant, the purpose of the loan or grant, the project location, specify the maximum amount of the loan or grant, the interest rate and repayment period, and other conditions to be placed on the loan or grant. (7-1-93)(____)~~

03. Analysis and Consideration. During the board meeting, the staff analysis will be presented and the Board will then consider its resolution. The Board may approve, deny, or approve with conditions, or refer the application to the Director for further analysis. (____)

051. -- 054. (RESERVED).

055. LOAN OR GRANT AGREEMENT (Rule 55).

01. General. The Board will enter into a contract with the ~~project sponsor~~ applicant for a loan or grant from the Water Management Account or Revolving Development Account, specifying the loan or grant amount, loan or grant disbursement schedule, loan repayment schedule, and other terms, including items covering security and project operation and maintenance. The loan or grant agreement will contain provisions protecting the Idaho Water Resource Board investment in case of forfeiture of contract terms by the ~~sponsor~~ applicant. (7-1-93)(____)

02. Modification of Interest Rate. During the course of the loan agreement the Board may ~~in its sole discretion~~ take action to ~~modify the terms of the agreement to~~ reduce the interest rate to be applied to the unpaid principal during the remaining term of the agreement. ~~Such action may be taken by the Board where it is deemed necessary to preserve the viability of the project and it is determined to be in the best interest of the public.~~ (7-1-93)(____)

03. Approval. All contract documents developed as part of the loan or grant agreement will be approved by the Attorney General's office or other legal counsel engaged in accordance with the Board's by-laws. (7-1-93)

04. Additional Fees. The Board may charge the applicant the amount required to reimburse the Board for costs that exceed the application fee incurred in connection with the application and loan processing. The applicant shall be advised of these additional costs before they are incurred. (____)

056. -- 059. (RESERVED).

060. LOAN SECURITY (Rule 60).

01. General. The State of Idaho shall secure any loan with a lien on project property have a lien on property used for securing a loan obtained from the Revolving Development Account or Water Management Account as required by Section 42-1756(e) of Idaho Code. The Board may require additional security for loans from the Revolving Development Account and security for loans from the Water Management Account as it deems necessary. The additional security shall may be a mortgage, deed of trust, or other security agreement upon the applicant's property, which may include, but is not limited to, the following types of property associated with the project: project facilities, equipment, easements, real property, and water rights. The value of security pledged must be three times the

~~loan amount.~~ The Board may at the applicants expense choose to require verification of asset value by an independent appraiser. The lien shall be valid until the loan is paid in full or otherwise discharged by the Board. (7-1-93)()

02. Reserve Account. The Board may require a loan reserve account equal to one (1) year's loan payment. The applicant shall have two (2) years from the date the Board approves the loan to establish the reserve account in full. The Board, at its option, may choose to not require the reserve, adjust the reserve amount, or adjust the time given to establish the reserve. ()

03. Early Payment. At the applicant's option, the applicant may choose to make an early loan payment rather than establish a loan reserve account. If the applicant chooses the early payment option, the applicant shall make an early loan payment within two (2) years of the date the Board approved the loan. The Board, at the Board's option, may choose to not require an early payment, adjust the payment amount, or adjust the time given to make the early payment. ()

061. -- 064. (RESERVED).

065. PROJECT APPROVAL (Rule 65).

At the completion of the project, ~~staff will make~~ a final review of the project may be made with the sponsor to determine if the project has been satisfactorily completed before ~~giving approval of construction and disbursement of~~ the final loan or grant payment. (7-1-93)()

~~066. -- 069. (RESERVED).~~

~~070. CONTRACT CLOSURE (Rule 70).~~

~~01. Loans.~~ Upon completion of loan payments, the contract will be terminated and security interests released by the Board. (7-1-93)

~~066. -- 999. (RESERVED).~~

IDAPA 38 - DEPARTMENT OF ADMINISTRATION
38.05.01 - RULES OF THE DIVISION OF PURCHASING
DOCKET NO. 38-0501-9601
NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to sections 67-5717(11) and 67-5732, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 1996.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule:

The proposed rules are for the purpose of specifying and defining the Department of Administration's procedures with respect to the acquisition of property, including services, for all agencies of the state of Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Gerry Silvester, Administrator, Division of Purchasing, Department of Administration, 5569 Kendall Street, P.O. Box 83720, Boise, Idaho 83720-0075, (208) 327-7465.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 25th day of June, 1996.

Mike Sheeley
650 W. State Street - Room 100
P.O. Box 83720
Boise, ID 83720-0003
(208) 334-3388/fax (208) 334-5315

TEXT OF DOCKET NO. 38-0501-9601

000. LEGAL AUTHORITY.

In accordance with Sections 67-5717(10) and 67-5732, Idaho Code, the Administrator for the Division of Purchasing hereby promulgates the following rules implementing the provisions of Chapter 57, Title 67, Idaho Code pertaining to the Division of Purchasing. ()

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 38.05.01, "Rules of the Division of Purchasing," Department of Administration, Title 05, Chapter 01. These rules constitute the procedures utilized by the Division of Purchasing in acquiring property for use by state agencies and departments. These rules shall be utilized by any other state agency with the delegated authority to acquire property. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost in the office of this agency. ()

003. ADMINISTRATIVE APPEALS.

This chapter provides for administrative appeals of certain agency actions as more fully described herein. ()

004. (RESERVED).

005. INCLUSIVE GENDER.

For all sections and subsections of all administrative rules in Idaho, the terms and references used in the masculine include the feminine and vice versa, as appropriate. ()

006. SEVERABILITY.

The sections and subsections of all administrative rules in Idaho are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, such invalidity does not affect the validity of any remaining portion. ()

007. CITATION.

The official citation of this chapter is IDAPA 38.05.01.000 et sequence. For example, this section's citation is IDAPA 38.05.01.007. In documents submitted to the Division of Purchasing or issued by the Division of Purchasing, the Division's rules may be cited as DOP Rule Number. For example, this rule may be cited as DOPR 7. ()

008. -- 010. (RESERVED).

011. DEFINITIONS.

01. APA. The Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. ()
02. Acquisition. The process of procuring or purchasing property by the state of Idaho. (May also refer to a proposed or actual solicitation or other purchasing action.) ()
03. Addendum or Addenda. Any written addition or alteration in specifications, delivery point, rate of delivery, period of performance, quantity, or other provisions of any bid solicitation issued by the Purchasing Activity. ()
04. Amendment. Usually refers to any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract. May include changes to bid solicitations. (See Change Order also.) ()
05. Administrator. The Administrator for the Division of Purchasing. The Administrator is the chief purchasing officer. ()
06. Agency. All officers, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding other legislative and judicial branches of government, and excluding the governor, the lieutenant-governor, the secretary of state, the state controller, the state treasurer, the attorney general, and the superintendent of public instruction. ()
07. Agreement. See the definition of Contract. ()
08. Alternate. Property or services which are not at least a functional equal in features, performance, or use of the brand, model or specification designated as the standard. ()
09. Bid. A written offer which is binding on the bidder to perform a contract to purchase or supply property or services in response to an Invitation to Bid, Request for Proposal, or Request for Quotation. ()
10. Biddable. A condition whereby acquisition of the property or services is capable of being conducted utilizing competitive procedures, regardless of whether cost or price is an evaluation factor. ()
11. Bidder. A registered vendor who has submitted a bid or quotation on a specific item or items of property in response to a bid solicitation. ()

12. Bidder's Bond. As used in Idaho Code, Section 67-5717(7) shall mean either a bid guarantee or performance guarantee as addressed herein. ()

13. Brand Name or Equal Specification. This means a specification that uses a brand name to describe the standard of quality, performance, and other characteristics being solicited, and which invites the submission of equivalent products. ()

14. Brand Name Specification. This means a specification calling for one or more products by manufacturers' names or catalogue numbers. ()

15. Business. Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, limited liability company or any other private legal entity that is registered as a vendor with the Division of Purchasing. ()

16. Buyer. An employee of the Division of Purchasing designated as a buyer, purchasing officer, contract administrator, purchasing agent, contracting officer, or similar designation by the Administrator, including, where appropriate, the Administrator and other management personnel. The term also includes authorized employee(s) of a Purchasing Activity. ()

17. Change Order. This means a written order signed by a buyer directing the contractor to suspend work or make changes, in accordance with the appropriate clauses of the contract which authorize the buyer to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract. ()

18. Competitive Sealed Bidding. The acquisition process of soliciting competitive bids (generally using an Invitation to Bid type solicitation) where bidding documents are submitted to the Purchasing Activity under sealed cover to be held in a secure place until the time and date set for opening of bids. Award is generally made to the lowest responsible bidder meeting the specifications and criteria outlined in the bidding documents without further discussions or negotiation. ()

19. Competitive Sealed Proposals. The acquisition process of soliciting competitive proposals where proposals are submitted to the Purchasing Activity under sealed cover to be held in a secure place until the time and date set for opening of proposals. Evaluation and award are based on criteria such as proposer qualifications and experience, product features and characteristics, service quality and efficiency, and conformance with the specifications and requirements of the solicitation. Price may be an evaluation criterion, but will not necessarily be the predominant basis for contract award. ()

20. Component. An item of property normally assembled or incorporated with other items into a unified productive whole at the site of use, which items belong to functional classes that may be interchangeable units of similar function but differing operational or productive capabilities. ()

21. Concession Services. The granting by the Purchasing Activity of a right, franchise, authority, property interest, or option to a contractor, regardless of whether an expenditure of state or other funds occurs. ()

22. Consultant Services. This means work, rendered by either independent individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advise in formulating or implementing programs or services or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning and data processing. The consultant's services, opinions, or recommendations will be performed according to the consultant's methods without being subject to the control of the agency except as to the result of the work. ()

23. Contract. Contract means any state written agreement, including solicitation or specification documents and the accepted portions of the solicitation, for the acquisition or disposal of property. Generally, the term is used to describe term contracts, definite or indefinite quantity and/or delivery contracts, or other acquisition

agreements whose subject matter involves multiple payments and deliveries. A contract shall also include any amendments or change orders. ()

24. Contractor. A bidder who has been awarded an acquisition contract. ()

25. Cooperative Purchasing. This means purchasing conducted by, or on behalf of, more than one public purchasing unit, or by a public purchasing unit with an external purchasing unit. ()

26. Cost Analysis. This means the evaluation of cost data for the purpose of arriving at estimates of costs to be incurred, prices to be paid, cost to be reimbursed, or costs actually incurred. May include the principals of life cycle costing which measures not only the initial acquisition cost, but may also include operating and maintenance costs, present value analysis, disposal costs, or salvage value. ()

27. Cost Data. Cost data means factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract. ()

28. Delegated Authority. Authority to purchase property delegated to an agency by the Administrator of the Division pursuant to Idaho Code Section 67-5717(6) and which is delegated in three forms: ()

a. General. Those purchases delegated annually (or other specific term) by the Division which are common to state agencies. ()

b. Specific. Those purchases delegated annually (or other specific term) to specific agencies for continuing individual commodity and/or service requirements. ()

c. Limited. Those purchases delegated to a specific agency for a one-time commodity and/or service requirement. ()

29. Director. The chief officer of the Department of Administration. ()

30. Division. The Division of Purchasing of the Department of Administration as established by Idaho Code Section 67-5714. Whenever a purchase or sale is made by the Division on behalf of another agency, the Division shall be deemed to be acting in the capacity of agent for such agency. ()

31. Discussions. This term as used in source selection means negotiation during which the vendor or buyer may alter or otherwise change the terms, price or other provisions of the proposed acquisition. Discussions, including requests for best and final offers, can be conducted under competitive sealed proposals, sole source, and emergency purchases; such discussions are not permissible under competitive sealed bidding except to the extent needed in the first phase of multi-step sealed bidding. ()

32. Emergency Purchase. A purchase made pursuant to the provisions of Section 67-5720, Idaho Code. Emergency purchase authorizations must be made in writing by the Administrator or authorized designee. ()

33. Equal. Property or services which meet or exceed the quality, performance and use of the brand, model, or specifications in the Invitation to Bid, Request for Proposal, or Request for Quotation. ()

34. Equipment. Items of personal property which have a normal useful life expectancy or measurable service life of two (2) or more years. ()

35. Established Catalogue Price. This means the price included in a catalogue, price list, schedule, or other form that is regularly maintained by a manufacturer or supplier, is either published or otherwise available for inspection by customers, and states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved. ()

36. Established Market Price. This means a current price, established in the usual and ordinary course of trade between buyers and sellers, which can be substantiated from sources independent of the manufacturer or

supplier. ()

37. External Purchasing Unit. This means any buying organization not located in this state which, if located in this state, would qualify as a local or public purchasing unit. An agency of the United States is an external purchasing unit. ()

38. Formal Sealed Bid Procedure. Procedure by which the buyer solicits written competitive bids from a sufficient or required number of prospective bidders drawn from established registered vendor lists and from any other source thought to be of advantage to the state to assure adequate price and product competition by means of a written Invitation to Bid (ITB) setting forth specifications, all material, and objectively measurable criteria for the intended purchase. All bids are to be submitted in sealed envelopes or packages to the location indicated in bid documents and must be received by the time indicated therein. No disclosure of bids or bid information is made prior to the public bid opening. After the public bid opening. All bid information shall be referred to the buyer for evaluation and treated as working papers until after award at which time all bids become public information. The award is to be made in accordance with Idaho Code Section 67-5718. ()

39. General Services. This means support type services performed by independent contractors where the process is more important than the product, if any, and the services require specialized knowledge, experience or expertise. The contracts typically call for a contractor's time and effort rather than for a concrete end product. The contracts are usually awarded to partnerships, firms, or corporations rather than individuals. Examples include janitorial, equipment maintenance, security services, data entry, contract programming, etc. ()

40. Goods. Items of personal property, including concession services, not qualifying as equipment, parts or supplies. ()

41. Grant. Means the furnishing by the state or by any other public or private source of assistance, whether financial or otherwise, to any person or business organization to support a program authorized by law. It does not include an award whose primary purpose is to acquire an end product, whether in the form of supplies, services, or construction; a contract resulting from such an award is not a grant, but an acquisition contract. ()

42. GSA. Means the General Services Administration, an agency or office of the federal government. ()

43. Informality. An immaterial (a matter of form rather than substance) variation from the exact requirements of the solicitation, having no effect on pricing, quality, quantity, or delivery of the supplies or performance of the services being purchased, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to other bidders. ()

44. Installment Purchase Contract. See definition for Time Purchase Contract. ()

45. Invitation to Bid. Means all documents, whether attached or incorporated by reference, utilized for soliciting formal sealed bids. ()

46. Lease. A contract for the use of property under which title to the property does not pass to the state agency and the time period is one (1) year or more. ()

47. Lease Purchase Option. A lease that provides an option to purchase the property at a predetermined price or fair market value during or at the end of the lease period. May include operating or capital leases. The purchasing option may only be exercised after full compliance with Idaho Code Section 67-5721. ()

48. Local Public Purchasing Unit. Means any political subdivision or public agency of any subdivision, public authority, and to the extent provided by law, any other entity which expends public funds for the acquisition of supplies, services, and construction. It includes two or more local public purchasing units acting under legislation which authorizes intergovernmental cooperation. ()

49. Lowest Responsible Bidder. The responsible bidder whose bid conforms in all material respects to the Invitation to Bid or Request for Proposal and which reflects the lowest acquisition price to be paid by the state;

except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price. ()

50. Multi-Step Sealed Bidding. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the purchasing activity, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered. ()

51. New Equipment. Refers to property which is new, in first class condition, complete with original manufacturer warranties, and has not been previously used. Demonstrators, previously rented, refurbished, or reconditioned items are not considered new. ()

52. Non-Biddable Services. Those services for which bidding or competitive solicitation procedures are rendered impossible or impractical by statute, rules, or generally accepted ethical practices. Such services may be periodically determined by the Division. ()

53. Offeror. A registered vendor who has submitted a proposal in response to a Request for Proposal for a specific item or items of property to be acquired by the state. ()

54. Parts. Items of personal property acquired for repair or replacement of unserviceable existing items. ()

55. Person. Any business, individual, union, committee, club, or other organization, or group of individuals, not including a state or public agency. ()

56. Prequalification for Inclusion on Special Bidders' Lists. This means determining that a prospective vendor satisfies the criteria established for receipt of solicitations when and as issued. ()

57. Price Analysis. This means the evaluation of price data without analysis of the separate cost components and profit which may assist in arriving at prices to be paid or costs to be reimbursed. ()

58. Price Data. This means factual information concerning prices for property or services substantially identical to those being purchased. Prices in this definition refer to offered or proposed selling prices. The definition refers to data relevant to both prime and subcontract prices. ()

59. Procurement. The process of obtaining property for state use by lease, rent, or any manner other than by purchase or gift. The term may also refer to a proposed or actual solicitation. ()

60. Professional Services. Work rendered by an independent contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, engineering, actuarial, architecture, veterinarians, and research. The knowledge is founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skills. ()

61. Property. Goods, services, parts, supplies and equipment, both tangible and intangible, including, but nonexclusively, designs, plans, programs, systems, techniques and any rights and interests in such property. Includes concession services and rights to access or use state property or facilities for business purposes. ()

62. Proposal. A written response including pricing information to a Request for Proposals which describes the solution or means of providing the property requested by the Request for Proposals and which proposal is considered an offer to perform a contract in full response to the Request for Proposals. Price may be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award. ()

63. Public Agency. Means any city or political subdivision of this state, including, but not limited to

counties; school districts; highway districts; port authorities; instrumentalities of counties, cities or any political subdivision created under the laws of the state of Idaho; any agency of the state government; or any city or political subdivision of another state. (Idaho Code Section 67-2327.) ()

64. Public Purchasing Unit. This is either a local public purchasing unit or a state public purchasing unit. ()

65. Purchase. The act of acquiring or procuring property for state use or the result of an acquisition action. ()

66. Purchase Description. Means the words used in a solicitation to describe the property or services to be purchased, and includes specifications attached to or made a part of the solicitation. ()

67. Purchase Order. See also definition of Contract, typically used to acquire property. It is a notification to the contractor to provide the stated property, required material, equipment, supplies or services under the terms and conditions set forth in the purchase order. It may include the form of the state's acceptance of a bidder's proposal or bid. Generally the term means the acquisition form with one order, one delivery, and one payment type purchases. ()

68. Purchasing Activity. The Division or an agency delegated that authority by the Administrator for the Division. ()

69. Purchasing Officer. An employee of the Division designated as a buyer, purchasing officer, contract administrator, purchasing agent, contracting officer, or similar designation by the Administrator, including, where appropriate, the Administrator and other management personnel. Also, authorized employee(s) of a Purchasing Activity. ()

70. Qualified Products List. A list of supplies or services described by model or catalogue numbers, which, prior to solicitation, the purchasing activity has determined will meet the applicable specification requirements. ()

71. Quotation or Quote. An offer to perform a contract to supply property or services in response to an oral, telephonic, facsimile, or written Request for Quotation as generally used in small purchase procedures. ()

72. Registered Vendor. A qualified vendor registered with the Administrator of the Division. ()

73. Release Order. A purchase order, field order, or other documentation authorizing releases or shipments of property from state or statewide contracts. ()

74. Rental. An agreement for the use of property where the total term is less than one year and no right or title of ownership to the State accrues. ()

75. Request for Proposal. Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals and is generally utilized in the acquisition of services or complex purchases. ()

76. Request for Quotation. The document, form, and/or method used when purchases are solicited in accordance with small purchase procedures, or emergency purchase procedures as authorized by the Administrator of the Division. The request and the quotation in response may be either written, facsimile, or oral as specified by the buyer. ()

77. Requisition. A standard state or agency specific form which serves as a purchasing request and which requests that the Purchasing Activity acquire the stated requirements. ()

78. Responsive Bidder. This is a registered vendor who has submitted a bid or proposal which conforms in all material respects to the Invitation to Bid or Request for Proposal. ()

79. Sealed Bid Limit. That dollar amount, as established in accordance with Idaho Code Section 67-5718, above which the formal sealed bid procedure will be used. Said amount may be lowered by the Administrator to maintain full disclosure or competitive purchasing or otherwise achieve overall state efficiency and economy. ()

80. Services. Personal, general, professional, or consultant services, in excess of personnel regularly employed for whatever duration and/or covered by personnel system standards, for which bidding or competitive solicitation is not prohibited or made impractical by statute, rules and regulations or generally accepted ethical practices. ()

81. Small Purchase. An acquisition which costs less than the formal sealed bid limit established by Idaho Code Section 67-5718. ()

82. Sole Source Purchase. A purchase of property or services which perform a certain function for which no other items are known to exist or that will perform the same required functions and which is clearly and legitimately limited to a single source of supply. It does not include property which is proprietary to a single manufacturer but which is available from multiple sources. ()

83. Solicitation. Means an Invitation to Bid, a Request for Proposals, or any other document, such as a Request for Quotations, issued by the Purchasing Activity for the purpose of soliciting bids, proposals, quotations, or offers to perform a contract. ()

84. Specifications. The explicit requirements furnished with a solicitation upon which a purchase order or contract is to be based. Specifications set forth the characteristics of the property and services to be purchased so as to enable the vendor to determine and understand that which is to be supplied. This information may be in the form of a description of the physical, functional, or performance characteristics, a reference brand name or both. It may include a description of any requirement for inspecting, testing, or preparing a material, equipment, supplies, or service for delivery. Specifications may be incorporated by reference and/or through attachment to the solicitation. ()

85. State. This means the state of Idaho including each agency unless the context implies other states of the United States. ()

86. State or Statewide Contract. Contracts for property and/or services administered by the Division on behalf of or for the benefit of an agency. Statewide contracts apply to more than one agency. The contract document will identify the conditions under which usage by agencies is required. ()

87. Supplier. A vendor of purchased or procured property and services. ()

88. Supplies. Items of personal property having an expendable quality or during their normal use are consumed and which require or suggest acquisition in bulk. ()

89. Time Purchase Contract. A contract for property providing for periodic payments for a specified time (generally more than one fiscal year) and containing provisions for title to pass to the state with the contractor retaining a purchase money security interest pending completion of all payments. ()

90. Used Equipment. Property offered for sale to the state which may not have a full factory warranty. Such property may include demonstrators, previously rented, leased, refurbished, or reconditioned equipment. ()

91. Using Agency. This means any agency which utilizes any property or services purchased under Chapter 57, Title 67 of the Idaho Code. ()

92. Vendor. A person or entity capable of supplying property to the state. ()

93. Vendor List. List of registered vendors maintained by the Division from which names may be drawn for solicitation of bids/proposals/quotes. ()

012. -- 020. (RESERVED).

021. DELEGATION OF AUTHORITY OF ADMINISTRATOR.

The Division shall administer the acquisition of all property for state agencies except those for which the agencies have separate statutory purchasing authority. The Administrator may delegate in writing such authority as deemed appropriate to any employees of the Division or of a Purchasing Activity, respectively. Such delegations shall remain in effect unless modified or until revoked in writing. All delegations must be given in writing prior to the acquisition of the property. All acquisitions must be made according to these purchasing rules. ()

022. AUTHORITY OF DELEGATED PURCHASES.

01. General. The Administrator may delegate to any using agency the authority to make a purchase expected to be less than the amount set forth in Section 67-5718, Idaho Code, for property including services. Any such delegation shall be in writing and may be limited as the Administrator directs. ()

02. Purchasing Activities Shall Make Small Purchases Pursuant to Purchasing Rules. Purchasing activities shall exercise such authority as may be delegated and such small purchases shall be made pursuant to these rules. Such delegated small purchases shall be subject to periodic reporting or special requests as directed by the Administrator. ()

023. AUTHORITY OF BUYERS OR PURCHASING OFFICERS.

Buyers or Purchasing officers may take any action of a purchasing nature to advance economic well-being and efficient operation of the state or agency so long as that action is not in conflict with the Idaho Code or the Rules of the Division. ()

024. -- 029. (RESERVED).

030. TYPES OF PURCHASING.

Acquisition of property by the Division is divided into three major types: ()

01. State Contracts. Contracts for property and/or services established and administered by Division on behalf of agencies. The contract document will identify the condition(s) under which usage by agencies is required. ()

02. Single Acquisitions. Acquisition of property for which an agency does not have statutory authority, non-delegated authority or for which there is no existing state contract. Single acquisitions must be initiated by submitting a requisition to the Division. If a proprietary item is required, the agency must attach adequate justification. ()

03. Small Purchases or Special Delegation. The Division, or Purchasing Activity pursuant to written delegation of authority, may acquire property which costs less than the sealed bid amount established by Idaho Code Section 67-5718. A special delegation is a special delegation to a buyer within an agency to make a single acquisition of property. All small purchases and special delegations must be made in accordance with the small purchase rules herein. ()

031. COOPERATIVE PURCHASING POLITICAL SUBDIVISIONS.

The various bid statutes relating to municipal corporations, school districts and counties may authorize these political subdivisions to utilize any contract resulting from a state bid process. A political subdivision or public agency may use state contracts as authorized by statute and the terms of the state contract. ()

032. -- 049. (RESERVED).

050. PROCEDURE FOLLOWED IN THE SOLICITATION OF BIDS.

Except as otherwise provided, the acquisition of property and general services exceeding the sealed bid limit shall be by the formal sealed bid procedure. The Invitation to Bid may call for bid prices with and without trade-ins. ()

051. EXCEPTIONS TO FORMAL SEALED BID PROCEDURE.

Purchases meeting the following criteria need not be purchased by formal sealed bid: ()

01. Emergency Purchases. Emergency purchases as authorized by Idaho Code Section 67-5720 and these rules; ()

02. Purchases Less Than Bid Limits. Purchases not exceeding the sealed bid limit unless the Administrator specifically requires a formal sealed bid; ()

03. Sole Source Purchases. Single source, special facilities, services, or market conditions. Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions may be acquired through direct solicitation with documented source selection, as authorized by Idaho Code Section 67-5720 and these rules; ()

04. Federal Government Acquisitions. Acquisitions from the United States of America or any agency thereof; ()

05. Rehabilitation Agency Acquisitions. Acquisitions of property which are provided by non-profit corporations and public agencies operating rehabilitation facilities serving the handicapped and disadvantaged and which are offered for sale at fair market price as determined by the Administrator in accordance with these rules; or ()

06. Correctional Industries. Purchases of road or street signs, metal motor license plates, wearing apparel, furniture, articles, or containers for state use not for resale on the open market or any other property marketed directly by Correctional Industries. See Idaho Code Section 20-245. ()

07. Purchases from GSA Federal Supply Contractors. Acquisitions of property may be made from GSA federal supply contractors without the use of competitive bid. The Administrator shall determine whether such property meets the purchasing activity's requirements and whether the price of acquisition is advantageous to the state. The Administrator shall commemorate the determination in a written statement which shall be incorporated in the applicable file. If the Administrator determines that the acquisition of property from GSA contractors is not advantageous to the state, the acquisition shall be in accordance with competitive bidding procedures and requirements; ()

08. Existing State or Statewide Contracts. Supplies, services, or other property available under these contracts shall be purchased under such contracts in accordance with the provisions or requirements for use thereof. ()

09. Exempt Purchases. By written policy the Administrator may exempt from formal sealed bidding or the requirement for competitive solicitation those items of property for which bidding is impractical, disadvantageous, or unreasonable under the circumstances. Examples include, but are not limited to, special market conditions, property requiring special contracting procedures due to uniqueness, legal advertising, publication or placement of advertisements by state agency personnel directly with media sources, or services for which competitive solicitation procedures are impractical. Such policy shall describe the property exempted, the duration of the exemption, and any other requirements or circumstances appropriate to the situation. ()

052. DETERMINATION OF FAIR MARKET PRICE FOR REHABILITATION AGENCY ACQUISITIONS.

Upon receipt of a rehabilitation agency proposal accompanied by detailed cost data, the Administrator will conduct a survey of the market place by requesting current prices from at least three (3) vendors currently marketing the property being sought. The fair market price of a rehabilitation vendor shall not be greater than twenty-five percent (25%) of the lowest price received during the survey. The Administrator will notify by letter the rehabilitation agency concerned advising it as to whether it is offering property at fair market price. The Division, or Purchasing Activity if the acquisition is less than the formal sealed bid amount and/or the contract is one year or less in duration, may then contract with the rehabilitation agency at the proposed price. ()

053. -- 055. (RESERVED).

056. BIDS IN GENERAL.

All bids are subject to the Invitation to Bid or Request for Proposal, the specifications and plans, the applicable contract terms and conditions and the rules set forth herein. In the event of conflict among any of the above, the following order shall govern: ()

01. Rules; ()
02. Specifications and Plans; and ()
03. Applicable Contract Terms and Conditions. ()

057. PUBLIC NOTICE.

A listing or copy of all acquisitions being made through formal sealed bid by or through the Division shall be posted in the public area of the Division at its primary office location. Acquisitions issued pursuant to a specific delegation shall be posted or otherwise publicized by the purchasing office of that agency, or otherwise publicized prominently in the office of the using agency, or as otherwise directed by the Administrator. In addition, the Administrator may authorize electronic posting of acquisition notices. ()

058. -- 059. (RESERVED).

060. CONTENT OF THE INVITATION TO BID.

The following shall be included in an Invitation to Bid. ()

01. Use. The Invitation to Bid is used to initiate a competitive sealed bid acquisition. ()
02. Content. The Invitation to Bid, including any addendum, shall contain the following: ()
 - a. Instructions and information to vendors concerning the bid submission requirements, including the time and closing date for submission of bids, the address of the office to which bids are to be delivered, and any other special information; ()
 - b. The purchase description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements not included in the purchase description; ()
 - c. Any evaluation criteria to be used in determining property acceptability, to include, but not be limited to, requirements for submission of bid samples, descriptive literature, technical data, or other material. It may also provide for: ()
 - i. Inspection or testing of property prior to award for such characteristics as quality of workmanship; ()
 - ii. Examination of such elements as appearance, finish, taste, or feel; or ()
 - iii. Other examinations to determine whether it conforms with any other purchase description requirements. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the Invitation to Bid. Any bidder's offering which does not meet the acceptability requirements shall be rejected; and ()
 - d. If trade-in property is to be included, a description of the property and location where it may be inspected must be included. Any trade-in requests require the prior approval by the Administrator before inclusion in the bid solicitation documents; and ()
 - e. The contract terms and conditions, including warranty and bonding or other security requirements, as applicable. ()

03. Incorporation by Reference. The Invitation to Bid may incorporate documents by reference provided that the Invitation to Bid specifies where such documents can be obtained. ()

04. Acknowledgment of Amendments/Addenda. The Invitation to Bid should require the acknowledgment by the bidder of the receipt of all amendments/addenda issued. The right is reserved to waive any informality. ()

061. BIDDING TIME.

The bidding time shall be as determined by the buyer involved. All invitations to bid shall provide reasonable time to allow bidders an opportunity to prepare and submit their bid. The buyer shall have the discretion to lengthen or shorten bid times, should special circumstances or needs dictate a shorter or longer time frame. In no event shall the bid time be less than ten (10) days from the date of notice to the bid opening date, unless an emergency has been declared to exist by the Administrator. When extending or shortening the time allowed to submit a bid, the buyer is to issue an addendum notifying vendors of the revised opening/due date. If it is determined that regular mail will not reach vendors in time to respond, the buyer shall attempt to notify each prospective vendor by telephone or other available means of communication. All bids must be received by the date and time specified for bid opening. No deviations will be allowed. All late bids, other than clearly marked "no bids," will be returned to the bidder. Time of receipt will be determined by the official time stamp or receipt mechanism located at the Purchasing Activity. ()

062. BIDDER SUBMISSIONS.

The Invitation to Bid shall provide an official or authorized form which shall include space in which the bid price shall be inserted and which the vendor shall sign and submit along with all other necessary submissions. ()

01. Telegraphed Bids. Telegraphed bids will not be accepted unless solicited under emergency procedures. Timely bids may be modified by telegraphic communications under the procedures established for bid modifications. ()

02. Telephone Bids. Telephone bids will not be accepted unless solicited under emergency purchase procedures. Telephone withdrawals of bids will not be accepted. ()

03. Facsimile Bids. Facsimile bids will not be accepted unless solicited under emergency procedures. A facsimile withdrawal of a bid may be accepted, provided such request is made in accordance with these rules. ()

04. Bid Samples and Descriptive Literature. ()

a. Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, or operation of an item and assists the Purchasing Activity in considering whether the item meets requirements or criteria set forth in the Invitation to Bid. ()

b. Bid sample means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid. ()

c. Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid. ()

d. Sample of items, when called for in the Invitation to Bid, must be furnished free of expense, and if not destroyed by testing, will upon request, be returned at the bidder's expense. Samples submitted by the successful bidder may be held for comparison with property furnished and will not necessarily be returned. Samples must be labeled or otherwise identified as called for by the Purchasing Activity. ()

e. Samples accepted by the Purchasing Activity will create an express or implied warranty that the property offered in future shipments or orders will meet the same quality and characteristics of the accepted sample. ()

05. Bid Security. Bid and performance bonds or other security may be required for purchase order contracts or other contracts as the Administrator deems advisable to protect the interests of the using agency. Any

such requirements must be set forth in the solicitation. Bid or performance bonds should not be used as a substitute for a determination of bidder or offeror responsibility. ()

06. Specification Warranty. Unless the submitted bid is clearly identified as an alternate, bidders warrant the property and services bid to be at least equal to specifications on the Invitation to Bid and shall submit with their bid complete documentation sufficient to so establish. Bids without sufficient documentation submitted with the bid may be rejected. If a bidder misrepresents their bid as being an equal when it is an alternate, the bid may be rejected. ()

063. PUBLIC NOTICE.

Notification of bids shall be made to the public, which notification may include electronic posting of bid notices or bidding opportunities. ()

01. Notice Distributed. Notice shall be sent to each registered vendor of the property to be acquired, except that if there are more than ten (10) registered vendors for the property to be acquired, the Administrator may, at his discretion, limit the notices sent to ten (10). Selection of the vendors to be given notice by the buyer should give priority to those registered vendors located closest to the delivery destination of the property to be acquired. Should there be more than ten (10) registered vendors with identical distances from the point of delivery, then the minimum number of vendors may be randomly picked from the applicable category(s) of the registered vendor list. For all proposed purchases exceeding two hundred thousand dollars (\$200,000), all registered vendors for the property to be acquired shall either be sent pre-survey information or a copy of the solicitation. Nothing shall prevent all registered vendors from bidding on the property to be acquired. ()

02. Contents of Notice. The notice shall describe the property to be acquired in sufficient detail to apprise a vendor of the exact nature or the functionality of the required property. The notice shall give the time and place where bids will be opened. The notice, if it does not contain the specifications, shall state where and how specifications and required solicitation documents can be obtained. The notice may also contain other appropriate information. ()

064. REGISTERED VENDOR LISTS.

Vendors must be registered with the Division in accordance with the applicable law and these rules. Vendor lists, categorized according to specific categories of purchased goods, services and property, shall be maintained and updated by the Division. Such lists are used by buyers to determine vendors from which to solicit bids. Due to cost considerations not all vendors are solicited for each bid invitation. In order to be considered for inclusion on a vendor list, vendors must apply to the Division. ()

065. (RESERVED).

066. PRE-BID CONFERENCES.

Pre-bid conferences may be conducted to explain the solicitation requirements. They shall be announced to all prospective vendors known to have received an Invitation to Bid. The conference should be held long enough after the Invitation to Bid has been issued to allow vendors to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation to Bid unless a change is made by written amendment/addenda as provided in accordance with these rules and the Invitation to Bid and the notice of the pre-bid conference shall so provide. If a written summary of the conference is deemed advisable by the buyer, a copy shall be supplied to all those prospective vendors known to have received an Invitation to Bid and shall be available as a public record. ()

067. AMENDMENT OF INVITATION TO BID.

An Invitation to Bid may be changed or amended by the buyer involved through issuance of an addendum, provided the change is issued in writing prior to the bid opening date and issued to all vendors receiving a copy of the original invitation. Any material information given or provided to a prospective vendor with regard to an Invitation to Bid, shall be furnished in writing by the buyer to all vendors receiving a copy of the original invitation. Oral interpretations of specifications or contract terms and conditions shall not be binding on the Division unless confirmed in writing by the buyer and acknowledged by the Division prior to the date of the bid opening. ()

01. Application. Amendments or addenda should be used to: ()

a. Make any changes in the Invitation to Bid such as changes in quantity, purchase descriptions, delivery schedules, and opening dates; ()

b. Correct mistakes, defects, or ambiguities; or ()

c. Furnish to other vendors information given to one vendor if such information will assist the other vendors in submitting bids or if the lack of such information would be inequitable to other vendors. ()

02. Form. Amendments to the Invitation to Bid shall be identified as such and should require that the vendor acknowledge receipt of all amendments or addenda issued. ()

03. Distribution. Amendments/addenda shall be sent to all prospective vendors known to the buyer to have received an Invitation to Bid. ()

04. Timeliness. Amendments/addenda shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time set for bid opening will not permit such preparation, the bid opening time may be rescheduled upon notice to the prospective bidders. ()

068. PERFORMANCE GUARANTEES.

When required in the Invitation to Bid, the successful bidder shall post a performance and/or payment and material guarantee unilaterally payable to the state of Idaho after notice of award. The amount of the performance guarantee shall be identified in the Invitation to Bid in dollars and/or a percentage of contract worth sufficient to redress damages to the state in the event of breach by the contractor(s). The required performance guarantee shall be in the form of a surety bond with a surety company authorized to transact business in Idaho or an approved government obligation. Surety bonds must be on a form approved by the Division. Personal or company checks are not acceptable. The performance guarantee shall be held by the Division or deposited to the Division account until contract terms have been fully executed to satisfaction. Interest will not be paid on funds deposited directly with the Division. Failure to submit a performance and/or payment and material bond as required in the Invitation for Bids shall be grounds for rejection, cancellation, rescission or contract termination. ()

069. -- 085. (RESERVED).

086. FORM OF BID.

To receive consideration, bids shall be made on the form provided by the Purchasing Activity, be properly headed and signed, properly marked on the outside of the envelope, received by the date and time specified, and be accompanied by a signed and properly completed bid form provided by the Purchasing Activity. Bids must be filled out in ink or typewritten and properly signed by an authorized representative of the bidder. Photocopied or facsimile signatures will not be acceptable. All changes and/or erasures shall be initialed in ink. Unsigned bids will be rejected on opening. ()

087. ACCEPTANCE OF ALTERNATE BID.

The buyer shall be under no obligation whatever to accept alternate bids, but shall have the discretion to accept a bid if it substantially conforms to the bid specifications. ()

088. BID SECURITY.

Bids must be delivered to the designated location at the Purchasing Activity and placed in a secure bid depository on or before the bid opening time stipulated on the Invitation to Bid. ()

089. -- 095. (RESERVED).

096. PRE-OPENING MODIFICATION OR WITHDRAWAL OF BIDS.

Bids may be modified or withdrawn as set forth herein. ()

01. Procedure. Bids may be modified or withdrawn by written communication over the signature of the bidder at any time prior to the closing of the bid. ()

a. Requests for withdrawal in person shall require presentation of satisfactory evidence establishing the individual's authority or representation to act on behalf of the bidder. A request for telegraphic or facsimile withdrawal of a bid must be received prior to the closing date and time of the bid. The Purchasing Activity does not assume any responsibility for failure of facsimile transmission or equipment. ()

b. A modification may be submitted by letter or telegraphic communication, provided that the bid and the letter or telegram are received prior to the closing date and time of the bid. Facsimile bid modifications will not be allowed or considered unless solicited under emergency procedures. The modification (if telegraphic) must be confirmed in writing, over an original signature of the bidder. The written confirmation must be mailed and postmarked no later than the closing date of the bid. The letter or telegram should be so worded as not to reveal the amount of the original bid. If the written confirmation of a modification is not received within two (2) working days from the bid closing date, no consideration will be given to the telegraphic modification. Any telegraphic communication relative to a bid must state the bid closing date, time and the bid number. On written communications, the bid closing date, time and the bid number, should appear on the outside of the envelope to prevent premature disclosure of the information. ()

02. Disposition of Bid Security. Bid security, if any, shall be returned to the bidder when withdrawal of the bid is permitted. ()

03. Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate purchasing file. ()

097. LATE BIDS, LATE WITHDRAWALS, AND LATE MODIFICATIONS.

The following procedures are established relative to late bids, late withdrawals and late modifications to bids. ()

01. Definition. Any bid, withdrawal, or modification received at the address designated in the Invitation to Bid after the time and date set for opening of bids at the place designated for opening is late. ()

02. Treatment. No late bid, late modification, or late withdrawal will be considered. ()

03. Records. Documentation relating to any late bid, late modification, or late withdrawal shall be kept and maintained by the Division. ()

098. RECEIPT, OPENING, AND RECORDING OF BIDS.

The following establishes a process for the receipt, opening and recording of bids. ()

01. Receipt. Upon receipt, all bids and modifications properly marked and identified will be time stamped, but not opened. They shall be stored in a secure place until bid opening time. ()

02. Opening and Recording. Bids and modifications shall be opened publicly at the time and place designated in the Invitation to Bid. The names of the bidders, the bid price (unless otherwise stated in the solicitation), and such other information as is deemed appropriate by the buyer, shall be read aloud or otherwise be made available. The opened bids shall be available for public inspection except to the extent the bidder designates which portion of the bid contains trade secrets or other proprietary data. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the remaining portion of the bid. Make, model, or catalogue numbers of the items offered, deliveries, prices, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary. The buyer shall decide when the time set for bid opening has arrived and shall so declare to those present. The bid form may not be completed, signed, amended or clarified after official opening time. Bids must remain under the control of the buyer or authorized staff. ()

03. Public Inspection of Bids. The Idaho Public Records Act will control the extent of public inspection of bids received by the Purchasing Activity. ()

099. MISTAKES IN BIDS.

The following procedures are established relative to claims of a bid mistake. ()

01. Mistakes in Bids. If a mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible, but at the discretion of the Administrator and to the extent it is not contrary to the interest of the Division or the fair treatment of other bidders. ()

02. Mistakes Discovered Before Opening. Mistakes in bids detected prior to bid opening may be corrected by the bidder by submitting a timely bid modification or withdrawing the original bid and submitting a corrected bid to the Purchasing Activity before the bid opening. ()

03. Mistakes Discovered After Opening But Before Award. This subsection sets forth procedures to be applied in three situations described in paragraphs a., b. and c. below in which mistakes in bids are discovered after opening but before award. ()

a. Minor Informalities. Minor informalities are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect of the mistake on price, quantity, quality, delivery, or contractual conditions is not significant. The buyer may waive such informalities. Examples include the failure of a bidder to: ()

i. Return the number of signed bids required by the Invitation to Bid; ()

ii. Acknowledge the receipt of an amendment or addendum to the Invitation to Bid, but only if: ()

(a) It is clear from the bid that the bidder received the amendment/addendum and intended to be bound by its terms; or ()

(b) The amendment/addendum involved had a negligible effect on price, quantity, quality, or delivery. ()

b. Mistakes Where Intended Bid is Evident. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices (unit prices will always govern in event of conflict with extension), transposition errors, and arithmetical errors. ()

c. Mistakes Where Intended Bid is not Evident. A bidder may be permitted to withdraw a low bid if: ()

i. A mistake is clearly evident on the face of the bid document but the intended bid is not similarly evident; or ()

ii. The bidder submits timely proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made. ()

04. Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract. ()

05. Written Approval or Denial Required. In the event of a bid mistake discovered after the opening date, the Administrator shall approve or deny, in writing, a bidder's request to correct or withdraw a bid. Such approval or denial may be so indicated on the bidder's written request for correction or withdrawal. ()

100. BID EVALUATION AND AWARD.

The Purchasing Activity conducting the bid shall determine the low responsible bidder after evaluating the bids. Any contract award shall comply with these provisions. ()

01. General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation to Bid. The Invitation to Bid shall set forth the requirements and criteria which will be used to determine the lowest responsive and responsible bidder. No bid shall

be evaluated for any requirements or criteria that are not disclosed in the Invitation to Bid. ()

02. Bid Responsiveness. Responsiveness is defined as that bid which conforms in all material respects to the Invitation to Bid. ()

03. Standards of Bidder Responsibility. Nothing herein shall prevent the buyer from establishing additional responsibility standards for a particular purchase, provided that these additional standards are set forth in the solicitation. Among factors to be considered in determining whether the standard of responsibility has been met are whether a bidder has: ()

a. Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability to meet all contractual requirements; ()

b. A satisfactory record of integrity; ()

c. Qualified legally to contract with the purchasing activity and qualified to do business in the state of Idaho; ()

d. Unreasonably failed to supply any necessary information in connection with the inquiry concerning responsibility; ()

e. Experience; or ()

f. Prior performance record, if any. ()

04. Information Pertaining to Responsibility. A bidder shall supply information requested by the buyer concerning the responsibility of such bidder. If such bidder fails to supply the requested information, the buyer shall base the determination of responsibility upon any available information or may find the bidder nonresponsible if such failure is unreasonable. ()

05. Ability to Meet Bidder Responsibility Standards. The bidder may demonstrate the availability of necessary financing, equipment, facilities, expertise, personnel and other necessary information by submitting upon request: ()

a. Evidence that such bidder possesses such necessary items; ()

b. Acceptable plans to subcontract for such necessary items; or ()

c. A documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items. ()

06. Written Determination of Nonresponsibility Required. If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the buyer. The determination shall be made part of the purchase file. ()

07. Determination of Lowest Responsible Bidder. Bids will be evaluated to determine overall economy for the intended use, in accordance with the evaluation criteria set forth in the Invitation to Bid. Examples of such criteria include but are not limited to, transportation cost, energy cost, ownership and other identifiable costs or life-cycle cost formulae. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall: ()

a. Be reasonable estimates based upon information the Purchasing Activity has available concerning future use; ()

b. Treat all bids equitably; ()

c. Review the ability, capacity and skill of the bidder to perform the contract or provide the services

- required; ()
- d. Review the character, integrity, reputation, judgment, experience and efficiency of the bidder; ()
 - e. Review whether the bidder can perform the contract within the time specified; ()
 - f. Review the quality of performance on previous contracts for purchased property or services;()
 - g. Review the previous and existing compliance by the bidder with the laws relating to the contract for property and/or services; ()
 - h. Review servicing resources, capability and capacity; ()
 - i. Review lack of uniformity or interchangeability, if such factors are important; ()
 - j. Review the energy efficiency of the product as projected throughout the anticipated useful life of the product; ()
 - k. Review such other information as may be secured having a bearing on the decision to award the contract. ()

08. Extension of Time for Bid Acceptance. After opening bids, the buyer may request bidders to extend the time during which their bids may be accepted, provided that, with regard to bids, no other change is permitted. The reasons for requesting such extension shall be documented. ()

09. Only One Bid Received. If only one responsive bid is received in response to an Invitation to Bid (including multi-step bidding), an award may be made to the single bidder if the buyer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise, the bid may be rejected and: ()

- a. New bids or offers may be solicited; ()
- b. The proposed acquisition may be canceled; or ()
- c. If the buyer determines in writing that the need for the property or service continues but that the price of the one bid is not fair and reasonable and there is no time for resolicitation or that resolicitation would likely be futile, the purchase may then be conducted as a sole source or emergency purchase as appropriate. ()

10. Multiple or Alternate Bids. Unless multiple or alternate bids are specifically provided for, the solicitation shall state they will not be accepted. When prohibited, the multiple or alternate bids shall be rejected although a clearly indicated base bid shall be considered for award as though it were the only bid submitted by the bidder. ()

101. ACCEPTANCE OR REJECTION OF BIDS.

Prior to the issuance of a purchase order or contract, the Administrator shall have the right to accept or reject all or any part of a bid or any and all bids when: ()

- 01. Best Interest. It is in the best interests of the state of Idaho; ()
- 02. Does Not Meet Specifications. The bid does not meet the minimum bid specifications; ()
- 03. Not Lowest Responsible Bid. The bid is not the lowest responsible bid; ()
- 04. Bidder is Not Responsible. A finding is made based upon available evidence that a bidder is not responsible or otherwise capable of currently meeting specifications or assurance of ability to fulfill contract performance; or ()

05. Deviations. The item offered deviates to a major degree from the bid specifications, as determined by the Administrator (minor deviations, as determined by the Administrator, may be accepted as substantially meeting the bid requirements of the state of Idaho). Deviations will be considered major when such deviations appear to frustrate the competitive bidding process or provides a bidder an unfair advantage. ()

102. CANCELLATION OF INVITATION TO BID OR REJECTION OF ALL BIDS.

Prior to the issuance of a purchase order or contract, the Purchasing Activity reserves the right to reject all bids or to cancel an Invitation to Bid. In the event of a cancellation of an Invitation to Bid or in the event all bids are rejected, all bidders will be notified by mail. Examples of reasons for cancellation of an Invitation to Bid or rejection of all bids are: ()

- 01. Inadequate or Ambiguous Specifications. ()
- 02. Specifications Have Been Revised. ()
- 03. Property or Services Being Purchased Are No Longer Required. ()
- 04. Change in Agency Requirements. ()
- 05. All Bids Deemed Unreasonable. All bids are deemed unreasonable or sufficient funds are not available. ()
- 06. Bids Submitted in Bad Faith. Bids were not independently arrived at, or were submitted in bad faith. ()
- 07. Bid Requirements Have Not Been Met. A determination is made that all the necessary requirements of the bid process have not been met. ()
- 08. Insufficient Competition. ()
- 09. Cancellation or Rejection is in Best Interest of State. For reasons which indicate that cancellation or rejection of all bids is clearly in the best interest of the state. ()

103. -- 105. (RESERVED).

106. IN STATE PREFERENCES.

In accordance with Idaho Code Sections 67-2349, 67-5718, 60-101 and 60-103, the Administrator shall compile a list of each state, relating to state purchasing, which statutes or regulations the Administrator believes grant a preference to vendors domiciled within that state. This list shall be updated on a periodic basis. The list shall include only those states with currently active in-state preference provisions for acquiring property and services and shall contain the percentage of preference allowed. States with only reciprocity legislation will not be included on the list. The Division will be responsible for the official compilation of the list and notification to impacted state agency, college and university purchasing offices. ()

01. Domicile of Bidder. For the purposes of determining whether to assess a percentage penalty against a bidder's bid, and the amount of that penalty, the buyer in charge of the bid will consider only the address of domicile stated in the bid proposal document. ()

02. Penalty Application Procedure. Buyers will add the appropriate percentage penalty to each bid bearing the address from a state with in-state preference rather than subtracting a like amount from Idaho domiciled bidders. ()

03. Bid Analysis Procedure. The action of adding a percentage penalty will be used only for bid analysis and award purposes. In no instance shall the increase be paid to a bidder whose bid is accepted. ()

107. PARTIAL AWARD.

A buyer shall have the discretion to award on an "all or nothing" basis or to accept any portion of the items bid, excluding others unless the bidder stipulates all or nothing on their bid. ()

108. TIE BIDS.

The following provisions shall apply to tie bids as defined herein: ()

01. Definition. Tie bids are low responsive bids from responsible bidders that are identical in price or score. ()

02. Award. Award shall not be made by drawing lots, except as set forth below, or by dividing business among identical bidders. In the discretion of the buyer, award shall be made in any permissible manner that will discourage tie bids. Procedures which may be used to discourage tie bids include: ()

a. If price is considered excessive or for other reason such bids are unsatisfactory, reject all bids, rebid and seek a more favorable contract in the open market; ()

b. Award to Idaho resident or Idaho domiciled bidder or for an Idaho produced product where other tie bid(s) are from out of state or to a bidder submitting a domestic product where other tie bid is for foreign (external to Idaho) manufactured or supplied property; ()

c. Where identical low bids include the cost of delivery, award the contract to the bidder farthest from the point of delivery; ()

d. Award the contract to the identical bidder who received the previous award and continue to award succeeding contracts to the same bidder so long as all low bids are identical; ()

e. Award to the identical bidder with the earliest delivery date. ()

03. Drawing Lots. If no permissible method will be effective in discouraging tie bids and a written determination is made so stating, award may be made by drawing lots or tossing a coin in the presence of witnesses if only two (2) tie bids. ()

04. Record. Records shall be made of all Invitations to Bid on which tie bids are received showing at least the following information: ()

a. The Invitation to Bid identification number; ()

b. The property to be acquired; ()

c. All the bidders and the prices submitted; and ()

d. Procedure for resolving tie bids. ()

109. STANDARD NOTICE FOR AWARD.

A standard notice of contract award, or in the case of a single acquisition, a purchase order or field purchase order, will normally be mailed to the successful bidder. ()

110. NOTICE OF REJECTION.

No rejection notice need be sent to unsuccessful bidders (including potentially non-responsive bidders) submitting higher bid pricing than the awarded low bidder. Bidders whose bids are rejected as non-responsive will be notified in writing of the reasons for such rejection. ()

111. -- 115. (RESERVED).

116. ACCEPTANCE OF TERMS.

Acceptance of bids shall be expressly limited to the terms and conditions of the Invitation to Bid issued by the

Purchasing Activity. All material alterations, additional or different terms proposed by the bidder shall be and are rejected unless otherwise provided for in writing by the Administrator or designee. ()

117. -- 119. (RESERVED).

120. VIOLATION OF CONTRACT TERMS.

01. Delivery on Time. If a contractor fails to deliver, or deliver on time, or there is discrepancy in the quality and/or quantity of services or property received, or there is a default in any other contract provision on a state contract or purchase order, the agency shall promptly notify the contractor in writing. In the event of an unsatisfactory response from the contractor, the agency shall file a fully documented complaint with the Division. ()

02. Verification of Complaint. The Division shall verify the complaint, note the same in the contract file and take appropriate action. Where a complaint is justified, the contractor shall be notified that an unsatisfactory condition exists and that the unsatisfactory condition must be cured within a stated time. If the condition is not timely cured, the Division shall have the discretion to do any or all of the following: ()

- a. To remove the contractor from the relevant registered vendor list; ()
- b. Demand performance of the contract; ()
- c. Modify or cancel the contract and purchase elsewhere; and ()
- d. Pursue any other legal remedies available. ()

121. OFFSET AGAINST CONTRACTOR PAYMENTS.

In addition to other methods of collection available, the Purchasing Activity may offset any damages for which the contractor is responsible against payments owing to the contractor from any agency which may be indebted to the contractor. ()

122. -- 124. (RESERVED).

125. DELIVERY DATE.

Whenever a specific delivery date has been stated, that date shall be an essential condition of the contract. If a contractor is unable to meet the delivery date, the contractor shall notify the buyer at the earliest possible time. The contractor shall include in such notification the projected revised delivery date. The buyer shall then have the option to accept such revised dates, or cancel the contract and purchase elsewhere without waiving the state's claim for damages. ()

126. PRICE ESCALATION.

Contractors shall not be entitled to price escalation except where specifically provided for in writing in the contract or purchase order. ()

127. CHANGE IN PROPERTY OFFERED.

A contractor shall not be allowed to substitute property and services from that offered: *Provided*, however, if the property or services offered are no longer available to the bidder or contractor for reasons beyond its control, the buyer may consider a request by the bidder or contractor for substitution. All such requests must be in writing, must set forth the reasons the product or service is no longer available, and must be accompanied by samples, record of performance, certified copies of tests by impartial and recognized laboratories, and such additional data as the buyer may request. Samples and data shall be furnished sufficiently in advance to allow for investigation before a decision is made. The contractor shall warrant that the contracted article is equal or better in quality than the specified article. If the change results in any cost savings to the contractor, the cost savings shall be reflected in full in a reduction in price to the using agency. State contracts (or relevant release orders) or purchase orders may only be so amended by the Division. ()

128. EXTENSION OR RENEWAL OF CONTRACTS.

01. Extension of Contract. If contract provisions allow, a contractor and the Purchasing Activity may covenant and agree that the contract in question may be extended for predetermined periods by the Purchasing Activity under the same terms and conditions as comprise the original contract. ()

02. Justification for Extension of Contract. The buyer shall have discretion to extend a contract with the justification for extension being documented. The buyer should attempt to ascertain whether a new competitive acquisition is practical, in terms of pertinent competitive and costs factors, and would be more advantageous to the agency than extension of the existing contract. The contractor shall be notified in writing of the intent to extend prior to the termination date of the existing or extended contract. If the contractor does not wish to have the contract extended, the contractor shall so notify the Purchasing Activity in writing. Extensions, to be effective, must be in writing and signed by authorized representatives of both the contractor and Purchasing Activity. ()

129. ADDITIONS OR DELETIONS TO THE CONTRACT.

Within reason, the Division may increase or decrease the items, quantities, or locations specified in a state or statewide contract or purchase order. ()

130. -- 165. (RESERVED).

166. USE OF COMPETITIVE SEALED PROPOSALS.

01. Appropriateness. Competitive sealed proposals may be a more appropriate method for a particular acquisition or type of acquisition than competitive sealed bidding, after consideration of factors such as: ()

a. Whether the relative skills, expertise, or technical capability of the offerors will have to be evaluated; ()

b. Whether cost is secondary to the characteristics of the property or service sought, as in a work of art; ()

c. Whether the conditions of the service, property or delivery conditions are unable to be sufficiently described in the Invitation to Bid; and ()

d. Whether the acquisition is for highly complex or technical property or services and evaluation of the offeror's approach, management capabilities, innovation, or other technical factors are secondary to cost. ()

02. Determinations. ()

a. Before a solicitation (Request for Proposal) may be issued for competitive sealed proposals, the buyer shall determine in writing that competitive sealed proposals represents a more appropriate method for contracting than competitive sealed bidding. ()

b. The buyer may make such determinations by commodity code or service, rather than by individual acquisition. Acquisitions utilizing the types of commodity codes so designated may then be made by competitive sealed proposals without making the determination that competitive sealed bidding is either not practicable or not advantageous. The buyer who made such determination may modify or revoke it at any time and such determination should be reviewed for current applicability from time to time. ()

03. Professional and Consultant Services. For acquisition of professional or consultant services, agencies shall, whenever practicable, bid for such services by means of a Request for Proposal. Examples of professional or consulting services difficult to use the Invitation to Bid process include, but are not limited to, accounting and auditing, court reporters, legal, medical, nursing, education, engineering, technical consulting, actuarial, architecture, and management audits and research. The buyer will make the determination. ()

167. CONTENT OF THE REQUEST FOR PROPOSALS.

01. Content. The content of a Request for Proposals (RFP) shall be similar with that of an Invitation to Bid. ()

02. Proposal Preparation Time. Proposal preparation time shall be set to provide offerors a reasonable time to prepare their proposals. A minimum of ten (10) days shall be provided unless a shorter time is deemed necessary due to an emergency for a particular acquisition as determined in writing by the buyer. ()

03. Form of Proposal. The manner in which proposals are to be submitted, including any forms for that purpose, may be designated as a part of the Request for Proposals. ()

168. PUBLIC NOTICE.

Public notice shall be given by distributing the Request for Proposals in the same manner provided for distributing an Invitation to Bid. ()

169. PRE-PROPOSAL CONFERENCES.

Pre-proposal conferences may be conducted in accordance in the same manner provided for Invitations to Bid. Any such conference should be held prior to submission of initial proposals. ()

170. AMENDMENT, MODIFICATION, OR WITHDRAWAL OF PROPOSALS.

Proposals may be amended, modified, or withdrawn prior to the established due date and time in accordance with the rules pertaining to Invitations to Bid. ()

171. LATE PROPOSALS, LATE WITHDRAWALS, AND LATE MODIFICATIONS.

Any proposal, withdrawal, or modification received after the established due date and time at the place designated for receipt of proposals is late. Such late documents may only be considered in documenting a mistake and used to withdraw a proposal due to the mistake. ()

172. RECEIPT AND RECORD OF PROPOSALS.

Proposals shall be opened publicly, identifying only the names of the offerors unless otherwise stated in the Request for Proposals. Proposals and any amendments or modifications shall be date and time stamped upon receipt and held in a secure place until the established due date. After the date and time established for receipt of proposals, a record of all proposals received shall be prepared to include the name of each offeror, the number of amendments or modifications received, if any, and a description sufficient to identify the supply, service, or property offered. The record of proposals shall be open to public inspection in accordance with the provisions of the Idaho Public Records Act. Proposals and modifications shall be shown only to purchasing agency personnel having a legitimate interest in them. ()

173. EVALUATION OF PROPOSALS.

01. Evaluation Factors in the Request for Proposals. The Request for Proposals shall state in general terms all of the evaluation factors and their relative importance, including price. ()

02. Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Numerical rating systems may be used but are not required. Factors not specified in the Request for Proposals shall not be considered in evaluating offers or determining award of contract. ()

03. Classifying Proposals. For the purpose of conducting proposal discussions under these rules (Proposal Discussions with Individual Offerors), proposals shall be initially classified as: ()

a. Acceptable; ()

b. Potentially acceptable, that is reasonably susceptible of being made acceptable; or ()

c. Unacceptable. ()

174. PROPOSAL DISCUSSION WITH INDIVIDUAL OFFERORS.

01. "Offerors" Defined. For the purposes of this rule, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses which

submitted unacceptable proposals. ()

02. Purposes of Discussions. Discussions are held to facilitate and encourage an adequate number of potential offerors to offer their best proposals, by amending their original offers, if needed. ()

03. Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The buyer should establish procedures and schedules for conducting discussions. If during discussions there is a need for clarification or change of the Request for Proposals, it shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information derived from competing proposals are prohibited. Any oral clarification or change of a proposal shall be reduced to writing by the offeror. ()

04. Best and Final Offers. The buyer shall establish a common time and date for submission of best and final offers. Best and final offers shall be submitted only once unless the buyer makes a written determination before each subsequent round of best and final offers demonstrating another round is in the purchasing agency's interest, and additional discussions will be conducted or the agency's requirements will be changed. Otherwise, no discussion of, or changes in, the best and final offers shall be allowed prior to award. Offerors shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer. ()

175. (RESERVED).

176. MISTAKES IN PROPOSALS.

01. Mistakes Discovered Before the Established Due Date and Time. An offeror may correct mistakes discovered before the time and date established for receipt of proposals by withdrawal or modification of the proposal as provided in these rules. ()

02. Mistakes Discovered After Receipt But Before Award. This subsection sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award. ()

a. Minor Informalities. Minor informalities shall be treated as they are under competitive sealed bidding (Invitation to Bid). ()

b. Correction of Mistakes. Mistakes may be corrected and the correct offer considered only if: ()

i. The mistake and the correct offer are clearly evident on the face of the proposal in which event the proposal may not be withdrawn; or ()

ii. The mistake is not clearly evident on the face of the proposal, but the offeror submits proof of evidentiary value which clearly and convincingly demonstrates both the existence of a mistake and the correct offer and such correction would not be contrary to the fair and equal treatment of other offerors. ()

c. Withdrawal of Proposals. The offeror may be permitted to withdraw the proposal if: ()

i. The mistake is clearly evident on the face of the proposal and the correct offer is not; or ()

ii. The offeror submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made but does not demonstrate the correct offer or, if the correct offer is also demonstrated, to allow correction on the basis of such proof would be contrary to the fair and equal treatment of other offerors. ()

03. Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract. ()

177. AWARD.

01. Award Documentation. A written determination shall be made showing the basis on which the award was found to be most advantageous for the agency based on the evaluation criterion set forth in the Request for Proposals. Final approval for the award will be made by the Division. ()

02. Public Inspection of Proposals. After issuance of notice of intent to award, the Idaho Public Records Act will control the extent of public inspection of proposals received by the Purchasing Activity. ()

03. One Proposal Received. If only one proposal is received in response to a Request for Proposals, the buyer may, as such buyer deems appropriate, either make an award, reject the proposal, or if time permits, resolicit for the purpose of obtaining additional competitive sealed proposals. ()

178. PUBLICIZING AWARDS.

01. Notice. After a contract is entered into, notice of award shall be available in the Purchasing Activity's office. ()

02. Appeals. Any appeals concerning the award shall be made according to these rules. ()

179. ACCEPTANCE OR REJECTION OF PROPOSALS.

The Administrator or Purchasing Activity shall have the right to accept or reject all or any part of a proposal in accordance with the rules pertaining to Invitations to Bid. ()

180. CANCELLATION OF REQUEST FOR PROPOSALS OR REJECTION OF ALL PROPOSALS.

The Administrator or Purchasing Activity reserves the right to reject all proposals or to cancel a Request for Proposals in accordance with the rules pertaining to Invitations to Bid. ()

181. -- 183. (RESERVED).

184. SMALL PURCHASE PROCEDURES, GENERAL.

01. General. Small purchase procedures may be used by purchasing activities for those purchases or procurements that are less than the amounts established by Idaho Code Section 67-5718. Excluding the Division, absent a general or specific delegation by the Administrator, no Purchasing Activity, using the small purchase authority and/or small purchase procedures of these rules, shall procure (i.e. lease, rent, etc.) property or services or enter into contracts for periods exceeding one year (including renewal or extension periods). Purchasing Activity purchases of property and services will be limited to single purchase transactions unless other contract types are specifically authorized by the Administrator. ()

02. Solicitation Terms. For small purchase procedures, the following terms shall have the meaning as indicated: ()

a. Request for Quotation. The document or form, including any attachments, whether physically attached or incorporated by reference, specifications, and terms and conditions used by the Purchasing Activity for small purchases. ()

b. Quotation or Quote. An offer from a registered vendor to supply property or services under a contract or purchase order in response to a Request for Quotations. ()

03. Form of Request for Quotation and/or Quote. Unless otherwise prohibited by the Purchasing Activity buyer, the Request for Quotation and/or Quote may be written, oral, telephonic, or facsimile. ()

04. Quoting Time. The quoting time shall be determined by the buyer and should provide sufficient time for the vendor to prepare and return a quotation. The amount of time shall take into consideration such factors as complexity, urgency, availability of property and information, and number and location of vendors. ()

05. Public Notice. To the extent practicable and time allows, the Purchasing Activity shall publicly post or make available in a public area at its primary purchasing location a copy of any written Requests for Quotation.

()

06. Receipt of Quotations. Quotations must be received by close of the normal business day on the date indicated unless a specific time is indicated. If facsimile quotations are authorized by the Purchasing Activity or the Request for Quotations, the Purchasing Activity does not assume any responsibility for the failure or unavailability of facsimile transmission or equipment. Late quotations will not be considered. Time of receipt will be determined by the official time stamp or receipt mechanism located at the Purchasing Activity. ()

185. AUTHORITY TO MAKE SMALL PURCHASES.

01. Amount. The Division or a Purchasing Activity shall use these procedures if the acquisition is estimated to be less than the amounts established in Idaho Code Section 67-5718 or unless the Division determines it advantageous to use the formal sealed bid procedures set forth in these rules. ()

02. Existing State or Statewide Contracts. Supplies, services, or other property available under single agency or statewide contracts or similar agreements shall be purchased under such agreements in accordance with the provisions or requirements for use thereof and not under this subpart unless otherwise authorized by the Administrator. ()

03. Available From One Source Only. If the property or service is available only from one source, the sole source purchase method set forth in these rules shall be used. ()

04. Splitting of Requirements. Acquisition requirements shall not be artificially divided to avoid bid statutes, rules or policies. ()

186. SMALL PURCHASES OF PROPERTY OR SERVICES BETWEEN \$1,500 AND \$25,000.

01. Procedure. Insofar as it is practical and possible for small purchases of property or general services (excluding professional or consultant services) between one thousand five hundred dollars (\$1,500) and twenty five thousand dollars (\$25,000), no less than three registered vendors having a significant Idaho presence as defined by Idaho Code shall be solicited to submit telephone, facsimile, or written quotations. Award shall be made to the responsible and responsive bidder offering the lowest acceptable quotation. The purchasing file will be fully documented for unacceptable quotations. Should it be impractical or impossible to solicit three (3) registered vendors, the file shall be fully documented and every effort should still be made to obtain the most favorable terms, conditions and price possible for the state. ()

02. Records. The names of the registered vendors offering quotations and the date and amount of each quotation shall be recorded and maintained as a public record. ()

187. SMALL PURCHASES OF \$1,500 OR LESS.

To facilitate the purchase of minor items of property in the open market, if the property to be acquired can be expected to cost less than one thousand five hundred dollars (\$1,500), such property may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state. ()

188. SMALL PURCHASES OF SERVICES OF PROFESSIONALS AND CONSULTANTS.

If it is expected that the services of professionals and consultants can be acquired for less than twenty five thousand dollars (\$25,000), the services may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state. ()

189. SMALL PURCHASES OF REPAIR SERVICES.

This rule applies to unscheduled repairs to equipment (such as but not limited to vehicles, scientific instruments, broadcasting equipment, or heating and cooling (HVAC) equipment with labor and/or installation of repair parts being performed by state personnel) where the total cost may not be ascertainable until the equipment is disassembled, the equipment cannot be reasonably moved or transported due to its being disabled, or the unscheduled repairs may require original equipment manufacturer (OEM) parts. If the estimated cost of the unscheduled repair is less than five thousand dollars (\$5,000), the agency may acquire the necessary property as the agency best sees fit in accordance with good business practice and in the best interest of the state. If the repairs are to items of equipment

that are incorporated into or affixed to real property (fixtures) and the labor or repairs are not performed by state personnel, and the cost exceeds two thousand five hundred dollars (\$2,500), the agency must comply with the provisions of Idaho Code Section 67-5711B (if an emergency) or Idaho Code Section 67-5711C. ()

190. DISCOUNTS.

Every reasonable effort is to be made by state employees to obtain the most favorable discount rates possible for the state of Idaho. Should discounts for prompt payments be offered, while they cannot be used in the evaluation of bids, it shall be the agency's responsibility to process the claims for payment in an expeditious manner so as to allow the discount for prompt payment to be taken by the state. ()

191. ACQUISITION OF CONCESSION SERVICES.

The acquisition of concession services including, but not limited to, exclusive-rights contracts, franchises, vending services, options, pouring contracts, service agreements, advertising agreements, broadcast rights to sporting events or other similar types of goods, shall be undertaken in accordance with the competitive bidding procedures of Chapter 57, Title 67, Idaho Code, and these rules. ()

01. Value of Concession Services to be Acquired When Revenue to be Received by the State. The value of the concession services to be acquired shall be the amount of revenue or reimbursement reasonably expected to be received by the state during the pendency of the contract period. ()

02. Value of Concession Services to be Acquired When No Revenue Will be Received by the State. In the event that the state will only acquire a right to obtain or receive benefits or services in connection with the acquisition of concession services, the value of such concession services to be acquired shall be as determined by the Administrator. ()

192. -- 194. (RESERVED).

195. CONDITIONS FOR USE OF SOLE SOURCE PURCHASES.

01. Only a Single Supplier. Sole source purchase shall be used only if a requirement is reasonably available from a single supplier. A requirement for a particular proprietary property item does not justify a sole source purchase if there is more than one potential bidder or offeror for that property item. ()

02. Examples of Sole Source. Examples of circumstances which could necessitate a sole source purchase are: ()

a. Property is required for a life-threatening situation or a situation is immediately detrimental to the public welfare or property; ()

b. Where the compatibility of equipment, components, accessories, computer software, replacement parts, or service is the paramount consideration; ()

c. Where a sole supplier's item is needed for trial use or testing; ()

d. Purchase of mass produced movie or video films or written publications distributed or sold primarily by the publisher; ()

e. Purchase of property for which it is determined there is no functional equivalent; ()

f. Purchase of public utility services; ()

03. Administrator Makes Determination. The determination as to whether an acquisition shall be made as a sole source shall be made by the Administrator. Each request shall be submitted in writing by the using agency. The Administrator may specify the application of such determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that an acquisition be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. ()

04. Appeal. The appeal of a sole source determination may be made in accordance with applicable law. ()

196. NEGOTIATION IN SOLE SOURCE PURCHASE.

The buyer shall conduct negotiations, as appropriate, as to price, delivery, and terms. ()

197. NOTICE OF SOLE SOURCE PURCHASE.

Unless the property is required for a life-threatening situation, a situation that is immediately detrimental to the public welfare or property, or if the proposed acquisition amount exceeds the sealed bid limitation, the Administrator shall publish notice in a public, publication statewide of the sole source acquisition at least ten (10) working days prior to the award of the contract. ()

198. -- 200. (RESERVED).

201. DEFINITION OF EMERGENCY CONDITIONS.

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or such other similar circumstances as may be determined by the Director, Administrator or designee. The existence of such condition must create an immediate and serious need for supplies, property, or services, that cannot be met through normal acquisition methods. An emergency declaration shall also include a finding as to whether a particular savings to the state may be had through use of educational discounts, sole source purchases, or other circumstances as approved by the Director or designee. ()

202. SCOPE OF EMERGENCY PURCHASES.

Emergency purchases shall be limited to only those supplies, services, or property necessary to meet the emergency. Any payments made for emergency purchases must state upon their faces the justification for the purchase. ()

203. AUTHORITY TO MAKE EMERGENCY PURCHASES.

The Director or Administrator may delegate authority in writing to an agency or Purchasing Activity to make emergency purchases of up to an amount set forth in the delegation of authority. ()

204. SOURCE SELECTION METHODS.

01. General. The source selection method used shall be selected with a view to the end of assuring that the required supplies, services, or property are purchased in time to meet the emergency. Given this constraint, such competition as is practicable shall be obtained. ()

02. After Unsuccessful Competitive Sealed Bidding. If emergency conditions exist after or are brought about by an unsuccessful attempt to use competitive sealed bidding, an emergency purchase may be made. Competitive sealed bidding is unsuccessful when bids received pursuant to an Invitation to Bid are unreasonable, noncompetitive, no bids are received, or when the low bid exceeds available funds as certified by the appropriate fiscal officer, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids, or when the entity awarded the bid is unable to perform the contract and the criterion for emergency purchase is satisfied by the circumstances. ()

205. DETERMINATION OF EMERGENCY PURCHASE.

The buyer or the agency official responsible for purchasing shall make a written determination stating the basis for an emergency purchase and for the selection, if applicable, of the particular supplier. Such determination shall be sent promptly to the Administrator for review and written approval that the purchase be undertaken as an emergency purchase. ()

206. -- 221. (RESERVED).

222. PRICE AGREEMENTS.

01. Use. In addition to other methods of contracting, the Administrator may authorize the establishment with vendors of price agreements. Such agreements are appropriate when: ()

- a. The dollar value of items or transactions are relatively small; ()
 - b. The property may not be conducive to standard competitive bidding procedures, such as automobile, truck, or other equipment parts having individual low unit costs; ()
 - c. There exists a need to establish multiple agreements with vendors supplying property that is similar in nature or function but is represented by different manufacturers and/or needed in multiple locations; and ()
 - d. Non-exclusive agreements for periods not exceeding two years are deemed necessary to establish consistent general business terms such as price, use of catalogs, delivery terms, credit terms, etc. ()
- 02. Establishment. Any price agreements shall be established and approved by the Division. ()
 - 03. Termination. Price agreements shall provide for termination for any reason upon not more than thirty (30) days written notice. ()

223. LEASES.

- 01. Use. A lease for personal property may be entered into provided: ()
 - a. It is in the best interest of the agency; ()
 - b. All conditions for renewal and costs of termination are set forth in the lease; and ()
 - c. The lease is not used to avoid a competitive bid situation. ()
- 02. Lack of Fund Contract Language Required. A contract providing for lease payments shall include appropriate language stating the agency is not obligated to make any payments beyond the term of any particular appropriation of state or federal funds which may exist from time to time. The contract shall be terminated without any penalty of whatsoever nature or kind or future liability. ()
- 03. Competition. Lease contracts are subject to the same requirements of competition which govern the purchase of property, if the lease exceeds the amount established by Section 67-5718, Idaho Code. Leases for periods exceeding one (1) year specifically require the approval of the Division. ()
- 04. Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive bidding or competitive proposals, unless the requirement can be met only by the property being leased as determined in writing by the buyer. Before exercising such an option, the buyer shall: ()
 - a. Investigate alternative means of acquiring comparable property; and ()
 - b. Compare estimated costs and benefits associated with the alternative means and the exercise of the option; for example, the benefit of buying new state of the art data processing equipment compared to the estimated, initial savings associated with exercise of a purchase option; and ()
 - c. Provide notice and advertisement of the exercise of option in accordance with these rules pertaining to sole source or competitively bid the property by soliciting bids for new or used property. ()

224. INSTALLMENT PAYMENT OR TIME PURCHASE CONTRACTS.

- 01. Use. A contract may be entered into which extends beyond the current fiscal period provided any obligation for payment in a succeeding fiscal period is subject to the appropriation and/or availability of funds therefor. ()
- 02. Termination. An installment or time purchase contract may be terminated without cost to the

agency by reason of unavailability of funds for the purpose, or for lack of performance by the contractor. Termination for other reason or reasons shall be as provided by the contract or by law. ()

03. **Installment Payments.** Time purchase contracts may provide for installment purchase payments or time purchase payments, including interest charges, over a period of time. Installment payments, however, should be used judiciously in order to achieve economy and not to avoid budgetary restraints. Using agencies shall be responsible for ensuring that statutory or other prohibitions are not violated by use of installment provisions and that all budgetary or other required prior approvals are obtained. Documentation or other evidence of any required approvals shall accompany the requisition submitted to the Division. No such agreement shall be used unless provision for installment payments is included in the solicitation document. ()

04. **Lack of Fund Contract Language Required.** A contract providing for installment payments shall include appropriate language stating the agency is not obligated to make any payments beyond the term of any particular appropriation of state or federal funds which may exist from time to time. The contract shall be terminated without any penalty of whatsoever nature or kind or future liability and the property shall be returned to the contractor. ()

225. -- 249. (RESERVED).

250. STANDARD SPECIFICATIONS.

Specifications contained in the Invitation to Bid will, where practical, be nonrestrictive so as to provide an equal basis for competition and participation by an optimum number of qualified bidders. ()

251. SPECIFICATIONS, GENERAL PURPOSE AND POLICIES.

01. **Written Specifications.** Written specifications shall accompany any requisition submitted to the Division for acquisitions that exceed the sealed bid limit established by Idaho Code, Section 67-5718. To the extent practicable, written specifications shall also be used for small purchases. ()

02. **Purpose.** Specifications shall be drafted with the objective of clearly describing the agency's requirements and of encouraging competition. The purpose of a specification is to serve as a basis for obtaining a supply, service, or property adequate and suitable for the agency's needs in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition costs. ()

03. **Use of Functional or Performance Descriptions.** Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the agency. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of their purchase requisitions the principal functional or performance needs to be met. ()

04. **Preference for Commercially Available Products.** It is the general policy that requirements be satisfied by standard commercial products whenever practicable. ()

252. AVAILABILITY OF DOCUMENTS.

In accordance with the Idaho Public Records Act, specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection. ()

253. EMERGENCY AUTHORITY.

In the event of an emergency, as determined by the Director or the Administrator, the agency may purchase property or services by any reasonable means, with any available specifications, without regard to the provision of these rules. ()

254. PROCEDURES FOR THE DEVELOPMENT OF SPECIFICATIONS.

01. **Provisions of General Application.** ()

a. **Application of Section.** These provisions apply to all persons who may prepare a specification. ()

b. Specification of Alternates May Be Included. A specification may provide alternate descriptions of supplies, services, or property where two or more design, functional, or performance criteria will satisfactorily meet the agency's requirements. ()

c. Contractual Requirements Not to Be Included. To the extent feasible, a specification shall not include any solicitation or contract term or condition such as a requirement for time or place of bid opening, time of delivery, payment, liquidated damages, or qualification of bidders. ()

d. Use of Existing Specifications. If a specification for a common or general use item has been developed or a qualified products list has been developed for a particular supply, service, property, or need, it shall be used unless the Administrator makes a written determination that its use is not in the agency's best interest and that another specification shall be used. ()

e. Review of Specifications. The Administrator should provide for the periodic review of specifications to determine whether any existing specification needs revision, or a new specification is needed to reflect changes in: ()

i. The state of the art; ()

ii. The characteristics of the available supplies, services, or property; or ()

iii. Needs of the agency. ()

f. Others May Prepare Specifications. The Administrator may allow others to prepare specifications for the agency's use in making purchases when there will be no substantial conflict of interest involved and it is otherwise in the best interests of the agency as determined by the buyer. ()

02. Special Additional Procedures. ()

a. Specifications for Common or General Use Items. ()

i. Preparation and Utilization. A standard specification for common or general use shall, to the extent practicable, be prepared and utilized when a supply, service, or property is used in common by several using agencies or used repeatedly by one using agency, and the characteristics of the supply or service item as commercially produced or provided remain relatively stable while the frequency or volume of acquisitions is significant, or where the agency's recurring needs require uniquely designed or specially produced items. ()

ii. Final Approval. Final approval of a proposed specification for a common or general use item shall be given only by the Division. ()

iii. Revisions and Cancellations. All revisions to or cancellations of specifications for common or general use items may be made upon approval of the Division. ()

b. Brand Name or Equal Specification. ()

i. Brand name or equal specifications may be used when the buyer determines that such a specification is in the agency's best interest. ()

ii. Designation of Several Brands. Brand name or equal specification shall seek to designate as many different brands as are practicable as "or equal" references and shall state that products substantially equivalent to those designated will be considered for award. ()

iii. Required Characteristics. Unless the buyer authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design and functional or performance characteristics which are required. ()

iv. Nonrestrictive Use of Brand Name or Equal Specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of designating the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. ()

c. Brand Name Specification. ()

i. Use. Since use of a brand name specification is restrictive, such a specification may be used when the Administrator or designee makes a written determination. Such determination may be in any form, such as a purchase evaluation, or a statement of single manufacturer justification. The written statement must state specific reasons for use of the brand name specification. ()

ii. Competition. The Administrator shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the acquisition shall be made under Section 67-5720 of the Idaho Code. ()

d. Qualified Products List. ()

i. Use. A qualified products list may be developed with the approval of the Administrator when testing or examination of the property prior to issuance of the solicitation is desirable or necessary in order to satisfy agency requirements. ()

ii. Solicitation. When developing a qualified products list, all registered vendors in the commodity listing shall be solicited to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer products for consideration in accordance with any schedule or procedure established for this purpose. ()

iii. Public Inspection of Testing. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with prior established requirements. Public inspection of written testing data will be allowed in accordance with the Idaho Public Records Act. However, qualified products lists' test results shall be made public, but in a manner so as to protect the confidentiality of the identity of the competitors by, for example, using numerical designations. ()

255. INTERPRETATION OF SPECIFICATIONS.

In the event of discrepancies or omissions in the bid specifications, or doubt as to their meaning, the vendor shall immediately notify the Purchasing Activity in writing. In response, written instructions and/or addenda as required shall be sent to vendors known by the buyer to have received the initial bid document. The Purchasing Activity will not be responsible for oral interpretations not confirmed in writing by the Purchasing Activity prior to the time stipulated in the bid opening. ()

256. -- 259. (RESERVED).

260. PURCHASE OF TELECOMMUNICATIONS OR INFORMATION TECHNOLOGY PROPERTY.

Other than property purchased from existing state contracts, all agency requests exceeding the sealed bid limits of Section 67-5718 Idaho Code for telecommunications or information technology property must be reviewed and approved by the Division of Information Technology within the Department of Administration before submission to the Division. It is the requesting agency's responsibility to subsequently attach any approvals to any requisitions submitted to the Division for bidding action. Acquisitions of these types of property are subject to state bid requirements, so agencies should plan long enough in advance to allow for this review. The department's review and any subsequent acquisition will conform to the guidelines and policies established or adopted by the Information Technology Resource Management Council or other governing or policy board or council that may be created by statute or directive for the purpose of information technology oversight or review. ()

261. INFORMATION TECHNOLOGY ACQUISITION PROCEDURES.

01. Definition. For purposes of these rules, "Information Technology Property" includes, but is not limited to, all present and future forms of computer hardware, computer software, or services used or required for automated data processing, computer related office automation or telecommunications. "Telecommunications" means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images over a distance. ()

02. Purpose. Specialized procedures for the purchase of Information Technology are necessary for several reasons, including: ()

a. Information Technology changes so rapidly that product life cycles range from twelve (12) to thirty-six (36) months. ()

b. Purchase of Information Technology requires significant technical understanding from both the agency and Purchasing Activity staff. ()

c. Information Technology purchases in many cases requires a specialty process due to unique technologies or applications. ()

03. Applicability. Unless otherwise indicated, the definitions in Section 67-5716 Idaho Code and these rules apply to these Information Technology acquisition procedures. In particular, these procedures apply to all agencies as the term "agency" is defined by these rules. ()

04. Procedures. ()

a. To facilitate the timely processing of Information Technology purchases and minimize delays, the requisitioning agency shall have completed the following actions PRIOR to submission of a requisition to the Division: ()

i. Financially justified its requirements (including cost/benefit analysis, multi-year financial approvals, and identification of funding sources). ()

ii. Ensured that the proposed acquisition meets applicable Information Technology standards, guidelines, conventions, and systems plans as adopted by the Information Technology Resource Management Council. ()

iii. Adequately reviewed available functionally equal requirement options and be prepared to provide a justification to defend the specifications in the event of a vendor appeal. The agency will be responsible for hearing officer costs incurred by the Division in the event of any Administrative Procedures Act (APA) actions or appeals. ()

iv. Submit with the requisition evidence of approval of the acquisition by the appropriate approving authority within the Department of Administration. ()

b. For all Information Technology requirements regardless of dollar value, the Division will attempt to aggregate Information Technology purchases as much as possible. When appropriate it will establish statewide contracts to fulfill multiple agency needs and make these contracts available to local units of government. ()

c. For Information Technology property not available through statewide contracts, if the property to be acquired may be reasonably expected to cost less than two thousand five hundred dollars (\$2,500), such property may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state. For purchases of property (excluding services) exceeding two thousand five hundred dollars (\$2,500), but less than the limit established by Idaho Code for sealed bidding, the statutory provisions of Section 67-5718 Idaho Code will apply. ()

d. For Information Technology services, if the services to be acquired may be reasonably expected to cost less than twenty five thousand dollars (\$25,000) total through a "fixed, not to exceed price" contract not exceeding one year in duration (including renewal or extension options), such services may be acquired as each

agency sees fit, in accordance with good business practice and in the best interest of the state. Information Technology services exceeding the previous parameters or exceeding twenty five thousand dollars (\$25,000) will be acquired in accordance with the statutory provisions of Section 67-5718, Idaho Code. ()

e. A team approach is recommended for all major acquisitions. This team will be composed of employees from different agencies and/or disciplines appropriate to the acquisition and will be convened by the Administrator or authorized designee. At a minimum it will include a representative from the Division and an Information Technology specialist. It will meet as needed to ensure that the most expedient and cost-effective method of purchasing is deployed, not to evaluate the need for, or judge the value of, the property or services requested. ()

f. To encourage reductions in processes and administrative costs, solicitation documents, the specifications, and terms and conditions may provide options (e.g. bid expiration time frames, acceptance criteria, dollar thresholds, etc.) that allow other agencies to utilize the Information Technology bids of the original requesting agency without the necessity of issuing additional bids. Adequate notification to potential vendors of these extended use purchases will be included in the solicitation documents. ()

g. Upon adequate notice to vendors and development of justifiable conditions, vendor pre-qualification procedures may be utilized. Only vendors passing the pre-qualification process will be allowed to participate in the individual acquisition. ()

05. Multiple Award for Information Technology Property. A multiple award is an award of an indefinite quantity contract for one or more similar items of Information Technology property or services to more than one bidder or offeror, and agencies shall be obligated to order all of their actual, normal requirements for the specified property or services from those contractors. A multiple award contract shall be appropriate if more than one (1) contractor is necessary to furnish the types and quantities of property required by state agencies, to provide expeditious and cost-efficient acquisition of property or to enable state agencies to acquire property which is compatible with previously acquired property. No award of a contract to multiple bidders shall be made unless the Administrator makes a written determination that the multiple award satisfies one (1) or more of the statutory criteria. In making a multiple award, care shall be exercised to protect and promote the principles of competitive solicitation. Multiple awards shall not be made when a single award will meet the agency's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available property or supplier selection to allow for use preference, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of bidders or offerors necessary to meet the valid requirements of using agencies. If a multiple award is anticipated prior to issuing a solicitation, the method of award shall be stated in the solicitation. ()

262. -- 399. (RESERVED).

400. REGISTRATION OF VENDORS REQUIRED.

No vendor shall be allowed to submit a bid, proposal, or quotation unless such vendor is currently registered with the Division. ()

401. REGISTRATION REQUIREMENTS.

01. Registration Required. Vendors shall register with the Division for all classes of property which the vendors will sell or supply to the state. Vendor registration forms are included in the Division's Vendor Information and Registration Packet and may be obtained by contacting the Division. A vendor may register by mail or in person. ()

02. Registration Form. The registration form shall contain, at a minimum the following information : ()

- a. Name of the vendor, including any fictitious or "doing business as" (d.b.a.) designations; ()
- b. An official office address where bid notices or solicitations are to be mailed; ()
- c. A telephone number at which the vendor may be reached by purchasing staff; ()

- d. A statement of how the business is organized, i.e., limited liability company, joint venture, association, partnership, sole proprietorship or corporation, if a corporation the state of incorporation and whether it has offices in Idaho; ()
- e. List the class or classes of property the vendor desires to sell or supply to the state; ()
- f. State of Idaho sales tax identification number; ()
- g. Geographic zones within the state in which the vendor wants to bid; ()
- h. The nature of the business (manufacturer, distributor, jobber, retailer, grower, etc.); ()
- i. Business address, which is not a post office box, in Idaho, or if located elsewhere the state of domicile and the business address of the vendor; ()
- j. How long the vendor has been in business; and other similar information as may be required in the Vendor Information and Registration Packet as it may be edited from time to time by the Administrator. ()

03. Registration Fees. Bids submitted to the state will only be considered if the vendors have registered and supplied the ten dollar (\$10) biennial registration fee prior to the time of the bid opening. At the time of the bid opening, all bids received by vendors who have failed to become registered vendors shall be rejected. ()

402. CHANGES TO VENDOR REGISTRATION.

At any time, by simple written communications to the Division, a registered vendor may add or delete general classes of property which the vendor would sell or supply to the state. ()

403. VERIFICATION OF REGISTRATION.

The internal procedure to be followed in verification of registered vendors at the bid opening time is as follows: Check the vendor's name against the alphabetical listing of registered vendors and verify that the vendor's name appears. ()

404. AVAILABILITY OF VENDOR REGISTRATION LIST.

The vendor registration system shall be automated and will be updated no less frequently than once per month. The system will be reproduced both by vendor name and commodity category. Copies of the system shall be available to various state agencies on a cost basis. All agencies under the jurisdiction of the Division are required to use the official centralized vendor registration system data. ()

405. MULTIPLE REGISTRATION LISTINGS.

Vendors wishing to be registered vendors, using identical names, but different address and telephone numbers, shall be allowed to register the different addresses and telephone numbers. A separate ten dollar (\$10) biennial fee and vendor registration form will be required for each additional location. ()

406. INCOMPLETE REGISTRATION.

Vendor Registration Packets that are received in an incomplete manner shall be returned to the vendor. An incomplete vendor registration application shall be interpreted as not meeting the registration requirements, and the company submitting it shall not be a registered vendor. ()

407. REGISTRATION FEE REQUIRED.

The ten dollar (\$10) biennial registration fee shall be required, together with the vendor registration form, before the vendor's registration is complete. ()

408. REGISTRATION RENEWAL.

A notice of renewal shall be mailed to the registered vendor at least sixty (60) days prior to the expiration date of the vendor's registration. Failure to renew the registration and pay the biennial registration fee shall result in the removal of the vendor from the list of qualified vendors. ()

409. REMOVAL OR SUSPENSION.

01. Removal of Vendors. The Administrator may remove or suspend a vendor from the list of registered vendors for cause. Examples of reasons for removal or suspension include, but are not limited to the following: ()

- a. Violation of the Division's statutes or rules; ()
- b. Unreasonable number of "no bid" responses; ()
- c. Any material failure to perform, e.g., delivery, quality; ()
- d. Any significant detrimental change in supplier status, e.g., financial condition, lines carried, service ability; ()
- e. Unauthorized product substitution, or representation of an alternate as an equal which is not; or ()
- f. Other illegal acts. ()

02. Removal or Suspension Notification. Any vendor so removed or suspended in accordance with these rules shall be notified in writing of the reason(s) therefore, the conditions of any removal or suspension, and/or corrective action required for reinstatement. A vendor shall be notified by registered mail within ten (10) days of removal or suspension and may, within thirty (30) days of the receipt of such notice, request of the Director of the Department of Administration a hearing before a determination officer. Any hearings shall be held in accordance with Chapter 52, Title 67, Idaho Code and these rules. ()

410. REAPPLICATION OR REINSTATEMENT.

If a vendor's application to be placed on the registered vendor list has been refused, or if a vendor has been removed or suspended from such list, that vendor may reapply to be placed on such list, or apply for reinstatement when the conditions for reinstatement have been met. After qualifying again as a registered vendor, the vendor shall be required to submit both a new vendor registration form and a ten (\$10) dollar biennial registration fee. ()

411. -- 699. (RESERVED).

700. ADMINISTRATIVE APPEALS.

01. Authority. Administrative appeals are authorized by Idaho Code Section 67-5733. Section 67-5733 authorizes the challenge to specifications, the appeal of a rejected bid, the appeal of a finding of the lowest responsible bidder, and an appeal of a sole source purchase determination. Only purchase appeals conducted pursuant to Idaho Code Section 67-5733(1)(c)(iii) shall be conducted as a contested case in accordance with the APA. To be effective all appeals shall be made in writing and directed to the appropriate state official. The Administrator also has been granted discretion to request the appointment of a determinations officer. ()

02. Exemption from the Idaho Rules of Administrative Procedure of the Attorney General. Proceedings conducted pursuant to Section 67-5733(1)(c)(ii) are not subject to the Idaho Rules for Administrative Procedure of the Attorney General for contested case proceedings. ()

03. Agencies Exercising Delegated Authority. Any agency which exercises delegated authority from the Administrator of the Division to engage in purchasing activities shall be responsible to provide administrative appeals under the circumstances and to the extent as set forth in Idaho Code Section 67-5733 and these rules. ()

701. -- 999. (RESERVED).

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL
PROPERTY VALUED AT TWENTY-FIVE THOUSAND DOLLARS (\$25,000) OR LESS

DOCKET NO. 39-0345-9601

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: This temporary rule is effective July 1, 1996.

ACTION: The action, under Docket No. 39-0345-9601, concerns the proposed repeal of rules governing the sale of no longer useful or usable real property valued at twenty-five thousand dollars (\$25,000) or less, IDAPA 39, Title 03, Chapter 45, Rules Governing Sale of No Longer Useful or Usable Real Property Valued at Twenty-Five Thousand Dollars (\$25,000) or Less.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section(s) 58-335A, Idaho Code, and any amendments thereto.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

The hearing site(s) will be accessible to the physically disabled. Interpreters for persons with hearing impairments and braille or taped information for persons with visual impairments can be provided upon five (5) days notice. For arrangements contact the undersigned at (208) 334-8804.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the intended rule:

This rule is being repealed in its entirety and replaced by a new rule under Docket No. 39-0345-9602.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Robert Snyder, at (208) 334-8804.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 26th day of June, 1996.

Mary F. Detmar
P.O. Box 7129
Boise, Idaho 83707
Phone/Fax Numbers: (208)334-8804/(208)334-8195

THIS CHAPTER IS REPEALED IN ITS ENTIRETY.

It is being replaced by Docket No. 39-0345-9602

as published in this Bulletin immediately following this notice.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.45 - RULES GOVERNING THE SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY
DOCKET NO. 39-0345-9602
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: This temporary rule is effective July 1, 1996.

ACTION: The action, under Docket No. 39-0345-9602, concerns the temporary and proposed adoption of rules governing the sale of no longer useful or usable real property, IDAPA 39, Title 03, Chapter 45, Rules Governing the Sale of No Longer Useful or Usable Real Property.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule and has proposed rule-making. The action is authorized pursuant to Section(s) 58-335A, Idaho Code. Temporary rule will be effective July 1, 1996 (to remain in effect through the last day of the next legislative session).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed rule-making will be held as follows:

Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. The request must be made within fourteen (14) days of the date of publication of this notice in the Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

The hearing site(s) will be accessible to the physically disabled. Interpreters for persons with hearing impairments and braille or taped information for persons with visual impairments can be provided upon five (5) days notice. For arrangements contact the undersigned at (208) 334-8804.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the intended temporary and proposed rule:

This rule reflects new legislation which gives the Department sole authority to dispose of its surplus real property regardless of value. This rule also provides for the notification of other potentially interested tax supported agencies.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Robert Snyder, at (208) 334-8579.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before August 28, 1996.

DATED this 26th day of June, 1996.

Mary F. Detmar
P.O. Box 7129
Boise, Idaho 83707
Phone/Fax Numbers: (208)334-8804/(208)334-8195

TEXT OF DOCKET NO. 39-0345-9602

IDAPA 39
TITLE 03
Chapter 45

**39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL
OR USABLE REAL PROPERTY**

000. LEGAL AUTHORITY.

The Idaho Transportation Board promulgates this rule by authority of Section 58-335A Idaho Code. (7-1-96)T

001. TITLE AND SCOPE.

This rule establishes a process for selling no longer useful or usable real property under the ownership and control of the Idaho Transportation Department. (7-1-96)T

002. -- 009. (RESERVED).

010. DEFINITION.

01. Surplus Real Property. Real property and the improvements thereon under the ownership and control of the Idaho Transportation Department outside the right-of-way limits which the Chief of Highway Operations declares no longer useful or usable by the department. (7-1-96)T

02. Real Property. Real property and improvements within the Right-of-Way limits (7-1-96)T

03. Appraisal. An opinion of value formulated by a licensed Appraiser (7-1-96)T

04. Surplus Property Value Estimate. An estimate of value for surplus real properties valued at ten thousand dollars (\$10,000) or less formulated by the Idaho Transportation Department or its agents. (7-1-96)T

05. Public Sale. Public auction or sealed bid (7-1-96)T

06. Administrative Fee. A fee determined by the Department to include direct sale expenses (7-1-96)T

07. Department. Idaho Transportation Department. (7-1-96)T

08. District. Individually or collectively the jurisdictional areas of the department. (7-1-96)T

09. Agent. Any individual, firm, partnership, or corporation that has contracted with the Department to express an opinion of value on surplus real property owned by the Department. (7-1-96)T

011. -- 099. (RESERVED).

100. LIMITATIONS.

This rule shall not apply to office and maintenance yard sites regardless of value. (7-1-96)T

101. -- 199. (RESERVED).

200. COVERED PROPERTY.

Based upon recommendations by the District Engineer and concurrence of the Materials, Planning, Maintenance, Traffic and/or interested headquarter sections, property no longer useful or usable for the needs of the Department is recommended for disposal. (7-1-96)T

201. -- 299. (RESERVED).

300. TRADES.

The department is authorized to exchange surplus real property for other parcels of real property. In exchanging real properties, both parcels will be appraised, and either the owner or the department shall pay to the other the difference in value. The appraisal amount shall only establish the minimum amount the department may seek for its property.

(7-1-96)T

301. METHOD OF SALE FOR PROPERTY VALUED LESS THAN TEN THOUSAND DOLLARS (\$10,000).

The department shall offer the property for sale at an amount not less than the Surplus Property Value Estimate. The property shall first be offered to all adjoining property owners. If more than one adjoining property owner is interested in the property, a private auction will be held between the adjacent owners. If the property is not purchased by an adjacent owner, it shall be offered at public sale. The sales price shall include an administrative fee. Term sales of up to five (5) years may be offered at the discretion of the department.

(7-1-96)T

302. METHOD OF SALE FOR PROPERTY VALUED AT TEN THOUSAND DOLLARS (\$10,000) OR GREATER.

The department shall first offer the property at the appraised price to the following: State Agencies, County and City where the property is located, the Highway District in which the property is located. The state agencies are given first priority to purchase the property, county second, city third and Highway District fourth. If none of the above public agencies purchase the property, it will be offered at public sale. The sales price shall include an administrative fee. Term sales of up to twenty (20) years may be offered at the discretion of the department.

(7-1-96)T

303. -- 399. (RESERVED).

400. MINIMUM VALUE.

All property regardless of the Surplus Property Valuation shall have a minimum value of five hundred dollars (\$500). This amount may be waived if justification is provided by the District requesting disposition.

(7-1-96)T

401. -- 499. (RESERVED).

500. PAYMENTS.

All payments will be made to the Department.

(7-1-96)T

501. -- 599. (RESERVED).

600. ISSUANCE OF DEEDS.

The Department's Director will execute the appropriate documents transferring ownership within thirty (30) days of the date of sale or upon clearance of all receipts of sale.

(7-1-96)T

601. -- 999. (RESERVED).

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