

IDAHO ADMINISTRATIVE BULLETIN

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September 4, 1996

Volume 96-9

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THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-03

ESTABLISH THE CAPITOL MALL AREA AS A WEAPON FREE ZONE

WHEREAS, the protection of elected officials and employees of state government from the potential threat of weapons in the work environment is a vital concern; and

WHEREAS, it is in the best interests of state officials, employees and the general public, and the efficient and safe operation of state government, to ensure the highest level of safety in the Capitol Mall Area; and

WHEREAS, there is currently no restriction on the possession of weapons in the Capitol Mall Area; and

WHEREAS, allowing state elected officials and peace officers the ability to continue to carry a weapon in the Capitol Mall Area is necessary for the protection of the elected officials, state employees, and the general public;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the state of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

1. Unless expressly exempted below, possession of a weapon in the Capitol Mall Area by any individual at any time is expressly prohibited.
2. The following individuals are exempt from this Executive Order:
 - a. State Elected Officials;
 - b. Peace officers as defined in Idaho Code Section 19-5101;
 - c. Criminal investigators of the attorney general's office or a county prosecuting attorney's office; and
 - d. Individuals or organizations displaying weapons as part of a historical or cultural presentation who have received written permission from the Office of the Governor.
3. The term "weapon" means: (1) any type of firearm or (2) any knife or similar object which has a blade in excess of six (6) inches in length.
4. "Capitol Mall Area" means: the Statehouse, Joe R. Williams Building (700 West State Street); Len B. Jordan Building (650 West State Street); State Parking Garage (550 West State Street) and the Towers Building (450 West State Street), including all underground tunnels which provide a walkway between these buldings.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capital, the eighth day of February, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-04

TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT

WHEREAS, due to severe flooding in parts of the state of Idaho, the Office of the Governor, by virtue of the authority vested in me by Idaho Code Sections 46-601 and 46-1008, issued proclamation on the seventh, eighth and thirteenth days of February, 1996, declaring that states of extreme and disaster emergencies existed in the counties of Benewah, Clearwater, Kootenai, Latah, Nez Perce, Boundary, Bonner, Lewis, Shoshone and Idaho, including the Nez Perce Indian Reservation; and

WHEREAS, tremendous obligations and expenses have been and will be incurred by various departments and agencies of the state of Idaho in responding to assisting in efforts to deal with the extreme flooding emergency; and

WHEREAS, all funds in the Disaster Emergency Account created by Idaho Code Section 46-1005A have been expended; and

WHEREAS, no funds in the general account are available to transfer to the Disaster Emergency Account under the requirements set forth in Idaho Code Section 46-1005A(2)(b); and

WHEREAS, the Budget Reserve Fund #0150 and the Water Pollution Control Fund #0200 are eligible under Idaho Code Section 46-1005A(2)(c) to have moneys transferred from such funds to the Disaster Emergency Account to pay obligations and expenses incurred by the state of Idaho in dealing with the flooding emergency; and

WHEREAS, it is my judgement, as Governor of the state of Idaho, that any moneys transferred from the Budget Reserve Fund and the Water Pollution Control Fund up to the limits provided below would not be required to support the current year's appropriation of these funds;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the state of Idaho, by virtue of the authority vested in me by Section 46-1005A of the Idaho Code do hereby order as follows:

1. The state controller is directed to transfer moneys in the Budget Reserve Fund and/or the Water Pollution Control Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than five (5) million dollars be transferred from the Budget Reserve Fund and/or the Water Pollution Control Fund to the Disaster Emergency Account during the current fiscal year.
2. In no event may the revenues made available under this executive order exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account moneys for the fiscal year.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capital, the twenty-second day of February, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-05

CONTINUATION OF THE DESIGNATION OF THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR AS THE RECIPIENT OF FEDERAL FUNDS FOR PUBLIC TRANSPORTATION, REPEALING AND REPLACING EXECUTIVE ORDER NO. 92-03

WHEREAS, the federal government, under authority granted by the Federal Transit Act, as amended, is authorized to provide financial assistance to states to improve public transportation; and

WHEREAS, such aid has been offered to Idaho; and

WHEREAS, it is necessary that an agency of the State of Idaho be designated and authorized to receive and expend such financial assistance; and

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby continue the designation of the Idaho Transportation Department and its Director to receive and expend monies from the federal government for public transportation assistance as provided under the applicable federal statutes.

This Executive Order repeals and replaces Executive Order No. 92-03.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-eighth Day of March in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-06

**IDAHO COMMISSION FOR NATIONAL AND COMMUNITY SERVICE,
REPEALING AND REPLACING EXECUTIVE ORDER NO. 94-02**

WHEREAS, there is a compelling need for more civic participation to solve community and state problems and to address many unmet social, environmental, educational and public safety needs; and

WHEREAS, promoting the capability of Idaho's people, communities, and enterprises to work together is vital to the long-term prosperity of this state; and

WHEREAS, building and encouraging community service is an integral part of the state's future well-being, and requires cooperative efforts by the public and private sectors; and

WHEREAS, the development of a National Service Program in Idaho requires an administrative vehicle conforming with federal guidelines as set forth in the recently enacted National and Community Service Trust Act of 1993;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

1. *The Idaho Commission for National and Community Service ("Commission") is hereby established to advise and assist in the development and implementation of a comprehensive, statewide plan for promoting volunteer involvement and citizen participation in Idaho, as well as to serve as the state's liaison to national state and community organizations which support the intent of the National and Community Service Trust Act of 1993 ("the Act").*
2. *The Commission will be composed of no fewer than 15 and no more than 25 voting members to be appointed by the Governor in compliance with federal guidelines as described in the Act of 1993 and as detailed below:*
 - a) *The Commission's membership will include a representative of a community-based agency or organization in the state; the head of the State education agency or his or her designee; a representative of local government in the State; a representative of local labor organizations in the State; a representative of business; an individual between the ages of sixteen (16) and twenty-five (25), inclusive, who is a participant or supervisor of a service program for school-age youth or of a campus-based or national service program; a representative of a national service program; and individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth; and an individual with experience in promoting the involvement of older adults (age 55 and older) in service and volunteerism. The Corporation for National and Community Service ("Corporation") will designate one of its employees to serve as an ex officio member on the Commission. Other members may include: educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental, or public safety services; representatives of Indian tribes; out-of-school youth or at-risk youth; and representatives of programs that are administered or receive assistance under the Domestic Volunteer Service Act.*
 - b) *Not more than twenty-five (25) percent of the Commission members may be employees of state government, though the Governor may appoint additional state agency representatives to sit on the Commission as non-voting ex officio members. Members may not vote on issues affecting organizations for which they have served as a staff person or as a volunteer at any time during the preceding twelve (12) months.*

- c) *Not more than fifty (50) percent of the Commission plus one member may be from the same political party. To the maximum extent practicable, membership of the state Commission shall be diverse with respect to race, ethnicity, age, gender and disability characteristics. Members will serve for a term of three years. One-third of the appointments to the first Commission will serve terms of one year; and one-third will serve terms of two years; one-third will serve terms of three years. Vacancies among the members shall be filled by an appointment by the Governor to serve for the remainder of the unexpired term.*
 - d) *The Commission will elect from among its members a chairperson.*
 - e) *The Governor will appoint one individual who is not a member of the Commission to serve at his pleasure as administrator of the Commission.*
3. *The Commission will have the following duties and responsibilities:*
- a) *To develop a three-year comprehensive national and community service plan and establishment of state priorities;*
 - b) *To administer a competitive process to select national service programs to be included in any application to the Corporation for National and Community Service for funding;*
 - c) *To prepare an application to the Corporation to receive funding and/or educational awards for the programs designated in the Act;*
 - d) *To assist the State education agency in preparing the application for subtitle B school-based service learning programs;*
 - e) *To administer the grants awarded pursuant to the Act and to oversee and monitor the performance and progress of funded programs;*
 - f) *To implement, in conjunction with the Corporation, comprehensive, non-duplicative evaluation and monitoring systems;*
 - g) *To assist in the development of programs pursuant to the Act;*
 - h) *To develop mechanisms for recruitment and placement of people interested in participating in national service programs;*
 - i) *To assist in the provision of health and child care benefits to eligible program participants as specified by regulations pertaining to this Act;*
 - j) *To make recommendations to the Corporation with respect to priorities within the State for programs receiving assistance pursuant to the Act;*
 - k) *To coordinate with other state agencies that administer Federal financial assistance programs under the Community Service Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs;*
 - l) *To coordinate its functions with any division of ACTION or the Corporation, that carries out volunteer service programs in the state; and*
 - m) *Other activities as necessary to further the development and implementation of programs which enhance national and community service.*
4. *The Idaho Department of Correction shall serve as the host agency for administration of the Commission, and, as is deemed appropriate by the Governor, additional support may be requested from the Departments of Employment, Education, Commerce, Health and Welfare, the Division of Vocational Education and the*

Office of the State Board of Education.

5. *The Commission and its activities shall be funded from federal, state and other revenues appropriated to the Idaho Commission on National and Community Service. The Commission is authorized to accept funds and in-kind services from other state and private entities.*
6. *The Commission shall meet at least quarterly. Failure to attend at least seventy-five (75) percent of the meetings in any calendar year shall result in removal from the Commission. A quorum shall consist of a simple majority of voting members.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-ninth day of March in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-07

COOPERATIVE ENGINEERING SUPPORT STAFF

WHEREAS, the State Board of Education and Board of Regents of the University of Idaho have transferred the administrative responsibility for the Boise Engineering Program from the University of Idaho to Boise State University effective July 1, 1996; and

WHEREAS, in connection with such transfer, the State Board of Education directed Boise State University to attempt to accommodate any displaced University of Idaho employees; and

WHEREAS, Boise State University cannot transfer the University of Idaho's Engineering program clerical, non-exempt employees to Boise State University classified employment except under IDAPA 28.01.040 and therefore cannot comply with the State Board of Education's directive without the aid of an executive order;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

1. That the non-exempt employees of the University of Idaho, currently employed by the Cooperative Engineering Program in Boise, Idaho, be considered as falling within and becoming subject to the provisions of Chapter 53, Title 67, Idaho Code as of July 1, 1996; and
2. That the non-exempt employees of the University of Idaho, currently employed by the Cooperative Engineering Program in Boise, Idaho, be considered as falling within and becoming subject to the provisions of Chapter 53, Title 67, Idaho Code prior to July 1, 1996, only for the purpose of transferring to a vacant comparable position at Boise State University.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this eleventh day of April in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-08

CREATING THE GOVERNOR'S MEDICAID REFORM ADVISORY COUNCIL

WHEREAS, there is concern at both state and federal levels over growth in Medicaid spending, leading Congress to consider how it will attempt to control Medicaid expenditures; and

WHEREAS a state study of possible changes in eligibility for, services provided by, or reimbursement rates for, the Medicaid program is an important part of on-going program evaluation in Idaho and a way to involve the general public in decisions about the future of Medicaid; and

WHEREAS any discussion of the future of Idaho's Medicaid program must include reference to related issues such as federal funding, restrictions, and requirements; welfare reform; the role of both the public and private sectors in providing and purchasing health care services, including preventive care services; individual rights and responsibilities; the impact of changes in Medicaid on services for or payments on behalf of Idaho's eligible indigent population; and topics such as managed care, prioritization of services, co-payments, and similar matters; and

WHEREAS Idaho must be prepared to assume greater responsibility for ensuring that her citizens have access to quality health care should Congress pass this obligation on to the states, and should in any event examine its own range of medical assistance programs for eligible Idahoans to make certain state revenues dedicated to health care programs are used as prudently and effectively as possible;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby establish the Governor's Medicaid Reform Advisory Council, as follows:

I. PURPOSE

A. The Governor's Medicaid Reform Advisory Council will:

- *Educate itself about Idaho's participation in the federal-state medical assistance program known as Medicaid, including, to the extent possible, what changes will be necessary in Idaho's program to comply with any revisions to the federal program or any alterations in the current method of funding Medicaid;*
- *Evaluate a variety of options, including but not limited to managed care, cost-containment, co-payments, service prioritization, privatization, funding mechanisms, changes in eligibility criteria, licensing and certification standards for providers and facilities, cost-sharing opportunities, purchasing reforms, and preventive care services, to ensure that Idaho's medical assistance program is cost-effective, responsive to the needs of Idaho's citizens, and well managed; and*
- *Prepare a final report of recommendations on how, if necessary, Idaho's medical assistance program should be reorganized or administered to comply with changes in federal requirements for this program, and on what changes Idaho can make, either by statute or through the rules process, to ensure the viability of its medical assistance program. This report should be completed no later than December of 1996, with relevant proposals prepared for submission to the Idaho Legislature in 1997 or, if waiver requests should be necessary, for submission to the U.S. Department of Health and Human Services.*

B. In performing its responsibilities, the Advisory Council will:

- *Focus on the Medicaid program as set forth in Title 56, Chapter 2, Idaho Code, and on any revisions to the program enacted by Congress and signed into law during the course of the study;*
- *Consider in its discussions the impact any changes to Idaho's Medicaid program will have on*

current efforts to provide health care to the state's eligible indigent population;

- *Solicit ideas and suggestions from a variety of sources, including recipients, providers, advocates, community leaders, program staff at both the state and federal levels, and the general public; and*
- *Incorporate into its review process opinions from qualified advisors who can ensure that topics are thoroughly analyzed and discussed.*

II. COMPOSITION AND STAFFING

- A. *The Governor's Medicaid Reform Advisory Council will be composed of no more than 18 members, each of whom will be appointed by the Governor and will serve at his pleasure. Six members will be selected from the Idaho Legislature.*
- B. *The Department of Health and Welfare will provide staff and administrative support to the council.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this sixteenth day of April in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-09

**CREATING AN INTERIM COUNCIL TO ESTABLISH THE PROCEDURES AND CRITERIA
FOR THE WORKFORCE DEVELOPMENT TRAINING FUND**

WHEREAS, Section 71-1347B, Idaho Code, establishes a Workforce Development Training Fund; and

WHEREAS, the Governor is to appoint a Council to establish procedures, criteria and performance measures for expenditures from the Workforce Development Training Fund;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

- 1. An interim Workforce Development Training Fund Council ("the Council") shall be established;*
- 2. The Council shall serve until December 31, 1996, and shall establish the procedures, criteria and performance measures for expenditures from the Workforce Development Training Fund;*
- 3. The Council shall be jointly staffed by the Idaho Department of Commerce and the Idaho Department of Labor in consultation with the Division of Vocational Education;*
- 4. The Council shall consist of not more than seven (7) members, representing business and labor, appointed by the Governor.*

This Executive Order shall be in effect until December 31, 1996.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this sixth day of May in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

*PHILIP E. BATT
GOVERNOR*

*PETE T. CENARRUSA
SECRETARY OF STATE*

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-10

**CONTINUING PROVISIONS FOR STATE COOPERATION WITH THE FEDERAL INSURANCE
ADMINISTRATION UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968, AS AMENDED,
REPEALING AND REPLACING EXECUTIVE ORDER NO. 92-06**

WHEREAS, uneconomic uses of the state's floodplains have occurred and potential flood losses have increased despite substantial efforts to control floods; and

WHEREAS, national, state, and local studies of areas and property subject to flooding predict increases in flood damage potential and flood losses, despite continuing investment in flood protection structures; and

WHEREAS, the State of Idaho maintains programs for the construction of buildings, roads, and other facilities and annually acquires and disposes of lands in flood hazard areas, significantly influencing patterns of commercial, residential, and industrial development; and

WHEREAS, the availability of flood insurance under the National Flood Insurance Program, as provided by the National Flood Insurance Act of 1968, as amended, is dependent upon state coordination of federal, state, and local activities to manage floodplains, mudslide (i.e., mudflow) areas, and flood-related erosion areas in the state; and

WHEREAS, the Department of Water Resources is the state agency responsible for assisting with local regulations necessary for flood insurance provided by the National Flood Insurance Act of 1968 and regulations set forth in 44 CFR §60.25; and

WHEREAS, the Federal Insurance Administration has promulgated and adopted rules and regulations governing eligibility of state and local communities to participate in the National Flood Insurance Program, which participation depends on state coordination of federal, state, and local activities to manage floodplains, mudslide (i.e. mudflow) areas, and flood-related erosion areas in the state;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

- 1. The Department of Water Resources is hereby designated to assist in the implementation of 44 CFR §60.25, Rules and Regulations of the Federal Insurance Administration and will encourage a broad and unified effort to prevent uneconomic use and development of the state's floodplains and, in particular, to lessen the risk of flood losses in connection with state lands and installation and state-financed or supported improvement, specifically as follows:*
- 2. Under the leadership and direction of the Department of Administration, all state agencies directly responsible for the construction of buildings, structures, roads, or other facilities shall preclude the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities; in the event of construction in the floodplain, management criteria set forth in 44 CFR §60.3, 60.4, and 60.5 of the National Flood Insurance Regulations shall apply; flood-proofing measures shall be applied to existing facilities in order to reduce flood damage potential;*
- 3. All state agencies responsible for the administration of grant or loan programs involving the construction of building, structures, roads, or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future state expenditures for flood protection and flood disaster relief, shall preclude the uneconomic, hazardous, or unnecessary use of floodplains in such connection;*
- 4. All state agencies responsible for the disposal of lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to other public instrumentalities or private interests and, in order to minimize future state expenditures for flood protection and flood disaster relief,*

- shall notify those instrumentalities and private interests that such hazards exist;*
5. *All state agencies responsible for programs which affect land use planning, including state permit programs, shall take flood hazards into account when evaluating plans and shall encourage land use appropriate to the degree of hazard involved; and*
 6. *In evaluating flood hazard potential, all state agencies shall coordinate their work with the Department of Water Resources to assure that the most up-to-date data and/or methods of analysis are utilized.*
 7. *As may be permitted by law, the head of each state agency shall issue appropriate rules and regulations to govern the carrying out of the provisions of Section 1 of this order by his agency to be coordinated with the Department of Administration.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this ninth day of May in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-11

**CONTINUATION OF THE ENERGY RESOURCES DIVISION
OF THE IDAHO DEPARTMENT OF WATER RESOURCES
REPEALING AND REPLACING 92-04**

WHEREAS, energy and the availability of long-range supplies are critical to the well-being of our state; and

WHEREAS, energy is a vital natural resource and is inextricably linked to our vital water resources; and

WHEREAS, it is the responsibility of state government to employ measures to reduce wasteful, uneconomical, and unnecessary uses of energy which will diminish Idaho's precious natural resources; and

WHEREAS, the consolidation of governmental activities relating to water resources and energy has provided for more efficient state services;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby renew Executive Order 92-04, and order the continuation of the Energy Resources Division of the Idaho Department of Water Resources as follows:

1. **TRANSFER AND RETENTION OF FUNCTIONS.** *The Director of the Department of Water Resources, being authorized by Section 42-1706, Idaho Code, to perform professional duties at the request of the Governor, and as otherwise provided by law, is vested with the following energy planning, policy, and coordination functions:*
 - a) *Advise the Governor, the Legislature, and other public officials of the state's energy requirements, supply, resources, management, and production;*
 - b) *Prepare and, as necessary, implement contingency plans for the conservation and allocation of energy supplies not regulated by the state during periods of shortages and supply interruptions;*
 - c) *Promote energy conservation through research, public information, and other activities;*
 - d) *Promote the increased utilization of renewable energy resources through research, technical assistance, and public information;*
 - e) *Assist local governments, school districts, and public institutions in obtaining funds and carrying out programs of improved energy management;*
 - f) *Assist citizens in developing energy-efficient technologies;*
 - g) *Provide public information and data on energy supplies, demands, resources, technologies, and conservation;*
 - h) *Pursue and accept federal delegation of responsibility and authority for matters that affect the energy supply and consumption of the citizens of Idaho other than those matters related to public utilities subject to the jurisdiction of the Idaho Public Utilities Commission;*
 - i) *Enter into agreements and contracts and do all else necessary to carry out the provisions of this Executive Order and in the performance of other duties as may be directed by the Governor;*
 - j) *Serve as the lead state agency to solicit, receive and disburse any funds which promote the conservation of energy and the development of energy resources from all available sources;*
 - k) *Coordinate with other state agencies to assist in the development of plans to reduce energy consumption by the agencies;*
 - l) *Require reports of energy plans and energy consumption from state agencies other than the Idaho Public Utilities Commission.*

2. **SAVINGS PROVISIONS.** *All orders, regulations, contracts, and licenses which have been issued in the performance of functions which are retained under this Executive Order, and which are in effect at the time this Executive Order takes effect, shall continue in effect according to their terms until modified or terminated;*
 - a) *Whenever the Idaho Office of Energy or the Director thereof is referred to in any law, rule,*

- regulation, order, contract, document, judicial or administrative proceeding, or otherwise, the same shall be considered to mean the Department or the Director of the Department of Water Resources;*
- b) *The duties, responsibilities and authority of this Executive Order shall not alter any existing responsibilities, jurisdiction or planning functions of state agencies established by state or federal law; nothing in this Executive Order shall be construed to provide or imply any regulatory authority by the Energy Division of the Department of Water Resources over public utilities that are subject to the jurisdiction of the Idaho Public Utilities Commission.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this ninth day of May in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-12

**CONTINUATION OF THE IDAHO GEOGRAPHIC INFORMATION CENTER
DIRECTED BY THE DEPARTMENT OF WATER RESOURCES,
REPEALING AND REPLACING EXECUTIVE ORDER NO. 92-05**

WHEREAS, the Department of Water Resources has image analysis capability to effectively utilize remote sensing and geographically-referenced data; and

WHEREAS, it is in the best interest of the state of Idaho to continue to share and develop this capability in cooperation with federal resource management agencies, local government, and private organizations for conducting needed resource inventory and mapping; and

WHEREAS, the Department of Water Resources has been designated as the lead state agency to ensure the proper coordination, maintenance, and support of the image analysis and geographic information system capability and to provide for its effective use;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order the continuation of the Idaho Geographic Information Center and direct the Idaho Department of Water Resources to:

1. Provide necessary coordination and technical support;
2. Promote the operational applications of digital image analysis and geographic information systems;
3. Provide systems management support to ensure the proper operation and availability of digital geographically-referenced data for applications by various users;
4. Provide technical assistance, in the form of consultation and training, to allow and encourage application of digital mapping techniques and equipment by employees of other agencies and organizations;
5. Cooperate with, receive, and expend funds from other sources for the continued development and utilization of image analysis geographic information techniques; and
6. Maintain an assessment of the geographic information system and image processing capabilities needed within Idaho by existing and potential users, to cooperate with Idaho universities and other research institutions for the development and implementation of improved capabilities resulting from research activities.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this ninth day of May in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-13

**REESTABLISHING THE OREGON TRAIL COMMITTEE
AS CREATED IN EXECUTIVE ORDER NO. 91-2**

WHEREAS, the Oregon Trail has great historical significance to the State of Idaho; and

*WHEREAS, it is important that Idaho designate a committee to work with other Oregon Trail states;
NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under
the Constitution and laws of this state do hereby reestablish the Oregon Trail Committee as follows:*

1. *The purpose of the Committee shall be to serve as an advisory body to state, local and federal governments on the development and management of the Oregon Trail. The Committee shall:
 - a) *Promote public awareness of the historical significance of the Oregon Trail and encourage the development and protection of historical sites and outdoor recreation resources along the Oregon Trail;*
 - b) *Act in an advisory capacity to other Idaho commissions, bureaus, agencies, and committees by making recommendations regarding the activities and policies that relate to the history and importance of the Oregon Trail; and*
 - c) *Serve as the official liaison with other Oregon Trail states, federal departments, bureaus, and committees concerned with organizing activities to foster state and national recognition of the significance of the Oregon Trail.**
2. *The members of the Committee shall be appointed by the Governor and serve at his pleasure. The membership of the Committee shall include a representative of the Idaho Heritage Trust, a representative of the Idaho Historical Society, a representative of the Idaho Department of Parks and Recreation, and the Governor or his designee, and such other members as appointed by the Governor.*
3. *The Committee shall have regular meetings as determined by the majority of the committee and shall meet on special occasions as requested by the chairperson.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this thirteenth day of May in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-14

ESTABLISHING GUIDELINES FOR CHARITABLE SOLICITATIONS AMONG STATE EMPLOYEES PROVIDED AS A SUPPLEMENT TO EXECUTIVE ORDER 95-01

WHEREAS, state employees desire to improve their communities and have been very generous in contributing to those in need; and

WHEREAS, state employees should have the ability to choose to give to any health and human service tax exempt 501(c)(3) organization;

WHEREAS, it has become necessary to establish specific guidelines for charitable solicitations among state employees to minimize costs to the state and employee administrative involvement;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby establish guidelines for charitable solicitations among state employees as follows:

Section 1. Purpose.

- A. To provide state employees the opportunity to give to charitable agencies with a thorough and equitable understanding of the agencies' charitable purpose.*

Section 2. Goals.

- A. To facilitate charitable giving through an efficient, open process.*
- B. To provide maximum education and information to state employees regarding potential giving.*
- C. To provide efficient campaign processes and techniques to those state employees charged with conducting employee campaigns.*
- D. To ensure that all employees are given an opportunity to give without being pressured by any employee or charity.*

Section 3. Campaign Leadership.

- A. Department heads will be encouraged by the Governor, through normal state activities, to support the State Employees' Campaign. The Governor will ask each Department Head to appoint a Campaign Coordinator for the Department.*
- B. The Campaign Coordinator for each department will provide leadership in planning and completing the State Campaign.*
- C. The Campaign Coordinators will be given campaign assistance and training as described in the "Campaign Administration" section of this document.*

Section 4. Eligibility of Participants and Campaign Material.

- A. State employees will continue to be able to designate to any charitable health and human services agency, federation, program or field of service. All agencies receiving designations must be non-profit, tax-exempt 501(c)(3) organizations.*
- B. Each state employee will receive:
 - 1) An agency neutral pledge form similar to the 1994 state employee pledge card with multiple lines to designate their contributions to the agencies of their choice.*
 - 2) A listing of all United Way agencies, other federations, and other agencies receiving one or more contributions from the State Employees' Campaign over the prior two years. The list will be updated annually and will include 25 word statements on the**

mission of each agency.

Section 5. Communications Committee for the State Employees' Campaign

- A. *A Communications Committee representative of the participating federations and charities will meet at least twice per year to discuss the State Employees' Campaign.*
 - 1) *Two state employee representatives, appointed by the Governor, will be members.*
 - (a) *One representative shall be appointed from the Governor's office.*
 - (b) *One representative shall be an appointed Department Head.*
 - 2) *Each federation listed will be invited to appoint one volunteer and one staff member.*
 - 3) *Unaffiliated listed agencies, as a group, will be invited to appoint one volunteer and one staff member as a Committee representative.*
- B. *The Communications Committee will receive campaign analysis reports from the previous campaign by March 1, and the campaign audit as described in the financial procedures below, as soon as it is available, usually late May or June. Because United Way's audit is an in-kind donation, flexibility in timing is needed.*
- C. *The Communications Committee will coordinate with United Way in the design of the pledge forms, participants' list and the training agenda before they are finalized.*

Section 6. Campaign Administration.

- A. *Campaign Coordinators will be requested by the Governor and chosen by the department heads.*
- B. *Training for Campaign Coordinators will take place in August to ensure they have adequate time to develop a campaign plan, secure Department Head approval, and make necessary arrangements. Because United Way is the campaign facilitator, they will organize the training with the assistance of the Communications Committee.*
- C. *The training will be at a site chosen by the Committee's State Employees' Representatives.*
- D. *All agencies listed on State Employees' Campaign material will be invited to attend training. Time will be given to the Coordinators after the campaign process presentation to visit with any and all agencies individually.*
- E. *All formal presentations will be directed toward campaign techniques and processes, without promoting any one federation or charity.*
- F. *United Way will provide customer service to all those planning campaigns. This will include campaign planning, facilitating, and reporting assistance. All agencies will be listed on a Request for Presentation form to be used by Campaign Coordinators and the Campaign Specialist Administrator to schedule agency speakers and tours. The Campaign Specialist Administrator will schedule presentations for the Campaign Coordinators.*
- G. *Individual charities may not contact Coordinators directly. Direct contact would cause an unmanageable burden on the Coordinator.*

Section 7. Financial Procedures.

- A. *All organizations receiving designations will be subject to a pledge loss fee, based on the loss rate experienced in the prior year by the State Employees' Campaign, and to a campaign administrative fee which shall not exceed 10%. It is intended that the costs for the State Employees' Campaign will be distributed and shared fairly and equitably and in direct relation to the ratio of designations received by each agency/charity to the total designations. The fee will only include United Way expenses directly attributed to this campaign. No fund distribution or community planning expenses will be included.*
- B. *For the 1996 campaign, fund raising expenses are estimated at 10%. This is based on adjusted actual expenses from the 1995 campaign (\$23,896 unaudited). In future years, the annual post campaign audit will provide audited expenses and final campaign figures in order to estimate the percent of expenses for the next year's campaign. The Communications Committee will meet to examine the annual audit and review campaign costs for the purpose of mutually minimizing costs.*
- C. *Designations will be paid quarterly beginning March 30. Agencies receiving designations totaling less than \$1000 will be paid in a single payment in June of each year.*
- D. *Undesignated money will be divided among federations in proportion to their designations. Any*

unaffiliated agency receiving designations in excess of 2% of the State Employees' Campaign will be eligible for undesignated funds. Undesignated funds are those funds that contributors have not designated on their pledge card to a specific agency, federation, program or field of service.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this sixteenth day of May in the year of our and nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-15

REPEALING EXECUTIVE ORDER 96-12

WHEREAS, Executive Order No. 96-12, Continuation of the Idaho Geographic Information Center Directed by the Department of Water Resources, was issued on May 9, 1996 to repeal and replace Executive Order No. 92-05, Renaming the Idaho Image Analysis Facility as the Idaho Geographic Information Center and Continuing Its Functions at the Department of Water Resources; and

WHEREAS, Executive Order No. 92-05 had previously been repealed and replaced by Executive Order No. 92-24, Idaho Geographic Information Advisory Committee and Geographic Information Center; and

WHEREAS, Executive Order No. 96-12 was thus issued in error;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order that Executive Order No. 96-12 be repealed.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this third day of June in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-16

**CONTINUATION OF THE PROHIBITION OF USE OF STATE FUNDS
FOR MEMBERSHIP IN PROFESSIONAL ASSOCIATIONS BY STATE EMPLOYEES,
REPEALING AND REPLACING EXECUTIVE ORDER NO. 92-13**

WHEREAS, there is need for a uniform state policy regarding the payment of professional dues, fees, and memberships for state employees, I find it is prudent to continue the policy for all state employees in the Executive Department that was promulgated by Executive Order No. 81-11;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

No state money shall be used to pay for any kind of professional, occupational, or trade license, certificate, permit, or occupational registration for any state employee or officer; nor shall any state monies be used to pay for any kind of dues to any professional, occupational, or trade association in which membership is restricted to persons who are licensed, certified, or registered under Idaho law. This policy does not preclude the state or state departments from paying dues to organizations relating to their responsibilities in state government.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this fourteenth day of June in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-17

**CONTINUATION OF THE IDAHO COUNCIL FOR PURCHASES
FROM SEVERELY DISABLED PEOPLE
REPEALING AND REPLACING EXECUTIVE ORDER NO. 92-14**

WHEREAS, it is in the public interest to promote employment opportunities for severely disabled people; and

WHEREAS, the rehabilitation facilities of Idaho strive to provide employment opportunities for severely disabled people; and

WHEREAS, the Idaho Code provides for the purchase by the agencies of the State of Idaho of goods and services that are produced by severely disabled people employed by rehabilitation facilities;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order the continuation of the Idaho Council for Purchases from Severely Disabled People, as follows:

- 1) *The Council's responsibilities will be:*
 - *To promote the purchase by state agencies of goods and services produced by severely disabled people in rehabilitation facilities under the auspices of Section 67-2319, Idaho Code;*
 - *To conduct monitoring and study of the implementation of the purchasing program authorized by said Section 67-2319;*
 - *To designate a central non-profit organization to coordinate the participation of rehabilitation facilities in the Idaho purchasing program and develop procedures for such participation;*
 - *To advise the Division of Purchasing on the development and operation of a program to purchase products and services from severely disabled people in rehabilitation facilities; and*
 - *To provide an annual report of activities, products, services, employment opportunities, and other benefits derived from this program.*
- 2) *The Governor shall appoint members of the Council who shall serve at his pleasure. Council members shall be selected from rehabilitation facilities, the Division of Purchasing, the private sector, a labor organization, the Division of Vocational Rehabilitation, and the Division of Community Rehabilitation. The members of the Council shall elect one of their number Chairman.*
- 3) *The Council shall be administratively supported by the Division of Vocational Rehabilitation.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this fourteenth day of June in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twentieth and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-18

**ENERGY CONSERVATION CONSIDERATIONS IN STATE BUILDINGS AND LEASES, REPEALING
AND REPLACING EXECUTIVE ORDER NO. 88-19**

WHEREAS, the efficient use of energy is of prime importance to the economic and energy well-being of the State of Idaho; and

WHEREAS, the State of Idaho uses, in its owned and leased buildings, a considerable portion of the state's energy supply; and

WHEREAS, the state government's ability to control energy use in leased facilities has been minimal, particularly after signing a lease; and

WHEREAS, it is imperative that the state government of Idaho set an example of energy efficiency for owners and operators of public and private buildings;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order that all building designs and lease agreements shall include, where feasible, energy conservation considerations, including:

- 1. Chapter 13 of the Uniform Building Code, 1994 Edition;*
- 2. Use of alternative energy sources;*
- 3. Energy management systems and controls to effectively monitor and maintain systems at optimal operations; and*
- 4. State-of-the-art systems and equipment to conserve energy economically.*

FURTHER, I order that all lease agreements be reviewed in draft form for compliance with these objectives. All parties are to be notified in any such negotiations that failure to comply with these objectives may be sufficient grounds for voiding the lease agreement. I further order that the signing of such agreements include a statement of accountability to the intent of this order so that compliance will be a part of the lease-drafting procedure rather than a source of conflict after a contract has been signed. I further direct the attention of all persons and agencies in all branches of state government to the spirit of this order. Consideration of long-term energy costs, including seasonal and peaking demands upon the suppliers of energy, shall be a major consideration in construction of all state buildings and execution of lease agreements.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-sixth day of July in the year of our Lord nineteen hundred ninety-six and of the Independence of the United States of America the two hundred twenty-first and of the Statehood of Idaho the one hundred seventh.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.03 - RULES GOVERNING ANIMAL INDUSTRY
DOCKET NO. 02-0403-9604
NOTICE OF TEMPORARY AND PROPOSED RULES

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

AUTHORITY: In compliance with Section(s) 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has proposed temporary and proposed rule-making. The action is authorized pursuant to Section 25-207, 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 September 18, 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 the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule: These rules provide authority to require Equine Infectious Anemia (EIA) testing of equidae imported into Idaho, test EIA exposed equidae and identify EIA positive equidae. The rules also provide authority to issue and accept extended validity equine certificates for interstate movement of equidae. The amendments also make grammatical and spelling corrections to existing rules.

The following is the required finding and a concise statement of the supporting reasons for temporary rule-making: The proposed rules will confer a benefit to the equine industry by providing protection against EIA and by providing the ability to use extended validity equine certificates. These amendments will make Idaho rules on equidae compatible with the rules of other western states.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Dr. Bob Hillman or Dr. Phil Mamer at (208) 332-8540.

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 September 25, 1996.

Dated this first day of July, 1996

Mike Everett, Acting Director
Idaho Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500/FAX (208) 334-4623

TEXT OF DOCKET NO. 02-0403-9604

200. EQUIDAE (HORSES, MULES, ASSES) - ~~IMPORT~~-EQUINE INFECTIOUS ANEMIA (EIA).
~~Horses, mules and asses may be transported or moved into the state of Idaho without an accompanying health certificate if apparently healthy.~~ (9-6-61)(7-1-96)T

01. Official EIA Tests. Official tests for EIA shall include the AGID test, the C-ELISA test and other EIA tests approved by USDA or the Bureau of Animal Health. (7-1-96)T

a. Equine blood samples collected for official EIA tests shall be collected by a state or federal animal health official or a veterinarian who is licensed in the state in which the animal being tested is located. (7-1-96)T

b. Official EIA test samples shall be accompanied to the testing laboratory by an official EIA test

report on which is recorded the name and address of the owner or person in charge of the animal, the breed, sex, age and identification of the animal being tested. Identification shall include identifying tattoos, brands, color and distinctive markings. The veterinarian or animal health official collecting the EIA test samples shall record the date the samples were collected and affix his signature to the official EIA test report. (7-1-96)T

c. Official EIA tests shall be conducted in a laboratory approved by USDA or the state of Idaho to conduct EIA tests. (7-1-96)T

02. EIA Is A Reportable Disease. All laboratories conducting EIA tests on Idaho origin equids and all veterinarians who diagnose EIA in Idaho equids shall report positive results of all EIA tests and diagnoses to the Bureau of Animal Health within twenty-four (24) hours of such test or diagnosis. Negative test results shall be reported within forty-eight (48) hours. (7-1-96)T

03. EIA Test Positive Animals Declared To Be Infected. Any equid which is positive to an official EIA test shall be declared to be infected with EIA and shall be designated as an EIA reactor. The Bureau of Animal Health may require or recommend a re-test of EIA reactors in order to confirm infection or identification of the animal. In cases where a confirmatory test is conducted, the final determination of infection will be delayed until the results of the confirmatory test are available. The animal on which a confirmatory test is to be conducted shall be placed under an official hold order until the results of the confirmatory test are available. (7-1-96)T

04. Disposition of EIA Reactors. Equids found to be infected with EIA shall be: (7-1-96)T

a. Quarantined to the premise where the animal was found to be infected, the owner's premise, or another premise that is approved by the Bureau of Animal Health. (7-1-96)T

b. The infected animal shall remain under quarantine until it is: (7-1-96)T

i. Consigned to slaughter at a USDA approved equine slaughter establishment, or, (7-1-96)T

ii. Euthanized and buried or incinerated, or, (7-1-96)T

iii. Donated to a university or other research facility for use in EIA research projects. (7-1-96)T

05. Isolation of EIA Reactors In Quarantine. The quarantine premise or area for EIA reactors shall provide no less than two-hundred (200) yards separation from all other equids. The quarantine area and quarantined animals therein may be monitored periodically by representatives of the Bureau of Animal Health to ensure that provisions of the quarantine are being met. (7-1-96)T

06. Identification of EIA Reactors. All equids found to be infected with EIA shall be identified with an "82 A" brand on the left neck or left shoulder of the animal. Identification as an EIA reactor shall be accomplished within fifteen (15) days of notification that the animal is infected with EIA. The "82 A" brand shall be at least two (2) inches high and may be either a hot iron brand or a freeze brand. (7-1-96)T

07. Testing of Exposed Equids. EIA exposed equids shall include all equids that are held, for at least seven (7) days, within two-hundred (200) yards of the location where an EIA reactor is or was maintained. (7-1-96)T

a. Exposed equids shall be placed under a hold order until the animals have been tested negative to EIA at least forty-five (45) days after the last reactor animal has been removed from the premise. Individual exposed equids, which have not had a negative forty-five (45) day test, may be allowed to move under hold order for specific purposes if they have a negative EIA test prior to movement. Such movement shall not be for longer than fifteen (15) days. (7-1-96)T

08. Findings and Effective Date. The amendments to IDAPA 02.04.03.200 confer a benefit to the equine industry by protecting the equine industry against Equine Infectious Anemia. (7-1-96)T

201. EXTENDED VALIDITY EQUINE CERTIFICATES.

Provided there is a written agreement between the Bureau of Animal Health and the chief livestock sanitary official of

the state of destination, Idaho origin equids may be moved from Idaho for shows, rides or other equine events and return on an extended validity equine certificate under a state system of equine certification acceptable to the Bureau of Animal Health and the state of destination. The Bureau of Animal Health may authorize the movement of equidae into or out of Idaho on extended validity equine certificates under the following conditions: (7-1-96)T

01. Limitations of Certificate. The movement does not involve the sale or change of ownership of the equid, animal breeding activities or movements that involve stays of longer than ninety (90) days. Movements for these purposes shall be accompanied by a certificate of veterinary inspection. (7-1-96)T

02. Purpose of Certificate. The movement involves short term travel to or from the state of Idaho for participation in equine activities, including but not limited to, participation in equine events, shows, rodeos, ropings, trail rides and search and rescue activities. (7-1-96)T

03. Completion, Reporting, and Approval of Certificate. The extended validity equine certificate is properly completed, the required tests and certifications are recorded on the certificate and a copy of the completed certificate is submitted to and approved by the Bureau of Animal Health. (7-1-96)T

04. Certificate Validity. Extended validity equine certificates shall be valid for no longer than six (6) months from the date the EIA sample is collected, if an EIA test is required, or six (6) months from the date of inspection if no EIA test is required. (7-1-96)T

05. Reporting Itinerary. The recipients of extended validity equine certificates shall be required to submit a travel itinerary to the Bureau of Animal Health within ten (10) working days following the date of expiration of the certificate. The travel itinerary shall include a listing of all travel, including dates, purpose and destinations of travel, that the equid has made out of the state of Idaho during the validity of the certificate. (7-1-96)T

06. Cancellation of Certificate. The Bureau of Animal Health may cancel any extended validity equine certificate in the event of serious or emergency disease situations or for certificate holders' failure to comply with the rules which apply to such certificates. Cancellation of the certificates may be accomplished by written or verbal notice to certificate holders. Verbal notice shall be confirmed by written notice. The canceled certificate will become invalid on the date and at the time of notification. (7-1-96)T

07. Findings and Effective Date. This new section, IDAPA 02.04.03.201, confers a benefit to the equine industry by providing a reasonable, effective mechanism for interstate movement of equidae among the states of the region. (7-1-96)T

~~2012.~~ -- 204. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

210. LAWS AND REGULATIONS GOVERNING THE ANIMALS ENTERING THE STATE OF IDAHO. Definitions of terms used herein. For the purpose of this chapter the following words and phrases shall have the following meaning: (12-10-84)

- 01. Definitions. (6-1-94)
 - a. Cattle. Shall mean any bovine of dairy or beef breeding. This definition shall include bison. (12-10-84)
 - b. Feeder Animals. Animals to be fed for slaughter only. (12-10-84)
 - c. Slaughter Animals. Animals of any kind for immediate slaughter, or those consigned for slaughter within fourteen (14) days of date of shipment. (12-10-84)
 - d. Animals. The term includes horses, mules and asses, cattle, sheep, goats, swine, dogs, cats, poultry,

- rodents, game animals, bison, domestic fur bearing animals, and birds. (12-10-84)
- e. Livestock. Shall mean cattle, swine, horses, mules and/or asses. (12-10-84)
 - f. Poultry. The term shall mean chickens, turkeys, ducks, geese, guinea fowl, pigeons and pheasants (domestic fowls). (12-10-84)
 - g. Official Calfhooed Vaccinate: (12-10-84)
 - i. Female cattle of any breed or female bison vaccinated while from four (4) months to twelve (12) months of age one-hundred twenty (120) through three-hundred sixty-five (365) days) with a reduced dose of Strain 19 vaccine, or female cattle of any breed or female bison vaccinated with an approved dose of Brucella Abortus Strain RB-51 or other approved Brucellosis vaccine, by an approved official of the state of origin. (4-4-96)T
 - ii. Female cattle which were officially calfhooed vaccinated in accordance with previous provisions set forth by the UM&R shall be declared official calfhooed vaccinates. (12-10-84)
 - iii. Evidence of vaccination shall be an official tattoo in the right ear of the animal. Tattoo symbols must be clearly legible to the naked eye in ordinary daylight without use of artificial light or other aids. Retattooing or reidentification of official vaccinates is acceptable for entry into Idaho, provided a permit is obtained from the Bureau of Animal Health for importation of the retattooed animals. (4-4-96)T
 - h. Brucellosis Test Eligible Cattle. (12-10-84)
 - i. Officially Strain 19 vaccinated female cattle of dairy breeds which are over twenty (20) months of age. (4-4-96)T
 - ii. Officially Strain 19 vaccinated female cattle of beef breeds which are over twenty-four (24) months of age and officially Strain 19 vaccinated female bison which are over twenty-four (24) months of age. (4-4-96)T
 - iii. Officially Strain 19 vaccinated females of dairy breeds which are under twenty (20) months of age if parturient or post parturient. (4-4-96)T
 - iv. Officially Strain 19 vaccinated females of beef breeds or bison which are under twenty-four (24) months of age if parturient or post parturient. (4-4-96)T
 - v. Intact males of beef or dairy breed or bison which are over eighteen (18) months of age. (4-4-96)T
 - i. Non-Vaccinated Animals. Non-vaccinated female cattle or bison shall not be imported into Idaho except as provided for in the following rules: (12-10-84)
 - i. Findings and effective date. The amendments to Section 210 will confer a benefit to the cattle industry by making a markedly improved vaccine, RB-51, available to protect cattle and bison from brucellosis. The amendments bring Idaho into compliance with USDA recommendations for use of the new vaccine. (4-4-96)T
02. Official Health Certificate (Certificate of Veterinary Inspection). Other Official Certificate ~~of~~ or Permit Required. For the purposes of IDAPA 02.04.03.210, a Health Certificate and a Certificate of Veterinary Inspection are equivalent. (7-1-93)(7-1-96)T
- a. Health Certificate of Veterinary Inspection. Other Approved Certificate or Permit. Unless otherwise specifically provided in the rules of this chapter, all animals transported or moved into the state of Idaho shall be accompanied by an official ~~health~~ health certificate of veterinary inspection, other approved certificate, or a permit, or both a certificate and a permit, which shall be attached to the waybill or be in the possession of the driver of the vehicle or person in charge of the animals. (7-1-93)(7-1-96)T
 - b. When Permits Are Needed, Etc. (7-1-93)

- i. Permits are required on all cattle of dairy breeds from Class Free, A, B, and C states. (7-1-93)
- ii. Permits are required on cattle from Class B and C states and scabies-infested states. (7-1-93)
- iii. Permits are required on all beef breeding bulls from Class Free, A, B and C states. (7-1-93)
- iv. Permits are required on any livestock not meeting Idaho requirements. (7-1-93)
- v. Permits are required for all sheep entering the state of Idaho. (7-1-93)
- vi. Permits are required on all swine entering the state of Idaho except swine consigned directly to a recognized slaughter establishment and swine from stage IV or V states/areas consigned to specifically approved livestock markets. (1-10-94)
- c. Where Permits May Be Obtained. (12-10-84)
 - i. Livestock other than sheep. Requests for permits shall be directed to the Idaho Bureau of Animal Health, P.O. Box 7249, Boise, Idaho 83707; telephone (208) ~~334-3256~~ 332-8540, and shall set forth the following information: name and address of consignor, number and description of animals, origin of shipment, destination of shipment, proposed date of shipment, mode of transportation, and name and address of Idaho consignee. ~~(12-10-84)~~(7-1-96)T
 - ii. Sheep permits: Requests for permits shall be directed to the Idaho Sheep Commission, 802 West Bannock, Room 205, P.O. Box 2596, Boise, Idaho, 83701; telephone (208) 334-3115. (12-10-84)
- 03. Animals Exposed to Disease ~~of~~ or Originating in a Quarantined Area. No animals affected with or which have been recently exposed to any infectious, contagious, or communicable disease, or which originate in a quarantined area shall be transported or moved into the state of Idaho unless a permit for such entry is first obtained from the Idaho Bureau of Animal Health, except such animals in classifications allowed interstate shipment under specified requirements of the United States Department of Agriculture may move without permit if in compliance with CFR requirements. ~~(12-10-84)~~(7-1-96)T
- 04. Quarantine Imposed When No ~~Health~~ Certificate or Permit Issued. Animals entering the state of Idaho without a valid ~~health~~ certificate of veterinary inspection or other approved certificate, and a permit, if required, shall be held in quarantine at the risk and expense of the owner until released by an authorized representative of the Idaho Bureau of Animal Health. Such animals when found to be not in compliance with health certificate requirements may be ordered slaughtered, removed from the state or confined to a quarantined feedlot. ~~(12-10-84)~~(7-1-96)T
- 05. Official ~~Health~~ Certificate of Veterinary Inspection and Other Approved Certificates -- Form -- Contents -- Period of Validity. An official ~~health~~ certificate of veterinary inspection and other approved certificates ~~is~~ is a are legible records attesting the animal covered thereby meets the requirements of the state of Idaho; The certificate shall be accomplished on an official form of the state of origin and be approved by its livestock sanitary official and be issued by an approved accredited veterinarian; or ~~a~~ An equivalent form of the U.S. Department of Agriculture issued by a federal inspector of the Veterinary Services is acceptable in lieu of a certificate of veterinary inspection or other approved certificate. ~~(12-10-84)~~(7-1-96)T
 - a. Official Certificate of Veterinary Inspection. Such certificate shall contain: ~~(12-10-84)~~(7-1-96)T
 - i. Name and address of the consignor and consignee; (12-10-84)
 - ii. Origin of shipment; (12-10-84)
 - iii. Final destination; (12-10-84)
 - iv. Accurate description and identification of each animal if required; (12-10-84)

- v. Purposes for which they are shipped; and (12-10-84)
- vi. Method of transportation. (12-10-84)
- b. Other Approved Certificates. (7-1-96)T
- i. Extended Validity Equine Certificates. Provided there is a written agreement between the Bureau of Animal Health and the chief livestock sanitary official of the state of origin, equidae from other states may enter the state of Idaho for shows, rides or other equine events and return on an extended validity equine certificate under a state system of equine certification acceptable to the Bureau of Animal Health and the state of origin. (7-1-96)T
- (1) An extended validity equine certificate shall be valid for only one animal. Each animal shall have a separate certificate. (7-1-96)T
- (2) Extended validity equine certificates shall contain the following information: (7-1-96)T
- (a) Name and address of the owner. (7-1-96)T
- (b) Location at which the animal is stabled, housed, pastured or kept, if different from that of the owner. (7-1-96)T
- (c) An accurate description and identification of the animal. (7-1-96)T
- (d) Date of veterinary inspection. (7-1-96)T
- (e) Dates and results of EIA or other required tests or vaccinations. (7-1-96)T
- (f) Signature of inspecting veterinarian. (7-1-96)T
- (3) Extended validity equine certificates shall be valid for no longer than six (6) months from date the blood sample is collected for the EIA test by the animal health official or accredited veterinarian. If EIA testing is not required the certificate shall be valid no longer than six (6) months from the date of inspection for the certificate. (7-1-96)T
- (4) Recipients of extended validity equine certificates shall submit a completed travel itinerary to the Bureau of Animal Health within ten (10) working days of the end of the six (6) month period of validity of the certificate. The travel itinerary shall provide a listing of all travel into the state of Idaho, including travel dates, purpose for travel and destinations, during the period of validity of the certificate. (7-1-96)T
- (5) Extended validity equine certificates may be canceled at any time by the Bureau of Animal Health in the event of serious or emergency disease situations or for non-compliance with the provisions of these rules. (7-1-96)T
- ~~bc.~~ Health Status. ~~†~~ The certificate shall indicate the health status of the animals involved including dates and results of inspection and of tests and vaccinations, if any, required by the state of Idaho. (12-10-84)(7-1-96)T
- ~~ed.~~ Mailing Certificate. A copy of ~~health~~ the certificate shall be mailed immediately to the Idaho Bureau of Animal Health, P.O. Box 7249, Boise, Idaho 83707. (12-10-84)(7-1-96)T
- ~~de.~~ Certificate For Sheep and Goats. Health certificates and permits covering sheep and goats: See separate section on sheep. (12-10-84)
- ~~ef.~~ Period of Certificate Validity. ~~Health e~~ Certificates of veterinary inspection shall be valid for no longer than thirty (30) days after the date of inspection. Health certificate covering swine shall be valid for no longer than fifteen (15) days after the date of inspection. Extended validity equine certificates shall be valid for no longer than six (6) months from the date the blood sample was collected for the EIA test, if an EIA test is required. If an EIA

test is not required, the certificate is valid for no longer than six (6) months from the date of inspection.

(12-10-84)(7-1-96)T

fg. Restrictions. No ~~health~~ certificate of veterinary inspection or extended validity equine certificate shall be issued unless it is compliant in all respects with the requirements of the state of Idaho. (12-10-84)(7-1-96)T

06. Who May Inspect. Accredited veterinarians who are approved by the chief livestock sanitary official of the state of origin and federal veterinarians in the employ of the U.S. Department of Agriculture. (12-10-84)

07. Permits -- Contents -- Period of Validity. (12-10-84)

a. Request For Permits. Request for permits to admit animals other than sheep and goats into the state of Idaho shall be directed to the Idaho Bureau of Animal Health, P.O. Box 7249, Boise, Idaho, and shall be requested pursuant to the following requirements, and when the official health rules cannot be met at the point of origin. (12-10-84)

b. Permit Request Requirements. The request for such a permit shall set forth the following information: (12-10-84)

i. Name and address of the consignor and consignee; (12-10-84)

ii. Number and kind of animals; (12-10-84)

iii. Origin of shipments; (12-10-84)

iv. Final destination; (12-10-84)

v. Purpose of shipment; and (12-10-84)

vi. Method of shipment. (12-10-84)

c. Period of Validity. Permits shall be valid for no longer than fifteen (15) days from the date of issuance unless otherwise specified. (12-10-84)

08. To Whom May Animals Be Consigned. All animals transported or moved into the state shall be consigned to an individual residing in Idaho or to a legal entity authorized by law to do business in the state. (12-10-84)

09. Diversion of Animals After Shipment. No person consigning, transporting or receiving animals in the state of Idaho shall authorize, order or carry out diversion of such animals to a destination or consignee other than set forth on the health certificate or permit without notifying the Bureau of Animal Health of the Department of Agriculture within seventy-two (72) hours of the diversion. (12-10-84)

10. Where Brucellosis Agglutination Tests Shall Be Made. All brucellosis agglutination tests of animals which are intended for shipment into the state of Idaho shall be made in the following: (12-10-84)

a. Laboratories. State-federal approved laboratories. (12-10-84)

b. Commercial Laboratories. Commercial laboratories operated under the supervision of the United States Department of Agriculture and approved by the state of origin. (12-10-84)

c. Veterinarians. By veterinarians approved by the livestock sanitary officials of the state of origin to make such tests. (12-10-84)

11. Duties of Carrier Regarding Health Certificates of Permits. All owners and operators of railroads, trucks, airplanes, or other conveyances used in the transportation of animals into or within the state of Idaho shall

assure themselves each consignment or shipment is in conformity with the applicable statutes and rules of the state of Idaho, and that each consignment is accompanied by an official health certificate or by a permit, or by both, where so required and issued by the authorized livestock sanitary official. Such health certificate or permit, or both, shall be attached to the waybill accompanying the shipment or be in the possession of the attendant in charge of the animals. (12-10-84)

12. Sanitary Condition of Cars, Trucks and Airplanes. All railroad cars, trucks, airplanes, or other conveyances used in the transportation of animals shall be maintained in a clean and sanitary condition. (12-10-84)

13. Disinfection of Cars, Trucks and Airplanes. All owners and operators of railroad cars, trucks, airplanes, or other conveyances which have been used for movement of animals infected with or exposed to any infectious, contagious, or communicable disease shall have such cars, trucks, airplanes or other conveyances thoroughly cleaned and disinfected under official supervision by any accredited veterinarian or federal or state livestock inspector or Bureau of Animal Health designated employee, at the point of destination or by permit from the sanitary officials, may be moved to some other point for cleaning and disinfecting. (12-10-84)

14. General Duties of Carrier. All owners and operators of railroads, trucks, airplanes, or other conveyances shall conform to all rules and statutes of the state of Idaho in transporting or moving any animals into, within or through the state of Idaho. (12-10-84)

15. Importation of Cattle into Idaho. Cattle may enter the state of Idaho provided they are transported or moved in conformity with Sections 010 through Subsection 020.09, as revised in 1984, and are accompanied by an official health certificate attesting they are free from evidence of any infectious, contagious, or communicable disease, or exposure thereto, or by a permit, or both. (~~4-25-89~~)(7-1-96)T

- a. General Requirements. (9-14-89)
 - i. An official health certificate is required by statute on all livestock imported into the state. (9-14-89)
 - ii. The following classes of cattle shall have a permit for entry prior to importation: (9-14-89)
 - (1) All intact male and female cattle of dairy breeds not consigned directly to slaughter or to a quarantined feedlot. (9-14-89)
 - (2) All beef breed bulls not consigned directly to slaughter or to a quarantined feedlot. (9-14-89)
 - (3) All cattle from Class B or Class C states. (9-14-89)
 - (4) Cattle of any classification that do not meet all other entry requirements. (9-14-89)
 - iii. All cattle entering Idaho shall be subject to a post-entry inspection by personnel authorized by the Bureau of Animal Health to perform such inspections. (9-14-89)
 - b. Brucellosis Entry Requirements. (9-14-89)
 - i. All female cattle entering Idaho shall have been officially brucellosis calfhood vaccinated, except: (12-10-84)
 - (1) Calves under four (4) months of age. (12-10-84)
 - (2) Cattle consigned directly to slaughter (or to a specifically approved stockyard for sale to slaughter). (12-10-84)
 - (3) Vaccination eligible heifers may, by permit, be consigned to a specifically approved stockyard or other specified destination where they shall be vaccinated. (12-10-84)

- (4) Cattle consigned directly to Federal Quarantined or Idaho Registered Quarantined Feedlot (or consigned to specifically approved stockyard for sale to such feedlots). (12-10-84)
- ii. Brucellosis test requirements. (12-10-84)
- (1) All test eligible cattle from Class A state shall have been tested negative within thirty (30) days of importation. (12-10-84)
- (2) All test eligible cattle from Class B or C states shall have been tested negative within thirty (30) days of importation and shall be quarantined on arrival and subjected to a retest forty-five (45) to one-hundred twenty (120) days post entry. (12-10-84)
- (3) Test eligible cattle from Class A states which border Idaho may be consigned to a specifically approved Idaho stockyard and be tested before cattle lose identity as to origin. (12-10-84)
- (4) Test eligible cattle from Class B or C states which border Idaho may be consigned to a specifically approved Idaho stockyard and be tested on arrival. Test must be completed before cattle lose identity as to origin, prior to sale. These cattle shall be quarantined to new owners' premises and undergo a second test forty-five (45) to one-hundred twenty (120) days post entry. (12-10-84)
- (5) Test eligible cattle which are not official brucellosis calfhood vaccinates (bulls, etc.) which originate in Class C areas or states shall be tested as provided by UM&R and CFR prior to movement from Class C area or state, and shall be quarantined to new owners premises and undergo a retest forty-five (45) to one-hundred twenty (120) days post entry. (The pre-entry testing shall consist of a herd test at least sixty (60) days prior to movement and a retest not more than thirty (30) days prior to movement). (12-10-84)
- (6) Exceptions to test requirement: (12-10-84)
- (a) Cattle from Class Free state. (12-10-84)
- (b) Cattle from certified free herd in Class Free, A, B, C states. (12-10-84)
- (c) Cattle consigned directly to slaughter from Class A state. (12-10-84)
- (d) Cattle consigned directly to slaughter from the farm or ranch of origin in a Class B or C state if shipped under movement permit. (12-10-84)
- (e) Cattle from other than the farm or ranch of origin in a Class B or C state consigned directly to slaughter or a Federal Quarantined Feedlot if "S" branded prior to shipment and are accompanied by VS 1-27 or "S" brand permit. (12-10-84)
- (f) Cattle from Class A state if consigned directly to Federal Quarantined Feedlot or Idaho Registered Quarantined Feedlot or to a specifically approved stockyard for sale to Federal Quarantined Feedlot or Idaho registered Quarantined Feedlot, or directly to slaughter at a recognized slaughter establishment. (12-10-84)
- (g) Cattle from a farm or ranch of origin in a Class B or C state which are consigned directly to a specifically approved stockyard for sale to slaughter if such cattle are accompanied by a movement permit. (12-10-84)
- (h) Cattle other than from a farm or ranch of origin in a Class B or C state are consigned directly to a specifically approved stockyard for sale to slaughter or Federal Quarantined Feedlot if such cattle are "S" branded prior to shipment and are accompanied by a VS 1-27 or an "S" brand permit. (12-10-84)
- (i) Cattle from a farm or ranch of origin in a Class B or C state may be consigned to a Federal Quarantined Feedlot or to a specifically approved market for sale to a Federal Quarantined Feedlot without being "S" branded and without a VS 1-27 if such cattle are "S" branded upon arrival at the Federal Quarantined Feedlot. Such cattle must be accompanied by a movement permit. (12-10-84)

iii. All test eligible cattle entering Idaho, in addition to above requirements shall be individually identified on the health certificate. (12-10-84)

iv. Cattle not meeting these requirements shall not enter Idaho except by special permission of the Bureau of Animal Health. (12-10-84)

v. Grazing cattle from contiguous states which have traditionally been moved by permit into Idaho for seasonal grazing periods shall be moved only under special grazing permits issued jointly by the Bureau of Animal Health and officials of the contiguous state. Grazing permits shall be for one specified season only. Herd owners in order to be eligible to receive a grazing permit must file with the Bureau of Animal Health an approved herd plan to phase out all non-vaccinates in the herd within a designated period of time. The phase out of non-vaccinates shall be accomplished by March 1, 1988. The Bureau of Animal Health, in cooperation with the appropriate agency of the contiguous state, shall have the authority to impose a brucellosis herd test or tests on cattle entering for grazing purposes. This test requirement shall be evaluated on an annual basis by the Bureau of Animal Health and the animal health agency of the contiguous state. (12-10-84)

vi. Cattle may be imported into the state of Idaho in emergency situations under special permit from the Idaho Director of Agriculture, Idaho Administrator of the Division of Animal Industries or Idaho Chief of the Bureau of Animal Health. Cattle allowed entrance under this provision will be held separate and apart from Idaho cattle and will be quarantined for a specific time period to a specific area for grazing and/or feeding purposes. At the end of the quarantine time period the cattle will be returned to the state of origin, but must meet that state's import requirements prior to departure from Idaho; provided further, that should such cattle desire to remain in Idaho after the time period has expired, then such cattle must meet the same health and test requirements as would normally be required of any import cattle and this shall be done at the owner's expense. (12-10-84)

vii. Any animals imported in violation of these rules shall be placed under strict quarantine and consigned to immediate slaughter, removed from the state or to a Federal Quarantined Feedlot or Idaho Registered Quarantined Feedlot within fifteen (15) days, or such shipment shall be returned to the point of origin by the importer. (12-10-84)

viii. In addition to meeting the above requirements for entry, livestock imported into Idaho shall meet all requirements set forth in the CFR as revised in 1984 or as the 9 CFR is subsequently revised. Cattle exposed to or infected with brucellosis shall meet all requirements set forth in 9 CFR. (12-10-84)

c. With Regard to Tuberculosis. Dairy and breeding cattle may enter the state of Idaho provided: (12-10-84)

i. They originate in an Accredited Tuberculosis Free Herd, and an accredited herd number and date of last test are shown on the health certificate; or (12-10-84)

ii. They originate from a Bovine Tuberculosis Free Area and from a herd not under quarantine; or (12-10-84)

iii. They originate from a Modified Accredited area that has had no Tuberculosis positives within the past twelve (12) months; or (12-10-84)

iv. Cattle not meeting requirements in Subsections 280.03.a., b., and c. shall have been tested with negative results within thirty (30) days of shipment and originate in non-reactor herds; or (12-10-84)

v. Obtain a permit from Idaho Bureau of Animal Health and animals placed under quarantine for testing and compliance with entry requirements. (12-10-84)

d. Scabies. (12-10-84)

i. All cattle not known to be affected with Scabies consigned to Idaho from any state or area designated as a Scabies quarantined area are to be accompanied by a certificate of veterinary inspection from the state

of origin indicating that such animals have been treated with an approved scabicide. Such cattle must be accompanied by an entry permit from the Idaho Division of Animal Industries. The only exceptions to the above requirements are as follows: (12-10-84)

(1) Cattle may be moved by permit from the Idaho Division of Animal Industries to an Idaho premise for treatment for Scabies within twenty-four (24) hours after arrival. Such cattle shall not be mixed or allowed to intermingle with resident cattle prior to official treatment. (12-10-84)

(2) Cattle may be shipped without permit directly to a federally inspected slaughter establishment. (12-10-84)

(3) Female cattle of dairy breeds over eighteen (18) months of age may be shipped into Idaho by permit, but without treatment for Scabies, but must have a hands-on inspection by an accredited veterinarian or state/federal livestock sanitary official to ascertain that the cattle are not infected. (12-10-84)

ii. Punishment for violation of rules. Any person, firm or corporation violating any of the provisions of these rules, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for each offense, or by imprisonment in the county jail not exceeding six (6) months. (12-10-84)

e. Trichomoniasis. The Certificate of Veterinary Inspection for bulls imported into Idaho shall contain a statement certifying that Trichomoniasis is not known to exist in the herd of origin, and: (9-14-89)

i. The bull(s) are two (2) years of age or younger and have not serviced a cow; or (9-14-89)

ii. The bull(s) have been tested by culture for trichomoniasis within thirty (30) days of shipment and were negative to the test. (9-14-89)

iii. Exceptions to certification and testing: (9-14-89)

(1) Bulls consigned directly to slaughter at a recognized slaughter establishment. (9-14-89)

(2) Bulls consigned directly to a quarantined feedlot. (9-14-89)

16. Dogs and Cats. (12-10-84)

a. Dogs. All dogs imported into the state of Idaho shall be accompanied by an official health certificate attesting that such dogs are apparently free from any infectious, contagious or communicable disease, and have been officially vaccinated against rabies. Officially vaccinated shall mean vaccinated in accordance with the current recommendations of the NASPHV compendium of Animal Rabies Vaccines. Puppies under three (3) months of age originating from a rabies quarantined area must have a permit from the Idaho Bureau of Animal Health prior to importation. (12-10-84)

b. Cats. All cats imported into the state of Idaho shall be accompanied by an official health certificate attesting that such cats are apparently free from any infectious, contagious or communicable disease. Cats three (3) months of age or older shall have been vaccinated for rabies according to the recommendations of the current NASPHV Compendium on Rabies. (12-10-84)

17. Horses, Mules, Asses and Equidae. All horses, mules, asses and equidae which are to be transported or moved into the state of Idaho shall be accompanied by an official ~~health~~ certificate of veterinary inspection or extended validity equine certificate, from the state of origin, stating that the equidae are free from evidence of any communicable disease and have completed Equine Infectious Anemia (EIA) test requirements, except as provided in this section. (~~12-10-84~~)(7-1-96)T

a. Equine Infectious Anemia (EIA) Test Requirements. (7-1-96)T

i. An official EIA test is a blood test for EIA conducted by a USDA approved laboratory, within six

(6) months of entry of the equidae into Idaho. (7-1-96)T

(1) Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae with tests "pending" are not acceptable. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written permission from the Bureau of Animal Health. (7-1-96)T

(2) A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements. (7-1-96)T

b. "Working horses" used for seasonal ranching purposes may be exempt from the requirements of this section if the horses have been included on a current grazing permit which has received prior approval from the Bureau of Animal Health and the chief livestock sanitary official in a western state which reciprocates with Idaho in honoring grazing permits. (7-1-96)T

c. Equids being moved directly to a USDA approved equine slaughter establishment may be exempted from EIA test requirements. (7-1-96)T

d. The Bureau of Animal Health may develop cooperative reciprocal agreements with neighboring states which exempt EIA testing requirements for movement of equidae between the cooperating states. (7-1-96)T

e. Findings and Effective Date. The amendments to IDAPA 02.04.03.210 confer a benefit to the equine industry by protecting the equine industry against Equine Infectious Anemia and by providing a reasonable, effective mechanism for interstate movement of equidae among the states of the region. (7-1-96)T

18. Poultry. (12-10-84)

a. Health Certificate. Poultry may enter the state of Idaho without a health certificate if apparently healthy. (12-10-84)

b. Psittacine Birds. Parakeets and other psittacine birds that will not be commercially exchanged in any manner may enter the state of Idaho without registration or health certificate if apparently healthy. All individuals commercially associated with all birds to be used as pets shall contact the Idaho State Department of Health & Welfare, Bureau of Preventive Medicine, Boise, Idaho, before transporting or moving birds into the state of Idaho. (12-10-84)

19. Imported Swine. (1-10-94)

a. Swine. Swine may enter the state of Idaho provided they meet the following brucellosis and pseudorabies requirements, and are accompanied by a certificate of veterinary inspection attesting that they have been inspected within thirty (30) days of date of shipment, that they are free from evidence of all infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days, that they have not been vaccinated with any pseudorabies vaccine, and that they have not been fed raw garbage. Swine for immediate slaughter which are apparently healthy may enter the state of Idaho without a certificate of veterinary inspection, provided the applicable permit requirements are met and the swine are consigned directly to a recognized slaughter establishment, or to a specifically approved livestock market for sale to a recognized slaughter establishment. (1-10-94)

b. Brucellosis Rules - Breeding Swine. Negative tests for brucellosis at a dilution of one to twenty-five (1/25) within thirty (30) days of entry or negative to Official Card Test, within thirty (30) days of entry, or originate from a validated brucellosis free herd or validated brucellosis free state. (7-1-93)

c. Pseudorabies Import Rule. (1-10-94)

i. Breeding Swine. Must have a permit for entry from the Idaho Division of Animal Industries and be individually identified by official ear tags or other approved techniques, and be shipped directly from a farm of origin or a market in a Stage IV or V state/area, or may be shipped directly from a qualified pseudorabies-negative herd. Such swine must be quarantined in isolation at destination and retested thirty to sixty (30-60) days following

importation, or must have a negative official pseudorabies test within thirty (30) days prior to entry. Such swine must be quarantined in isolation and retested at destination thirty to sixty (30-60) days following importation. (1-10-94)

ii. Feeder Pigs. Must have a permit for entry from the Idaho Division of Animal Industries and be identified by an official ear tag, approved legible ear tattoo or other approved techniques indicating the state and herd of origin, and be shipped directly from a farm of origin or a market in a Stage IV or V state/area, or be shipped directly from a qualified pseudorabies-negative herd, or Feeder pigs not meeting Subsection 300.03.b.ii. or 300.03.b.iii., must have a negative official pseudorabies test within thirty (30) days prior to entry. Such swine must be quarantined in isolation at destination and retested thirty to sixty (30-60) days following importation. (1-10-94)

iii. Slaughter Swine. Infected or exposed swine shall be accompanied by a permit and may be shipped directly to a recognized slaughter establishment. Slaughter swine, which are not known to be infected or exposed, may be imported from a state/area with a program status up to and including Stage III, for movement directly to a recognized slaughter establishment, without permit. Slaughter swine from Stage IV or V state/area, which are not known to be infected or exposed, may be imported directly to recognized slaughter establishments or to specifically approved stockyards for sale to recognized slaughter establishments, without permit. (1-10-94)

20. Wild Animals. All wild animals and semi-wild animals not under domestication are under the supervision of the Idaho Department of Fish and Game and all matters pertaining to any restrictions governing their movement into the state of Idaho is under the supervision of the Fish and Game Department. (12-10-84)

21. Biologics. (12-10-84)

a. Distribution Permit. By rule, serum, vaccines, bacterins and biological remedies of all kinds used as diagnostic agents or used in the treatment of diseases of livestock or poultry shall not be sold, distributed or used within the state of Idaho or imported into the state for sale, distribution or use unless such serum, vaccines, bacterins and biological remedies have been produced under a permit granted by the United States Department of Agriculture, Veterinary Service. (12-10-84)

b. Shipping Virulent Blood or Living Virus. By rule, all manufacturers, dealers and distributors of biological products are hereby prohibited from shipping any virulent blood or living virus (brucella abortus vaccine) of any disease affecting livestock, dogs, or poultry into the state of Idaho, unless written permission shall first be obtained from the Idaho Division of Animal Industries and no living virus for use in animals or poultry shall be distributed or used within the state of Idaho unless permission in writing shall first be obtained from the Idaho Division of Animal Industries at Boise for the distribution and use of the same. (12-10-84)

c. Labels. By rule no permit under Subsections 310.01 and 02 will be issued unless the product shall be contained in vessels bearing labels approved by the Idaho Bureau of Animal Health, properly identifying the product by proper name and description, bearing adequate directions for the use of the product, and bearing no statement, design, or device that may deceive the purchaser, or that is false or misleading in any particular. (12-10-84)

22. Domestic Fur-Bearing Animals. All domestic fur bearing animals which are transported or moved into the state of Idaho shall be accompanied by an official health certificate from the state of origin. (12-10-84)

23. Additional Provisions. In addition to the aforementioned provisions, the regulations as outlined in Title Nine (9), CFR, United States Department of Agriculture, Veterinary Services, governing the movement of livestock shall be adhered to. (12-10-84)

24. Violation of Rules. Pursuant to Titles 18, 25, 37, and 67, Idaho Code, a violation of the rules of the Idaho Department of Agriculture, Bureau of Animal Industry, shall constitute a misdemeanor. (9-6-61)

25. Actinomycosis - Lump Jaw - Public Livestock Markets. Any animal infected or affected with the disease known as actinomycosis and/or actinobacillosis, commonly referred to as "lump jaw", to the extent that the lesion is open and/or there is drainage therefrom, entering a Public Livestock Market shall be held only in the quarantine pen and sold only therefrom, and only in accordance with Subsection 190.01. (12-27-61)

26. Bison. (9-5-67)

- a. Shipment. All shipments must be in compliance with Federal Interstate regulations. (9-5-67)
- b. Permits. A permit is required from the Idaho Bureau of Animal Industry prior to importation of bison. (9-5-67)

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.36 - RULES GOVERNING KARNAL BUNT DISEASE OF WHEAT, RYE AND TRITICALE
DOCKET NO. 02-0636-9601

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These rules are effective July 17, 1996.

AUTHORITY: In compliance with sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary and proposed rule-making. The action is authorized pursuant to sections 22-1905 and 22-1915, 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 September 18, 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 the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the temporary and proposed rule: These rules will restrict the shipment of regulated articles from regulated areas into Idaho and provide for exemptions. These rules will also provide provisions for the disposition of fields planted with contaminated seeds and penalties for violations.

The following is the required finding and a concise statement of the supporting reasons for temporary rule-making: The adoption of IDAPA 02.06.36 will confer benefits to the wheat industry. Karnal bunt, a fungal disease of wheat, rye and triticale is not known to exist in Idaho. The disease was first detected in the United States in Arizona. Idaho obtains wheat, rye and triticale seeds from Arizona. In order to prevent the introduction of Karnal bunt contaminated wheat, rye or triticale seeds into Idaho, the Department finds it necessary to make this rule effective immediately.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENT: For assistance on technical questions concerning the proposed amendments, contact Dr. Roger Vega or Michael Cooper at (208) 332-8620.

Anyone may submit written comments regarding the proposed amendments. All written comments and data concerning the rules must be directed to the undersigned and must be postmarked or delivered on or before September 25, 1996.

Dated this 17th day of July, 1996.

Patrick A. Takasugi, Director
Idaho Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500/FAX (208) 334-4623

TEXT OF DOCKET NO. 02-0636-9601

IDAPA 02
TITLE 06
CHAPTER 36

02.06.36 - RULES GOVERNING KARNAL BUNT DISEASE OF WHEAT, RYE AND TRITICALE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-1905 and 22-1915, Idaho Code. (7-17-96)T

001. TITLE AND SCOPE.

The title of this chapter is Rules Governing Karnal Bunt Disease of Wheat, Rye and Triticale. This chapter has the following scope: This quarantine will restrict the shipment of regulated articles from regulated areas into Idaho and provide for exemptions. These rules also provide provisions for the disposition of fields planted with contaminated seeds and the penalty for violations. (7-17-96)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (7-17-96)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (7-17-96)T

004. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-1904, Idaho Code. (7-17-96)T

005. FINDINGS.

The adoption of IDAPA 02.06.36 will confer benefits to the Idaho wheat industry. Karnal bunt, a fungal disease of wheat, rye and triticale, is not known to exist in Idaho. The disease was first detected in the United States in Arizona. Idaho obtains wheat, rye and triticale seeds from Arizona. In order to prevent the introduction of Karnal bunt contaminated wheat, rye or triticale seeds into Idaho, the Department finds it necessary to make this rule effective immediately. (7-17-96)T

006. -- 049. (RESERVED).

050. REGULATED ARTICLES.

01. Karnal Bunt. Karnal bunt (*Tilletia indica* Mitra). (7-17-96)T
02. Wheat, Rye and Triticale. Wheat (*Triticum* spp.), rye (*Secale cereale*) and triticale (*Xtriticum secale*). (7-17-96)T
03. Barley and Oats. Barley (*Hordeum vulgare*) and oats (*Avena sativa*). (7-17-96)T
04. Wheat, Rye and Triticale Straw. (7-17-96)T
05. Equipment, Containers, or Conveyances. All farm equipment, containers, and or conveyances used to move regulated articles in an area designated by the United States Department of Agriculture as a Karnal bunt infested area. (7-17-96)T

060. REGULATED AREA.

All countries, territories, states, or portions of states designated by the United States Department of Agriculture as a Karnal bunt infested area. (7-17-96)T

061. -- 069. (RESERVED).

070. RESTRICTIONS.

No person shall import into Idaho any regulated article from a regulated area. (7-17-96)T

071. EXEMPTIONS.

01. Breeder Seeds Shall Be Treated. Breeder seeds of regulated articles from regulated areas to be planted in Idaho shall be treated with an efficacious seed treatment fungicide registered with the EPA and the State of Idaho. (7-17-96)T

02. Written Application For Exemption. Upon receipt of a written application for an exemption from any portion of these rules, the Director may grant an exemption subject to any conditions the Director may deem

necessary. The written application for an exemption shall include the reason for the request and evidence demonstrating that an exemption can be granted without posing a threat to the wheat industry. (7-17-96)T

072. -- 100. (RESERVED).

101. DISPOSITION OF INFECTED FIELDS.

01. Fields Planted With Contaminated Seeds. Fields within the state of Idaho which are known to have been planted with contaminated seeds shall be mown by the landlord or grower prior to heading; and (7-17-96)T

a. The field shall not be planted to wheat, rye, or triticale for at least five (5) years. Thereafter, the progeny (seeds) of host plants planted for at least the subsequent five (5) years shall be tested for Karnal bunt spores; or (7-17-96)T

b. The field shall be treated with methyl bromide at the rate and in the manner prescribed by the Director. The treated field may be planted to wheat, rye or triticale. Thereafter, the progeny (seeds) of host plants planted for at least the subsequent five (5) years shall be tested for Karnal bunt spores; or (7-17-96)T

c. The field shall be treated by other practices authorized by the Director. (7-17-96)T

102. -- 149. (RESERVED).

150. VIOLATIONS.

Any person violating any provisions of these rules shall be subject to the provisions of Title 22, Chapter 19, Idaho Code. (7-17-96)T

151. -- 999. (RESERVED).

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS
DOCKET NO. 05-0101-9601
NOTICE OF TEMPORARY AND PROPOSED RULES

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 20-504, 20- 531(4), 20-545(1), and Section 16-1901 et. seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 1996.

DESCRIPTIVE SUMMARY: The following is the required finding and a concise statement of the supporting reasons for temporary rulemaking and a statement in nontechnical language of the substance of the proposed rule:

Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code, and are necessary in order to protect the public health, safety, or welfare.

Provide a general framework for the conduct of the Department's business and provide guidelines and standards for Department facilities. The proposed rules are based on those of the Department of Health & Welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS. For assistance on technical questions concerning the temporary or proposed rule, contact Margaret P. White at (208) 334-5384.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 25, 1996.

DATED this 24th day of July, 1996.

Margaret P. White
Deputy Attorney General
Department of Juvenile Corrections
PO Box 83720
Boise, Idaho 83720-0285
Phone: (208) 334-5384

TEXT OF DOCKET NO. 05-0101-9601

IDAPA 05
TITLE 01
Chapter 01

05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS

000. LEGAL AUTHORITY.

01. Idaho Code Section 20-504(2). Pursuant to Idaho Code Section 20-504(2), the Idaho Department of Juvenile Corrections shall establish minimum standards for detention, care and certification of approved detention facilities based upon such standards. (7-1-96)T

02. Idaho Code Section 20-504(9). Pursuant to Idaho Code Section 20-504(9), the department shall establish minimum standards for the operations of all private residential and nonresidential facilities and programs which provide services to juvenile offenders. (7-1-96)T

03. Idaho Code Section 20-504(11). Pursuant to Idaho Code Section 20-504(11), the department shall have authority to adopt such administrative rules pursuant to the procedures provided in chapter 52, title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. (7-1-96)T

04. Idaho Code Section 20-504(14). Pursuant to Idaho Code Section 20-504(14), the department, in cooperation with the courts and the counties, shall establish uniform standards, criteria and operating procedures for county juvenile probation services, as well as qualifications and standards for the training of juvenile probation officers. (7-1-96)T

05. Idaho Code Section 20-531(4). Pursuant to Idaho Code Section 20-531(4), the department shall adopt standards, policies and procedures for the regulation and operation of secure facilities. (7-1-96)T

06. Idaho Code Section 20-545(1). Pursuant to Idaho Code Section 20-545(1), the department shall have the power to adopt rules for the state juvenile corrections center as may be required by the Juvenile Corrections Act. (7-1-96)T

07. Interstate Compact on Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the "Interstate Compact on Juveniles", the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. (7-1-96)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.01, Rules of the Idaho Department of Juvenile Corrections, IDAPA 05, Title 01, Chapter 01. (7-1-96)T

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. (7-1-96)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretations of these rules. The document is available for public inspection and copying at cost at the Department of Juvenile Corrections, 400 N. 10th (second floor), P.O. Box 83720, Boise, Idaho, 83720-0285. (7-1-96)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (7-1-96)T

004. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter:

01. Adult. A person eighteen (18) years of age or older. (7-1-96)T

02. Body Cavity Search. The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical authority. (7-1-96)T

03. Chemical Agent. An active substance, such as oleoresin capsicum, used to deter disturbances that might cause personal injury or property damage. (7-1-96)T

04. Classification. A process for determining the needs and requirements of those for whom

confinement has been ordered and for assigning them to housing units and/or programs according to their needs and existing resources. (7-1-96)T

05. Contact Visiting. A program that permits juveniles to visit with designated person(s). The area is free of obstacles or barriers that prohibit physical contact. (7-1-96)T

06. Contraband. Any item not issued or authorized by the facility. (7-1-96)T

07. Control Center. The central point within a facility or institution where activities are monitored and controlled. (7-1-96)T

08. Commit. Commit means to transfer legal custody. (7-1-96)T

09. Community-Based Program. An in-home detention program or a non secure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county. (7-1-96)T

10. Corporal Punishment. Any act of inflicting punishment directly on the body, causing pain or injury. (7-1-96)T

11. Court. Means district court or magistrate's division thereof. (7-1-96)T

12. Day Room/Multi-Purpose Room. That portion of the housing unit used for varied juvenile activities which is separate and distinct from the sleeping rooms. (7-1-96)T

13. Detention. Detention means the temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities. (7-1-96)T

14. Detention Center. A facility established pursuant to sections 20-517 and 20-518, Idaho Code. (7-1-96)T

15. Detention Facility. Accommodations for detaining a juvenile for the temporary placement of juveniles who require secure custody for their own or the community's protection in physical restricting facilities. (7-1-96)T

16. Direct Care Personnel. Any care staff member charged with day to day supervision of juveniles housed in a juvenile detention facility. (7-1-96)T

17. Director. The Director of the Department of Juvenile Corrections. (7-1-96)T

18. Diversion. The utilization of local community resources, churches, counseling for the juvenile and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court. (7-1-96)T

19. Department. The Idaho Department of Juvenile Corrections. (7-1-96)T

20. Emergency Care. Care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call. Emergency care shall be provided to the juvenile population by the medical staff, physician, other appropriately trained staff, local ambulance services and/or outside hospital emergency rooms. (7-1-96)T

21. Emergency Plans. Written documents that address specific actions to be taken in an institutional emergency or catastrophe such as a medical emergency, fire, flood, riot or other major disruption. (7-1-96)T

22. Existing Facility. Any juvenile detention facility in use, or for which bids have been let, prior to the effective date of these Rules. (7-1-96)T

23. Facility Records. Information regarding the maintenance and operation of the facility including but not limited to correspondence, memorandums, complaints regarding the facility, daily activity logs, security and fire safety checks, head counts, medical records, health inspection records, and safety inspection records, use of physical force records and use of restraints records, employee training and certification for use of security equipment.

(7-1-96)T

24. Health Authority. The physician, health administrator, or agency responsible for the provision of health care services at an institution or system of institutions; the responsible physician may be the health authority.

(7-1-96)T

25. Health-Trained Employee. A person who provides assistance to a physician, nurse, physician's assistant, or other professional medical staff. Duties may include preparing and/or reviewing screening forms for needed follow-up; preparing juveniles and their records for sick call; and assisting in the implementation of medical orders regarding diets, housing, and work assignments.

(7-1-96)T

26. Housing Unit. The total living area available to a group or classification of juveniles in a detention facility. This area may consist of a dormitory or a combination of the space in each sleeping room and day room/multi-purpose room.

(7-1-96)T

27. Incident Report. A written document reporting an unusual occurrence or special event such as the discovery of contraband, use of physical force, use of chemical agents, discharge of firearms, etc., and action taken including notation of strip and cavity searches.

(7-1-96)T

28. Judge. A district judge or a magistrate.

(7-1-96)T

29. Juvenile. A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act.

(7-1-96)T

30. Juvenile Offender. A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult.

(7-1-96)T

31. Juvenile Records. Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainer, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence.

(7-1-96)T

32. Legal Custody. The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

(7-1-96)T

33. Legal Guardian. A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender.

(7-1-96)T

34. Medical Employee. A certified person such as nurse, physician's assistant, emergency medical technician who works under the supervision and authority of the Health Authority consistent with their respective levels of training, education and experience.

(7-1-96)T

35. Medical Records. Separate records of medical examinations and diagnoses maintained by the Health Authority.

(7-1-96)T

36. Medical Screening. A system of structured observation/initial health assessment of newly arrived juveniles. May be performed by a Medical Employee or by a Health Trained Employee.

(7-1-96)T

37. New Facility. Any facility for which bids are let for construction after the effective date of these Rules. (7-1-96)T
38. Non-Contact Visiting. A program that restricts juveniles from having physical contact with visitors. Physical barriers usually separate the juvenile from the visitors with screens and/or glass. Voice communications between the parties are typically accomplished with phones or speakers. (7-1-96)T
39. Observation and Assessment Program. Any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment. (7-1-96)T
40. Pat Search. The touching or feeling of a subject's clothed body to detect contraband. (7-1-96)T
41. Perimeter Security. A system that controls ingress and egress to the interior of a facility or institution. The system may include electronic devices, walls, fence, patrols and/or towers. (7-1-96)T
42. Perimeter Security Check. Physical inspection of the perimeter of the facility performed for the purpose of discovering or preventing security breach. May include the inspection of the perimeter of the facility and adjacent containment fence or areas as designated by facility policy and procedures. (7-1-96)T
43. Petition for Exemption. A formal written document addressed to the Director of the Department of Juvenile Corrections requesting exception from a Detention Facility Standard. The Petition for Exemption must contain written justification why the petitioner should be relieved from enforcement of specific detention standard(s). (7-1-96)T
44. Physical Assessment. An evaluation of a patient's current physical condition and medical histories conducted by, or under the supervision of, the Health Authority. (7-1-96)T
45. Policy and Procedures. Standard operating strategies and processes developed by the administrative authority governing detention facility operations. (7-1-96)T
- a. Policy is a course of action that guides and determines present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the personnel must operate. (7-1-96)T
- b. Procedure is the detailed and sequential action which must be executed to ensure that policy is implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs actions required to perform a specific task within the guidelines of the policy. (7-1-96)T
46. Rated Capacity. The actual number of juveniles which may be housed in a particular room, housing unit, or facility based upon available square footage, sanitation fixtures, and other physical plant features specified in these rules. (7-1-96)T
47. Renovation. The alteration of the structure of any existing juvenile detention facility, or portion thereof, for the purposes of changing or improving its function. This may include, but not be limited to, altering the physical layout of essential areas within the facility or reconstruction of the existing structure, areas, or interior features. (7-1-96)T
48. Restraints. Devices used to restrict physical activity. (7-1-96)T
49. Rule Infraction. A violation of detention center rules of conduct and/or Policies and Procedure as governed by facility Policy and Procedures. (7-1-96)T
50. Safety Equipment. Devices primarily used for safety purposes such as but not limited to firefighting equipment, for example, chemical extinguishers, hoses, nozzles, water supplies, alarm systems, sprinkler systems, portable breathing devices, gas masks, fans, first aid kits, stretchers, and emergency alarms. (7-1-96)T

51. Security Devices. Equipment used primarily to confine and control detained persons and may include but is not limited to locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies, and other equipment used to maintain facility security. (7-1-96)T

52. Secure Facility. Any state-operated facility or facility operated under contract with the state which provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department. (7-1-96)T

53. Secure Perimeter. The outer portions of a facility that provide for secure confinement of facility residents. (7-1-96)T

54. Staffing Plan. A documented schedule which includes staffing of direct care personnel, staffing ratios, resident activities, and the certification level of staff. (7-1-96)T

55. Strip Search. An examination of a resident's naked body for weapons, contraband, injuries, or vermin infestations. This also includes a thorough search of all the individual's clothing while such is not being worn. (7-1-96)T

56. Use of Physical Force. Physical force used in instances of justifiable self-defense, protection of others, protection of property, or prevention of escapes. (7-1-96)T

57. Volunteer. A person who donates his time and effort to enhance the activities of the program. Volunteers may be classified into two categories: (7-1-96)T

a. Direct care volunteer. A person serving as unpaid direct care personnel, serving in the same capacity as an employee of the juvenile detention center, having direct and unsupervised contact with juveniles. (7-1-96)T

b. Program Volunteer. An unpaid volunteer, program or organization serving in, or as a program of the juvenile detention center, such as Alcoholics Anonymous, etc., which is constantly supervised by Direct Care Personnel of the juvenile detention center. (7-1-96)T

58. Work Program. A public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior. (7-1-96)T

011. -- 099. (RESERVED).

100. INITIATION OF SERVICES.

Juveniles are committed to the department under the provisions of the Juvenile Corrections Act. (Sections 20-501 through 20-547, Idaho Code) and the Interstate Compact on Juveniles (Sections 16-1901 through 16-1910, Idaho Code). (7-1-96)T

101. SERVICES TO BE PROVIDED.

Services are based on a legal rather than a financial criteria, and are provided to all juveniles committed by courts regardless of individual or family income. Services which may be provided include: (7-1-96)T

01. Diagnostic Work. Diagnostic work necessary to develop goals and treatment plans. (7-1-96)T

02. Counseling and Treatment. Counseling and treatment necessary to remediate the juvenile presenting problem. (7-1-96)T

03. Placement. Placement consistent with identified treatment needs. (7-1-96)T

04. Periodic Reviews. All committed juveniles will be contacted at least monthly, and notes regarding services provided will be entered in the case records on at least a monthly basis. A semiannual case review will be

conducted for each child committed to the Department under the provisions of the Juvenile Corrections Act who is placed outside their home. (7-1-96)T

05. Re-Evaluation and Reports. All juveniles committed to the Department will be reassessed at intervals not exceeding one (1) year. Reports of periodic reassessments made pursuant to this section shall be filed with the court from which the juvenile was committed. (7-1-96)T

102. -- 198. (RESERVED).

199. RELEASE FROM CUSTODY.

01. Release. Juveniles may be released to their own home, to a residential community-based program, to a nonresidential community based treatment program, to an approved independent living setting, or to other appropriate residences, but shall remain on probation until the probation is terminated by the court. (7-1-96)T

02. Notification. When the department is considering release of a juvenile offender committed to the department for confinement, the department shall notify the prosecuting attorney of the county from which the juvenile offender was committed to confinement, the judge whose order caused the juvenile offender to be committed to confinement and the victim of the juvenile offender's unlawful conduct. (7-1-96)T

200. -- 399. (RESERVED).

400. STANDARDS FOR JUVENILE DETENTION FACILITIES.

The Idaho Department of Juvenile Corrections or its designee shall have the authority to visit and inspect all juvenile detention facilities to assess such facilities' compliance with these rules. (7-1-96)T

401. INSPECTION PROVISIONS.

01. Annual Visits. Each juvenile detention facility shall be subject to announced or unannounced visits by Idaho Department of Juvenile Corrections personnel on at least an annual basis. (7-1-96)T

02. Review of Logs, Records, Policy and Procedure Manuals, Memorandums and Reports. All logs, records, policy and procedures manuals, memorandums, and reports shall be available for review excluding personnel records and personnel action reports. Idaho Department of Juvenile Corrections personnel shall be allowed to observe and interview juveniles and staff concerning any matter pertaining to these rules. Idaho Department of Juvenile Corrections personnel shall further have access to all parts of the facility for the purpose of inspecting the physical plant. (7-1-96)T

402. DEPARTMENT PREPARED WRITTEN REPORT OR THEIR AGENTS.

Idaho Department of Juvenile Corrections personnel, shall prepare a written report of each inspection within thirty (30) days following such inspection and provide copies to the appropriate facility administrator with copies to the governing body and the county attorney. The report will additionally be submitted to the Director of the Idaho Department of Juvenile Corrections for consideration and review of the issuance or renewal of a license. (7-1-96)T

403. COMPLIANCE WITH STANDARDS ENFORCED.

If upon completion of an inspection, a juvenile detention facility is found to be in violation of any part of these rules, the Idaho Department of Juvenile Corrections shall send notice of such non-compliance to the facility administrator and governing body responsible for the facility. (7-1-96)T

01. Consideration of Official Notice. Upon receipt of a notice of non-compliance from the Idaho Department of Juvenile Corrections, the facility administrator and governing body shall meet promptly to consider the official notice. Inspection personnel shall be available to advise and consult concerning appropriate corrective action. (7-1-96)T

02. Development of a Plan of Corrective Action. The facility administrator and governing body shall develop a plan of corrective action to correct the deficiencies cited in the report. The plan shall include a description of the nature of non-compliance for each Standard cited, the steps to be taken to correct the deficiency, and a

projected completion date. The plan shall be submitted to the Idaho Department of Juvenile Corrections for approval.
(7-1-96)T

03. Demonstration of Meaningful Progress Toward Achieving Compliance. Meaningful progress toward achieving compliance according to the submitted plan must be demonstrated during the time frame approved by the Idaho Department of Juvenile Corrections in the corrective action plan.
(7-1-96)T

404. CONFORMITY WITH APPLICABLE LAWS AND REGULATIONS.

Juvenile detention facilities shall conform to all applicable public health, safety, and fire codes, building regulations, laws, and regulations set forth by the State of Idaho, the county, and the municipality in which such facility is located.
(7-1-96)T

405. STANDARDS COMMITTEE.

A standing committee shall be created for the purpose of reviewing Petitions for Exemption from Standards and Requests for Modification of Standards. The committee will be made up of three committee members: 1 representative and 1 alternate from the Detention Center Administrators, 1 representative and 1 alternate County Commissioner, and 1 representative from the Department of Juvenile Corrections. The Standards Committee members and alternates are nominated by the Detention Center Administrators. Final appointment of all Standards Committee members and alternates are made by the Director of the Department of Juvenile Corrections. The Detention Center representative and County Commissioner representative will not be from the same judicial district. Alternates may not be from the same judicial district as their corresponding representative. Committee member's terms will run one (1) year from October 1 to September 30 the following year. The committee is charged with reviewing any Petition for Exemption or Request for Modification to the Standards, researching the subject as necessary, and presenting a written recommended course of action to the Director of the Department of Juvenile Corrections. If the Petition for Exemption or Request for Modification is initiated from the same district as a committee representative, that committee representative will abstain and the alternate will serve in place of said representative. The Director retains the authority to make the final decision to approve or deny any requests or petitions.
(7-1-96)T

01. Petition for Exemption. When an exemption from a Standard is desired, the facility administrator shall submit a request, in writing, to the Idaho Department of Juvenile Corrections outlining the proposed alternative arrangement together with documentation showing how such arrangement will provide conditions at least equivalent to the corresponding Standard. The petition will be forwarded to the Standards Committee for review. The Petition for Exemption, if granted, shall apply only to the petitioner for the specific facility cited. An indemnification agreement will be entered into between the facility and the Department of Juvenile Corrections in the event the Petition for Exemption is granted.
(7-1-96)T

02. Requests for Modification of Standards. In the event a standard becomes obsolete or unworkable, a Request for Modification may be filed with the Director of the Department of Juvenile Corrections. The request letter must represent the views of at least three detention facility administrators and contain their signatures. The letter will be forwarded to the Standards Committee for review and recommendation. The committee will determine if the request needs to be address immediately or can wait for the annual review and make recommendations to the Director. The Director will have the final authority to determine if standards will be changed and the timing of the change.
(7-1-96)T

03. Annual Review of Standards. The Standards Committee will meet bi-annually to review the Juvenile Detention Center Standards. Requests for Modification may be considered at this time. If the committee feels a change in standards is warranted, they will submit a written report to the Director of the Department of Juvenile Corrections. The Director will have the final authority to determine if the standards will be changed and the timing of the change.
(7-1-96)T

406. -- 409. (RESERVED).

410. FACILITY ADMINISTRATION.

01. Legal Entity. The public or private agency operating a detention facility is a legal entity or part of a legal entity.
(7-1-96)T

02. Governing Body. Governing body shall mean any public or private entity established or delegated as a source of legislative or administrative authority to provide the fiscal needs of the facility administrator so that he may carry out the provisions of these rules. (7-1-96)T

03. Facility Administrator. The facility shall have a designated administrator who shall be responsible for all facility operations. (7-1-96)T

04. Mission Statement. The facility shall have a written mission statement which describes its philosophy and goals. (7-1-96)T

05. Policy and Procedures. The facility administrator shall develop and maintain written policies and procedures which shall safeguard the basic rights of juveniles and shall safeguard the juveniles' freedom from discrimination based upon sex, race, creed, religion, national origin, disability, or political belief and establish practices that are consistent with fundamental legal principles, sound correctional practices, and humane treatment. These written policies and procedures shall be made available to all facility employees and the governing body. The policy and procedures manual shall be submitted to the prosecuting attorney or other legal authority for review and approved by County Commissioners or other governing authority on a regular basis. (7-1-96)T

411. FISCAL MANAGEMENT.

The annual budget request shall provide for an allocation of resources for facility operations and programming. The methods used for collecting, safeguarding, and disbursing monies, including juveniles' personal funds held by the facility, shall comply with accepted accounting procedures and the laws of the State of Idaho. (7-1-96)T

412. STAFF REQUIREMENTS AND STAFF DEVELOPMENT.

01. Twenty-four (24) Hour Supervision. The facility shall be staffed by facility employees on a twenty-four (24) hour basis when juveniles are being housed. (7-1-96)T

02. Staffing. The facility shall have staff to perform all functions relating to security, supervision, services and programs as needed to operate the facility. The facility shall have Policy and Procedures in place governing staffing and shall submit a staffing plan to the Department of Juvenile Corrections prior to licensing and renewal. The staffing plan shall have, at a minimum, at least two (2) staff awake and on duty through sleeping hours and the following staff during waking hours as governed by the "one (1) direct care staff to eight (8) juveniles, plus one staff" rule: (7-1-96)T

a. If the facility houses eight (8) or fewer juveniles, there shall be at least one (1) direct care staff and one (1) other staff awake at all times. (7-1-96)T

b. If the facility houses more than eight (8) juveniles, there shall be one (1) direct care staff for each eight (8) juveniles plus one (1) additional staff awake at all times. Example: if the facility houses thirty-two (32) youth, four (4) direct care staff would be required (1 staff to 8 juveniles), plus one (1) additional staff for a total of five (5) staff required. (7-1-96)T

03. Gender of Employees. At least one (1) of the facility employees on duty shall be female when females are housed in the facility and at least one (1) shall be male when males are housed in the facility. (7-1-96)T

04. Minimum Qualifications. Direct Care Personnel, or Direct Care Volunteers, at the time of employment, shall meet the minimum criminal history background requirements that are outlined in the Idaho Peace Officers Standards and Training (P.O.S.T.) Detention Officer Standards. Decisions on hiring may be appealed to the governing body of the facility. (7-1-96)T

05. Training and Staff Development Plan. Each juvenile detention facility shall develop a staff training and development plan based on the Policy and Procedures of the facility. All Direct Care Personnel, paid or unpaid, shall be provided orientation training before undertaking their job duty assignments. The orientation and training plan should address areas such as First Aid/CPR, security procedures, supervision of juveniles, signs of suicide risks, suicide precautions, use of physical force regulations, report writing, juvenile rules of conduct, rights and

responsibilities of juveniles, fire and emergency procedures, safety procedures, key control, interpersonal relations, social/cultural life styles of the juvenile population, communication skills, and counseling techniques. (7-1-96)T

413. -- 414. (RESERVED).

415. FACILITY INFORMATION SYSTEMS.

01. Written Policy and Procedure. The facility shall have written policy and procedure to govern the collection, management, and retention of information pertaining to juveniles and the operation of the facility. Written policy and procedure shall address, at a minimum, the following: (7-1-96)T

- a. Accuracy of information, including procedures for verification; (7-1-96)T
- b. Security of information, including access and protection from unauthorized disclosure; (7-1-96)T
- c. Content of records; (7-1-96)T
- d. Maintenance of records; (7-1-96)T
- e. Length of retention; and (7-1-96)T
- f. Method of storage or disposal of inactive records. (7-1-96)T

02. Release of Information. Prior to release of information to agencies other than criminal justice authorities or other agencies with court orders for access, a written release of information shall be obtained from the juvenile's parent, legal guardian or through a court order with a copy of that release placed in the juvenile's file folder. (7-1-96)T

03. Access to Record. Parents, legal guardians and staff shall be permitted access to information in the juvenile's files and records as authorized by law. Juveniles shall be permitted reasonable access under appropriate supervision to information in their own files and records. The facility administrator may restrict the juvenile's access to certain information, or provide a summary of the information when its disclosure to the juvenile presents a threat to the safety and security of the facility or may be detrimental to the best interests of the juvenile. If a juvenile's access to records is denied, documentation that states the reason for the denial shall be maintained by the facility. (7-1-96)T

416. DOCUMENTATION.

01. Shift Log. The facility shall maintain documentation including time notations on each shift which includes the following information, at a minimum: (7-1-96)T

- a. Personnel on duty; (7-1-96)T
- b. Time and results of security or well-being checks and head counts; (7-1-96)T
- c. Names of juveniles received or discharged with times recorded; (7-1-96)T
- d. Names of juveniles temporarily released or returned for such purposes as court appearances, work/education releases, furloughs, or other authorized absences from the facility with times recorded; (7-1-96)T
- e. Time of meals served; (7-1-96)T
- f. Times and shift activities, including any action taken on the handling of any unusual or routine incidents; (7-1-96)T
- g. Notation and times of entry and exit of all visitors, including physicians, attorneys, volunteers and others; (7-1-96)T

- h. Notations and times of problems, disturbances, escapes; (7-1-96)T
 - i. Notations and times of any use of emergency or restraint equipment; and (7-1-96)T
 - j. Notation and times of Perimeter Security Checks. (7-1-96)T
02. Housing Assignment Roster. The facility shall maintain a master file or roster board indicating the current housing assignment and status of all juveniles detained. (7-1-96)T
03. Visitor's Register. The facility shall maintain a visitor's register in which the following will be recorded: name of each visitor; time and date of visit; juvenile to be visited; and relationship of visitor to juvenile and other pertinent information. (7-1-96)T
04. Juvenile Records. The facility shall classify, retain and maintain an accurate and current record for each juvenile detained in accordance with the provisions of Idaho Code Section 31-871. Materials in the individual's record shall be clearly identified as to source, verification and confidentiality. The record shall contain, at a minimum, the following: (7-1-96)T
- a. Booking and intake records; (7-1-96)T
 - b. Record of court appearances; (7-1-96)T
 - c. Documentation of authority to hold; (7-1-96)T
 - d. Probation officer or caseworker, if assigned; (7-1-96)T
 - e. Itemized inventory forms for all clothing, property, money, and valuables taken from the juvenile; (7-1-96)T
 - f. Record of deposits/withdrawals from the juvenile's account; (7-1-96)T
 - g. Classification records, if any; (7-1-96)T
 - h. Records of participation in programs and services; (7-1-96)T
 - i. Rule infraction reports; (7-1-96)T
 - j. Records of disciplinary actions; (7-1-96)T
 - k. Grievances filed and their dispositions; (7-1-96)T
 - l. Release records. (7-1-96)T
 - m. Personal information and emergency contact information; (7-1-96)T
 - n. Medical history; (7-1-96)T
 - o. Visitor records; (7-1-96)T
 - p. Incident reports; (7-1-96)T
 - q. Photographs. (7-1-96)T

417. MEDICAL INFORMATION.

01. Medical Files. The Health Authority shall maintain medical records for each juvenile which shall be kept separate from other records. (7-1-96)T

02. Access to Medical Files. The facility administrator, in conjunction with the Health Authority, shall establish procedures to determine access to medical files. (7-1-96)T

418. -- 419. (RESERVED).

420. SAFETY AND EMERGENCY PROCEDURES.

01. Written Policy and Procedure. The facility shall have written policy and procedures which address fire safety, fire evacuation plan, other safety-related practices, and the facility's plans for responding to emergency situations. (7-1-96)T

02. Compliance with Fire Code. The facility shall comply with local and state fire code, and at a minimum, make a request to the local fire Marshall or authorized agency to be inspected to comply with fire safety guidelines and shall maintain documentation of this inspection. (7-1-96)T

421. -- 423. (RESERVED).

424. FACILITY SECURITY.

01. Security and Control Policy. The facilities Policy and Procedures manual shall contain all procedures for facility security and control, with detailed instructions for implementing these procedures, and are reviewed at least annually and updated as needed. The manual shall be made available to all staff. (7-1-96)T

02. Personal Observation. Facility Policy and Procedures shall govern the observation of all juveniles and shall, at a minimum, require staff to personally observe all juveniles every thirty (30) minutes on an irregular schedule and the time of such checks shall be logged. More frequent checks should be made of juveniles who are violent, suicidal, mentally ill, or who have other special problems or needs warranting closer observation. (7-1-96)T

03. Cross Gender Supervision. Policies governing supervision of female juveniles by male employees and male juveniles by female employees shall be based on privacy needs and legal standards. Except in emergencies, facility employees shall not observe juveniles of the opposite sex in shower areas. Reasonable accommodation of privacy needs shall be observed. (7-1-96)T

04. Head Counts. The facility shall have a system to physically count or account for all juveniles, including juveniles on work release, educational release, or other temporary leave status who may be absent from the facility for certain periods of the day. At least three (3) documented counts shall be conducted every twenty-four (24) hours. At least one (1) count shall be conducted each shift and there shall be at least four (4) hours between each count. (7-1-96)T

05. Electronic Surveillance. Electronic monitoring equipment should not be used in place of the Personal Observation of juveniles required. (7-1-96)T

425. PHYSICAL CONTROL.

01. Use of Physical Force. The use of physical force shall be restricted to instances of justifiable self-protection, the protection of others or property, the prevention of escapes, or the suppression of disorder and then only to the degree necessary to restore order. (7-1-96)T

a. Physical force shall not be used as punishment. (7-1-96)T

b. A written report shall be made following any use of physical force. The report will be reviewed by the facility administrator and will be maintained as part of the facility records. (7-1-96)T

02. Use of Restraints. The use of restraints shall be restricted to justifiable instances and during transfer. Justifiable instances shall be specifically defined in each facility's policies and Procedures. Written policy and procedures shall provide that instruments of restraint are never applied as punishment and are applied only with

the approval of the facility administrator or designee. (7-1-96)T

03. Written Report of Use of Restraints. A written report shall be made following any use of restraints except for transfer. The report will be reviewed by the facility administrator and will be maintained as part of the facility records. (7-1-96)T

426. SECURITY CHECKS AND INSPECTIONS.

01. Perimeter Security Checks. Policy and Procedures shall govern the frequency and performing of perimeter security checks. (7-1-96)T

02. Security Inspections. The facility administrator or his/her designee shall conduct weekly inspections of all locks, windows, floors, walls, ventilator covers, access plates, glass panels, protection screens, doors, and other security equipment. The date, time, and results of these inspections shall be recorded on a checklist or log. The facility administrator shall promptly correct any identified problems. (7-1-96)T

427. SEARCH AND SEIZURE.

01. Facility Search Plan. The facility shall have a facility search plan for the control of contraband and weapons which provides for unannounced and irregularly timed searches of juveniles' rooms, day rooms, and activity, work or other areas accessible to juveniles and searches of all materials and supplies coming into the facility. (7-1-96)T

02. Personal Searches. The facility shall have written policies and procedures governing the searching of juveniles for the control of contraband and weapons which includes, at a minimum, the following provisions: (7-1-96)T

a. Search of juveniles upon entering the security perimeter; (7-1-96)T

b. Search of newly admitted juveniles; (7-1-96)T

c. Periodic unannounced and irregularly timed searches of juveniles; (7-1-96)T

d. Provision for strip searches and body cavity searches at such times when there exists reasonable belief that the juvenile is in the possession of contraband or weapons or other prohibited material; (7-1-96)T

e. Pat searches. Except in cases of emergency, pat searches should be conducted by direct care personnel of the same sex; (7-1-96)T

f. Strip searches. All strip searches shall be conducted in private and in a manner which preserves the dignity of the juvenile to the greatest extent possible and under sanitary conditions. All strip searches shall be conducted by direct care personnel of the same sex as the juvenile or by the health authority or medical employee. No persons of the opposite sex of the juvenile shall be present during the strip search other than the health authority or medical employee. (7-1-96)T

g. Body cavity searches. All body cavity searches shall be conducted in private and in a manner which preserves the dignity of the juvenile to the greatest extent possible and under sanitary conditions. Body cavity searches shall be conducted only by the health authority or by a medical employee. No persons of the opposite sex of the juvenile, other than the health authority or medical employee, shall be present during body cavity searches. (7-1-96)T

03. All Body Cavity Searches Shall Be Documented. Documentation of body cavity searches shall be maintained in facility records and in the juvenile's record. (7-1-96)T

04. Seizure and Disposition of Contraband. All contraband found during facility or juvenile searches shall be seized. The seizure and disposition of the contraband shall be documented. When a crime is suspected to have been committed within the facility, all evidence shall be maintained and made available to the proper authorities.

(7-1-96)T

428. SECURITY DEVICES.

01. Key Control. The facility shall have policy and procedures in place to control keys and tools. (7-1-96)T

02. Security Devices. Facility employees shall use only security equipment on which they have been properly trained and is issued through, or authorized by, the facility administrator. Certification of proper training shall be kept in facility records. (7-1-96)T

03. Weapons Locker. The facility shall provide a weapons locker or similar arrangement at security perimeter entrances for the temporary storage of weapons belonging to law enforcement officers who must enter the facility. (7-1-96)T

04. Male and Female Juveniles Shall Not Occupy the Same Sleeping Room. (7-1-96)T

429. (RESERVED).

430. FOOD SERVICES .

The facility's food service operation shall be supervised by a designated employee who has experience and/or training in meal preparation, menu planning, staff supervision, ordering procedures, health and safety policies, theft precautions, and inventory control. If food is obtained through a food service contract from an outside source, provisions shall be made to assure that the contractor complies with the applicable section of these Rules. (7-1-96)T

431. DIETARY ALLOWANCES.

The current guidelines which govern the National School Lunch Program shall guide the preparation of menus to ensure a nutritionally balanced diet. (7-1-96)T

432. SPECIAL DIETS.

01. Special Diets, Medical. Special diets prescribed by a physician shall be followed according to the orders of the treating physician or dentist. (7-1-96)T

02. Special Diets, Religious. Provisions should be made for special diets when a juvenile's religious beliefs require adherence to particular dietary practices. (7-1-96)T

433. DIETARY RECORDS.

01. Food Service Records. The facility shall maintain an accurate record of all meals served to juveniles, including special diets. All menus shall be planned, dated, and available for review at least one (1) week in advance. Notations shall be made of any changes in the menu. Menus shall be kept at least one (1) year after use. (7-1-96)T

02. Review of Menus. Menus and records of meals served shall be reviewed at least annually by a dietician, physician or nutritionist to verify nutritional adequacy. The facility shall maintain documentation of the dietician's, physician's or nutritionist's review and verification. Subsequent menus shall be promptly revised to eliminate any deficiencies noted. (7-1-96)T

434. MEALS.

01. Providing Meals. Three (3) meals, at least two (2) of which includes a hot entree, shall be served daily per Idaho Code. (7-1-96)T

a. Meals must be served at approximately the same time every day. No more than fourteen (14) hours shall elapse between the evening meal and breakfast the next day unless an evening snack is served. If snacks are provided, up to sixteen (16) hours may elapse between the evening meal and breakfast. (7-1-96)T

b. Youth out of the facility attending court hearings or other approved functions when meals are served shall have a meal provided upon their return if they have not already eaten. (7-1-96)T

c. If meals are provided to staff, the menu should be the same as provided to juveniles. (7-1-96)T

d. The health authority or a medical employee shall be notified when a juvenile does not eat three (3) consecutive meals. (7-1-96)T

02. Use of Food as Disciplinary Sanction Prohibited. Food shall not be withheld from juveniles, nor the menu varied as a disciplinary sanction. (7-1-96)T

03. Control of Utensils. The facility shall have a control system for the issuance and return of all food preparation and eating utensils. (7-1-96)T

435. FOOD SERVICE SANITATION.

01. Sanitation. Food service and related sanitation practices shall comply with the requirements of the State Health Department or other appropriate regulatory body. (7-1-96)T

a. The facility administrator shall solicit at least an annual sanitation inspection by a qualified entity. The results of such inspections shall be documented and the facility administrator shall take prompt action to correct any identified problems. (7-1-96)T

b. A daily inspection of all food service areas and equipment shall be conducted by the facility administrator, food service personnel, or other facility employee who is familiar with food service sanitation requirements and practices. (7-1-96)T

02. Screening of Food Service Workers. Written policy shall provide that all persons assigned to food service work, including juveniles, shall be in good health and free from any communicable or infectious disease, vermin, or open, infected wounds. (7-1-96)T

03. Food Service Sanitation Training. All persons assigned to food service work shall be familiar with and adhere to appropriate food service sanitation practices and requirements. (7-1-96)T

436. FOOD SERVICE SUPPORT.

01. Dish Washing. All dishes, utensils, pots, pans, trays, and food carts used in the preparation, serving, or consumption of food shall be washed and rinsed promptly after every meal. Disposable utensils and dishes shall not be reused. (7-1-96)T

02. Lighting. Kitchen lighting shall provide at least "twenty (20) foot-candles" of artificial lighting. (7-1-96)T

03. Ventilation. Adequate ventilation shall be available to dispel excessive heat, steam, condensation, obnoxious odors, vapors, smoke, and fumes from the kitchen area. All vent openings to outside air shall be screened to prevent entrance of dirt, dust, and other contaminants. (7-1-96)T

437. -- 439. (RESERVED).

440. SANITATION AND HYGIENE.

01. Sanitation Inspections. Written policy and procedures shall provide that the facility be maintained in a clean and healthful condition and that the facility administrator or his/her designee shall conduct at least weekly sanitation and maintenance inspections of all areas of the facility. (7-1-96)T

02. Vermin Control. The facility shall have a plan for the control of vermin and pests which includes

inspections and fumigations, as necessary, by a licensed pest control professional. (7-1-96)T

03. Housekeeping Plan. The facility shall have a written housekeeping plan for all areas of the physical plant which provides for daily housekeeping and maintenance by assigning specific duties to juveniles and staff. All work shall be assigned and supervised by facility employees. No juvenile shall be allowed to assign work to other juveniles. (7-1-96)T

04. Maintenance and Repair. The facility shall have written Policy and Procedures to provide that all plumbing, lighting, ventilation equipment, furnishings, and security hardware in juvenile living areas shall be kept in good working order. Any broken fixture, equipment, furnishings, or hardware shall be promptly repaired or replaced. Painted surfaces shall not be allowed to become scaled or deteriorated. (7-1-96)T

05. Water Quality. Where the facility's water supply is obtained from a private source, the source shall be properly located, constructed, and operated to protect it from contamination and pollution. The water shall meet all current standards set by the applicable state and/or local authority as to bacteriological, chemical, and physical tests for purity. (7-1-96)T

441. -- 444. (RESERVED).

445. PERSONAL HYGIENE.

01. Personal Hygiene Items. The facility shall provide without charge the following articles necessary for maintaining proper personal hygiene: (7-1-96)T

- a. Soap; (7-1-96)T
- b. Toothbrush; (7-1-96)T
- c. Toothpaste; (7-1-96)T
- d. Comb; (7-1-96)T
- e. Shaving equipment upon request; and (7-1-96)T
- f. Products for female hygiene needs. (7-1-96)T

02. Toilet Paper. Toilet paper shall be available at all times in juveniles' toilet areas. (7-1-96)T

03. Clothing and Linens. The facility shall provide for the issue of clean clothing, bedding, linens, and towels to new juveniles held overnight. At a minimum, the following shall be provided: (7-1-96)T

- a. A set of standard facility clothing or uniform; (7-1-96)T
- b. Fire-retardant mattress; (7-1-96)T
- c. Pillow and pillow case; (7-1-96)T
- d. Two (2) sheets or one (1) sheet and one (1) mattress cover; (7-1-96)T
- e. Sufficient blankets to provide comfort under existing temperature conditions; and (7-1-96)T
- f. One (1) clean towel. (7-1-96)T

04. Laundry Services. Laundry services shall be sufficient to allow required clothing, bedding, and towel exchanges for juveniles. (7-1-96)T

- a. Clothing worn by the juvenile while in the detention facility shall be laundered or exchanged at

least twice (2) each week. (7-1-96)T

b. Linen shall be changed and laundered or exchanged at least once weekly or more often, as necessary. (7-1-96)T

c. Blankets in use shall be laundered or exchanged at least monthly, or before re-issue to another juvenile. (7-1-96)T

d. Towels shall be laundered or exchanged at least twice weekly. (7-1-96)T

05. Clothing and Linen Supplies. The facility inventory of clothing, bedding, linen, and towels shall exceed the maximum population to ensure that a reserve is always available. (7-1-96)T

446. -- 449. (RESERVED).

450. HEALTH SERVICES.

01. Written Policy and Procedures. The facility shall have written policies and procedures to govern the delivery of reasonable medical, dental, and mental health services. These written policies and procedures must at a minimum address, but are not limited to the following: (7-1-96)T

a. Admission medical screening; (7-1-96)T

b. Collection of health appraisal data within fourteen (14) days; (7-1-96)T

c. Non-emergency medical services; (7-1-96)T

e. Emergency medical and dental services; (7-1-96)T

f. Emergency evacuation plan of juveniles from the facility; (7-1-96)T

g. Use of an emergency vehicle; (7-1-96)T

h. Use of one (1) or more hospital emergency rooms or other appropriate health care facility; (7-1-96)T

i. Emergency on-call physician and dental services when the emergency health care facility is not located nearby; (7-1-96)T

j. First-aid and CPR instructions and training, including the availability of First Aid supplies; (7-1-96)T

k. Screening, referral, and care of juveniles who may be suicide-prone, or experience physical, mental or emotional disabilities; (7-1-96)T

l. Arrangements for providing chronic, convalescent, and continuing care; (7-1-96)T

m. Arrangements for providing close medical supervision of juveniles with special medical or psychiatric problems; (7-1-96)T

n. Delousing procedures; (7-1-96)T

o. Infectious disease control and medical isolation; (7-1-96)T

p. Juveniles suspected of having contagious or infectious diseases shall be temporarily isolated immediately from other juveniles and shall be examined by a health care provider promptly; (7-1-96)T

- q. Management of pharmaceuticals, including storage in a secure location; (7-1-96)T
- and r. Notification of next of kin and/or appropriate authorities in case of serious illness, injury or death; (7-1-96)T
- s. A juvenile's requests for medical treatment. (7-1-96)T

02. Medical Judgements. Except for regulations necessary to ensure the safety and order of the facility, all matters of medical, mental health, and dental judgement shall be the sole province of the Health Authority, who shall have final responsibility for decisions related to medical judgements. (7-1-96)T

03. Admission Medical Screening. A Medical Screening shall be performed on all juveniles upon admission to the facility. The findings shall be recorded. The medical screening shall include inquiry of current illness and health problems, dental problems, sexually transmitted and other infectious diseases, medication taken and special health requirements, use of alcohol or drugs, mental illness and/or suicidal behavior, observations of unusual behavior, including state of consciousness, mental status, appearance, conduct, tremor, sweating, body deformities, physical injuries, trauma markings, bruises, jaundice, rashes, evidence of body vermin, ease of movement. (7-1-96)T

04. Informed Consent. Permission to perform medical, surgical, dental or other remedial treatment shall be obtained from parents, spouse, guardian, court or other competent person as stated in Idaho Code Section 16-1616. (7-1-96)T

05. Health Appraisal. A physical assessment for each juvenile shall be provided by the Health Authority or Medical Employee within fourteen (14) days of admission. (7-1-96)T

451. -- 454. (RESERVED).

455. RULES AND DISCIPLINE.

01. Written Policy and Procedures. The facility shall have written policy and procedure for maintaining discipline and regulating juveniles' conduct. The following general principle shall apply: (7-1-96)T

a. The conduct of juveniles shall be regulated in a manner which encourages and supports appropriate behavior, with penalties for negative behavior; (7-1-96)T

b. Rules of conduct. The facility shall have written rules of conduct which specify prohibited acts within the facility, the penalties that may be imposed for various degrees of violation, and the disciplinary procedures to be followed. Upon admission, each juvenile shall be provided a copy of the rules. If, at any time, a literacy or language barrier is recognized, the facility shall make good faith efforts to provide understanding; (7-1-96)T

c. Disciplinary action shall be of a nature to regulate juveniles' behavior within acceptable limits and shall be taken at such times and in such degrees as necessary to accomplish this objective; (7-1-96)T

d. The behavior of juveniles shall be controlled in an impartial and consistent manner; (7-1-96)T

e. Disciplinary action shall not be arbitrary, capricious, retaliatory, or vengeful; (7-1-96)T

f. Corporal or unusual punishment is prohibited, and care shall be taken to insure juveniles' freedom from personal abuse, humiliation, mental abuse, personal injury, disease, property damage, harassment, or punitive interference with daily functions of living, such as eating or sleeping; (7-1-96)T

g. Use of restraints or use of physical force as punishment is prohibited. Use of physical force may be used only in accordance with written Policy and Procedure and limited to the following situations: (7-1-96)T

i. Protection of a juvenile from self injury; (7-1-96)T

ii. Prevention of injury to others; (7-1-96)T

- iii. Precaution during transfer; (7-1-96)T
 - iv. Medical reasons under the direction of medical staff; and (7-1-96)T
 - v. Prevention of property damage. (7-1-96)T
 - h. Withholding of food or variation of diet as punishment is prohibited; and (7-1-96)T
 - i. Juveniles shall not be subject to any situation in which juveniles impose discipline on each other. (7-1-96)T
02. Written Policy and Procedures. The facility shall have written Policy and Procedures to define and govern the resolution of rule infractions. (7-1-96)T
03. Grievance Procedure. The facility shall have written Policy and Procedures for juveniles which will identify grievable issues and define the grievance process. (7-1-96)T
04. Criminal Law Violations. When a juvenile allegedly commits an act that violates federal, state, or local criminal law, the case shall be promptly referred to the appropriate authority for possible investigation and prosecution. (7-1-96)T
- 456. MAIL, VISITING, TELEPHONE.**
01. Written Policy and Procedures. These shall govern the practices of handling mail, visitation, use of the telephone, and any limitations or restriction on these privileges. (7-1-96)T
- a. Juveniles shall have the opportunity to receive visits and to communicate and correspond with persons, representatives of the media or organizations, subject to the limitations necessary to maintain facility security and order. (7-1-96)T
 - b. Mail, other than sent to or received from public officials, judges, attorneys, courts, government officials and officials of the confining authority, may be opened and inspected for contraband. (7-1-96)T
02. Telephone Service, General. All juveniles, except those restricted as a result of disciplinary action, shall be provided the opportunity to complete at least two telephone calls weekly to maintain family and community ties. (7-1-96)T
- a. Telephone calls shall not be monitored, except where legitimate reason exists in order to maintain security and order in the facility. If calls are monitored, the juvenile shall be so notified. (7-1-96)T
 - b. The facility may require that any costs for telephone calls be borne by the juvenile or the party called. (7-1-96)T
 - c. Telephone use at admission. Written policy and procedure shall grant all juveniles the right to make at least one (1) local or collect long distance telephone call to family members, attorneys, or other approved individuals during the admissions process. (7-1-96)T
 - d. Telephone service, privileged. Juveniles shall be allowed to make a reasonable number of telephone calls to their attorneys. (7-1-96)T
 - i. Telephone calls to attorneys shall be of reasonable duration. (7-1-96)T
 - ii. Telephone calls to attorneys shall not be monitored. (7-1-96)T
 - iii. Telephone calls to attorneys shall not be revoked as a disciplinary measure. (7-1-96)T

03. Visitation. The parents/legal guardians, probation officer, parole officer, facility administrator or the court of jurisdiction may impose restrictions on who may visit a juvenile; (7-1-96)T

04. Search of Visitors. Written policy and procedure shall specify that visitors register upon entry into the facility and the circumstances under which visitors are searched and supervised during the visit. (7-1-96)T

05. Confidential Visits. The facility shall provide juveniles adequate opportunities for confidential access to courts, attorneys and their authorized representatives, probation and parole officers, counselors, caseworkers and the clergy. (7-1-96)T

06. Attorneys, probation and parole officers, counselors, caseworkers and clergy shall be permitted to visit juveniles at reasonable hours other than during regularly scheduled visiting hours. (7-1-96)T

a. Visits with attorneys, probation and parole officers, counselors, caseworkers and clergy shall not be monitored, except that facility employees may visually observe the visitation as necessary to maintain appropriate levels of security. (7-1-96)T

b. Visits with attorneys, probation and parole officers, counselors, caseworkers or clergy shall be of the contact type unless otherwise indicated by the juvenile or visitor, or the facility administrator determines there is a substantial security justification to restrict the visit to a non-contact type. When a contact visit is not allowed, the reasons for the restriction shall be documented in the juvenile's record. (7-1-96)T

457. -- 460. (RESERVED).

461. ADMISSION.

01. Intake and Admission. Written policy and procedure shall provide that new juveniles receive orientation materials, including conduct rules. If, at any time, a literacy or language barrier is recognized, the facility shall make good faith efforts to assure that the juvenile understands the material. (7-1-96)T

02. Written Procedures for Admission. The facility shall have written policy and procedures for admission of juveniles which shall address, but are not limited to, the following: (7-1-96)T

a. Determination that the juvenile is lawfully committed to the facility. (7-1-96)T

b. Classification of juveniles. The facility shall have written policies and procedures governing the classification of juveniles in regard to sleeping, housing arrangements, and programing. (7-1-96)T

c. Fitness to confine. If the juvenile shows signs of illness, injury, is incoherent, or unconscious, he or she shall not be admitted to the facility until the committing officer has been provided written documentation from a medical personnel or a physician of examination, treatment, and fitness for confinement. (7-1-96)T

d. A complete search of the juvenile and possessions. (7-1-96)T

e. The disposition of personal property. (7-1-96)T

f. Provision of shower and hair care, if necessary. (7-1-96)T

g. The issuance of clean, laundered clothing, as needed. (7-1-96)T

h. The issuance of personal hygiene articles. (7-1-96)T

i. The provision of medical, dental and mental health screening. (7-1-96)T

j. The assignment to housing unit. (7-1-96)T

k. The recording of basic personal data and information. (7-1-96)T

l. The assistance to juveniles in notifying their families of their admission and the discussion of procedures for mailing and visiting. (7-1-96)T

m. The assignment of a registered number to the juvenile. (7-1-96)T

n. The provision of written orientation materials to the juvenile. (7-1-96)T

o. The fingerprinting and photographing in accordance with Idaho Code. (7-1-96)T

03. Court Appearance Within Twenty-Four (24) Hours. According to Idaho Code, written policy and procedures shall ensure that any juvenile placed in detention or shelter care be brought to court within twenty-four (24) hours, excluding Saturdays, Sundays and holidays for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail or detention facility, but instead may be placed in juvenile shelter care facilities. (7-1-96)T

04. Limitations of Detention. Written policy and procedure shall limit the use of detention in accordance with Idaho Code 20-516. (7-1-96)T

462. RELEASE.

01. Release. Written policy and procedure shall govern the release of any juvenile and the release process including, but not limited to, verification of juvenile's identity, verification of release papers, completion of release arrangements, including the person or agency to whom the juvenile is being released, return of personal effects, completion of any pending action, such as grievances or claims for lost or damaged possessions, medical screening and arrangements for community follow-up when needed, instructions on forwarding mail, and the presence or absence of any detainer. (7-1-96)T

02. Detainer as an Automatic Bar to Release. Policy and procedures shall govern the investigation of the basis of any such detainer and whether to release the juvenile based on the detainer. (7-1-96)T

03. Community Leaves. Written policy and procedure shall govern escorted and unsecured day leaves into the community. (7-1-96)T

04. Personal Property Complaints. Written policy and procedures shall govern a procedure for handling complaints about personal property. (7-1-96)T

05. Disposal of Property. Property not claimed within four (4) months of a juvenile's discharge may be disposed of by the facility in accordance with Idaho Code. (7-1-96)T

463. -- 464. (RESERVED).

465. PROGRAMS AND SERVICES AVAILABLE.

The facility shall have written policies and procedures which govern what programs and services will be available to juveniles, subject to the limitations necessary to maintain facility security and order. These programs and services shall include, at a minimum, access or referral to counseling, religious services on a voluntary basis, one (1) hour per day and five (5) days per week of large muscle exercise and passive recreational activities, regular and systematic access to reading material, juvenile work assignments and educational programs according to the promulgated rules of the Idaho State Department of Education, except where there is justification for restricting a juvenile's participation. Any denial of services must be documented. (7-1-96)T

466. -- 469. (RESERVED).

470. EXISTING FACILITY REQUIREMENTS.

01. Applicability. Rules in this section shall apply to all facilities for which construction was initiated and/or completed before the effective date of these rules.

(7-1-96)T

02. Code Compliance. In addition to these rules, existing facilities shall comply with applicable building, health, and safety codes of the local authority and the requirements of the State Fire Marshal. Rules herein which exceed code requirements of the local authority shall take precedence. (7-1-96)T

03. General Conditions. All existing juvenile detention facilities shall conform to the following general conditions: (7-1-96)T

a. Artificial lighting. Light levels in all housing areas shall be at least twenty (20) foot candles measured three feet above the floor. Light levels in other areas shall be appropriate for the use and type of activities which occur. Night lighting levels shall permit adequate illumination for supervision. (7-1-96)T

b. Natural light. All living areas shall provide visual access to natural light. (7-1-96)T

c. Heating, cooling and ventilation systems. HVAC systems shall be designed to provide that temperatures in indoor living and work areas are appropriate to summer and winter comfort zones, and healthful and comfortable living and working conditions exist in the facility. (7-1-96)T

d. Security hardware. All locks, detention hardware, fixtures, furnishings, and equipment shall have the proper security value for the areas in which they are used. The use of padlocks in place of security locks on sleeping room or housing unit doors is prohibited. (7-1-96)T

04. Admission and Release Area. The facility shall have an intake and release area which should be located within a secure perimeter, but apart from other living and activity areas. Adequate space shall be allocated for, but not limited to, reception, booking and identification, search, shower and clothing exchange, medical screening, storage of juvenile's personal property and facility clothing, telephone calls, interviews, release screening and processing, and temporary holding rooms designed to detain juveniles for up to eight (8) hours pending booking, court appearance, housing assignment, transfer, or release. Temporary holding rooms may be designed for multiple occupancy and shall provide at least twenty-five (25) square feet of floor space for each juvenile at capacity, but shall be no smaller than fifty (50) square feet. Temporary holding rooms shall have access to a toilet and wash basin with hot and cold water. (7-1-96)T

05. Single Occupancy Rooms. Single occupancy sleeping rooms or cells shall have a minimum of thirty-five (35) square feet of unencumbered space and shall be equipped with at least a bed above the floor. (7-1-96)T

06. Multiple Occupancy Rooms. Multiple occupancy sleeping rooms or cells shall have at least thirty-five (35) square feet of unencumbered floor space per occupant at the room's rated capacity and shall be equipped with at least a bed above the floor for each occupant. (7-1-96)T

07. Sanitation and Seating. All single or multiple occupancy sleeping rooms or cells shall be equipped and/or provide access to a toilet, wash basin with hot and cold running water, and drinking water at the following ratios: at least one (1) shower and one (1) toilet for every eight (8) juveniles, or fraction thereof, wash basin with hot and cold water for every twelve (12) juveniles, or fraction thereof, and tables and sufficient seating for all juveniles for the maximum number expected to use the room at one time. (7-1-96)T

08. Day Room/Multi-Purpose Room. The facility shall have at least one (1) day room/multi-purpose room which provides a minimum of thirty-five (35) square feet of floor space per occupant for the maximum number expected to use the room at one (1) time. (7-1-96)T

09. Program Space. Adequate space shall be allocated for, but not limited to, educational programs, individual and group activities, exercise and recreation, visitation, confidential attorney and clergy interviews, and counseling. (7-1-96)T

10. Outdoor Exercise Space. The facility should have a secure outdoor recreation area large enough to ensure that each juvenile is offered at least one (1) hour of access daily. (7-1-96)T

11. Administration Space. Adequate space shall be provided for administrative, security, professional and clerical staff. This space includes conference rooms, storage rooms for records, medical services, a public lobby, and toilet facilities. (7-1-96)T

12. Handicapped Access. All parts of the facility that are accessible to the public shall be accessible to, and usable by, persons with disabilities in compliance with ADA standards. (7-1-96)T

13. Perimeter Security. The perimeter is secured in a way which provides that juveniles remain within the perimeter and that access by the general public is denied without proper authorization. (7-1-96)T

471. -- 474. (RESERVED).

475. NEW FACILITY DESIGN AND CONSTRUCTION.

01. Applicability. All standards in this section, except where exceptions are stated, shall apply to new juvenile detention facilities and renovation of existing juvenile detention facilities for which construction is initiated after the effective date of these rules. In the case of partial renovation of an existing facility, it is intended that these rules should apply only to the part of the facility being renovated. (7-1-96)T

02. Rated Capacity. The facility shall have a rated capacity established in accordance with these rules. Except in emergencies, the total number of juveniles in each sleeping room or housing unit shall not exceed its rated capacity. The number of juveniles which may be housed in a particular room, housing unit, or facility shall be based upon available square footage, sanitary fixtures, and other physical plant features as specified in these rules. (7-1-96)T

03. Code Compliance. In addition to these rules, all new construction and renovation shall comply with the building, safety, and health codes of the local authority and the applicable requirements of the State Fire Marshal. Standards herein which exceed those of the local authority shall take precedence. (7-1-96)T

04. Site Selection. New facilities should be located to facilitate access to community resources and juvenile justice agencies. If the facility is located on the grounds or in a building with any other correctional facility, it shall be constructed as a separate, self-contained unit. (7-1-96)T

05. General Conditions. All newly constructed or renovated juvenile detention facilities shall conform to the following general conditions: (7-1-96)T

a. Artificial light. Light levels in all housing areas shall be at least twenty (20) foot candles measured three (3) feet above the floor. Light levels in other areas shall be appropriate for the use and type of activities which occur. Night lighting shall not exceed five (5) foot candles during sleeping hours. (7-1-96)T

b. Natural light. In all new construction, all living areas shall provide visual access to natural light. (7-1-96)T

c. Heating, cooling and ventilation systems. HVAC systems shall be designed to provide that temperatures in indoor living and work areas are appropriate to the summer and winter comfort zones, and healthful and comfortable living and working conditions exist in the facility. (7-1-96)T

d. Detention hardware. All locks, detention hardware, fixtures, furnishings, and equipment shall have the proper security value for the areas in which they are used. The use of padlocks in place of security locks on sleeping room or housing unit doors is prohibited. (7-1-96)T

e. Privacy screening. Juveniles' rights to privacy from unauthorized or degrading observation shall be protected without compromising the security and control of the facility. Privacy screening for all toilet and shower areas which still allows adequate supervision of those areas should be incorporated into the design. (7-1-96)T

f. Perimeter security. The facility shall have a perimeter which is secured in such a way that juveniles

remain within the perimeter and that access by the general public is denied without proper authorization. (7-1-96)T

g. Electronic surveillance and communications systems. The security area of the facility shall have an audio communication system equipped with monitors in each sleeping room and temporary holding room designed to allow monitoring of activities and to allow juveniles to communicate emergency needs to facility employees. Closed circuit television should primarily be used to verify the identity of persons where direct vision is not possible. Closed circuit television shall not be used to routinely monitor the interior of sleeping rooms. (7-1-96)T

h. Emergency power. All newly constructed facilities shall provide an emergency source of power to supply electricity for entrance lighting, exit signs, circulation corridors, fire alarm, electrically operated locks and the ventilation system. (7-1-96)T

06. Admission and Release Area. The facility shall have an intake and release area which should be located within the security perimeter, but apart from other living and activity areas. Adequate space shall be allocated for, at least but not limited to, reception, booking and identification, search, shower and clothing exchange, medical screening, storage of juvenile's personal property and facility clothing, telephone calls, interviews, release screening and processing and temporary holding rooms designed to detain juveniles for up to eight (8) hours pending booking, court appearance, housing assignment, transfer, or release. Temporary holding rooms may be designed for multiple occupancy and shall provide at least twenty-five (25) square feet of floor space for each juvenile at capacity, but shall be no smaller than fifty (50) square feet. Temporary holding rooms shall have access to a toilet and wash basin with hot and cold water. (7-1-96)T

07. Single Occupancy Rooms. Single occupancy sleeping rooms or cells shall have a minimum of thirty-five (35) square feet of unencumbered space and shall be equipped with at least a bed above the floor. (7-1-96)T

08. Multiple Occupancy Rooms. Multiple occupancy sleeping rooms or cells shall have at least thirty-five (35) square feet of unencumbered floor space per occupant at the room's rated capacity and shall be equipped with at least a bed off the floor for each occupant. (7-1-96)T

09. Sanitation and Seating. All single or multiple occupancy sleeping rooms shall be equipped with, or have twenty four (24) hours per day access without staff assistance to toilets, wash basins with hot and cold running water, and drinking water at the following ratios: one (1) shower and one (1) toilet for every eight (8) juveniles or fraction thereof, one (1) wash basin with hot and cold water for every twelve (12) juveniles or a fraction thereof, and tables and seating sufficient for the maximum number expected to use the room at one time. (7-1-96)T

10. Day Room/Multi-Purpose Room. The facility shall have at least one day room/multi-purpose room which provides a minimum of thirty-five (35) square feet of floor space per occupant for the maximum number expected to use the room at one time. (7-1-96)T

11. Program Space. Adequate space shall be allocated for, but not limited to, educational programs, individual and group activities, exercise and recreation, visitation, confidential attorney and clergy interviews, and counseling. (7-1-96)T

12. Interview Space. A sufficient number of confidential interview areas to accommodate the projected demand of visits by attorneys, counselors, clergy, or other officials shall be provided. At least one (1) confidential interview area is required. (7-1-96)T

13. Outdoor Exercise Space. The facility should have a secure outdoor recreation area large enough to ensure that each juvenile is offered at least one (1) hour of access daily. (7-1-96)T

14. Medical Service Space. Space shall be provided for routine medical examinations, emergency first-aid, emergency equipment storage, and secure medicine storage. (7-1-96)T

15. Food Service. Where food is to be prepared in-house, the kitchen shall have sufficient space for food preparation, serving, disposal, and clean-up to serve the facility at its projected capacity. The kitchen shall be properly equipped and have adequate storage space for the quantity of food prepared and served. (7-1-96)T

16. Laundry. Where laundry services are provided in-house, there shall be sufficient space available for heavy duty or commercial type washers, dryers, soiled laundry storage, clean laundry storage, and laundry supply storage. (7-1-96)T

17. Janitor's Closet. At least one (1) secure janitor's closet containing a mop sink and sufficient space for storage of cleaning supplies and equipment shall be provided within the security perimeter of the facility. (7-1-96)T

18. Security Equipment Storage. A secure storage area shall be provided for all chemical agents, weapons, and security equipment. (7-1-96)T

19. Administration Space. Adequate space shall be provided which includes but is not limited to, administrative, security, professional and clerical staff, offices, conference rooms, storage rooms, a public lobby, and toilet facilities. (7-1-96)T

20. Public Lobby. A public lobby or waiting area shall be provided which includes sufficient seating and toilets. Public access to security and administrative work areas shall be restricted. All parts of the facility that are accessible to the public shall be accessible to, and usable by, persons with disabilities in compliance with ADA standards. (7-1-96)T

476. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.03 - RULES GOVERNING ELECTRICAL LICENSING AND REGISTRATION - GENERAL
DOCKET NO. 07-0103-9601
NOTICE OF PROPOSED RULE

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 54-1006, 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 September 18, 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 the agency at the address below.

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

The current rule relating to 07.01.03.015.06 regarding electrical licensing and registration will be modified to allow signing journeymen to sign for their own company and for an industrial account.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Gary L. Malmen, Bureau Chief, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720, (208) 334-2183.

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 September 25, 1996.

DATED this 23rd day of July, 1996.

Renee Bryant
Division of Building Safety
277 N. 6th, Suite 100
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3950/fax (208) 334-2683

TEXT OF DOCKET NO. 07-0103-9601

015. ELECTRICAL CONTRACTOR.

01. Qualifications for Electrical Contractor. (4-7-91)

a. Except as hereinafter provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for an electrical contractor license upon the condition that such applicant shall have at least one full-time employee who holds a valid journeyman electrician license issued by the Electrical Division, and has held a valid journeyman electrician's license for a period of not less than two (2) years, during which time he was employed as a journeyman electrician for two thousand (2,000) hours per year, and who will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. An individual electrical contractor may act as his own supervising journeyman electrician upon the condition that he holds a valid journeyman electrician license issued by the Electrical Division, and has held a valid journeyman electrician's license for a period of not less than two (2) years, during which time he was employed as a journeyman electrician for two thousand (2,000) hours per year. The supervising journeyman electrician shall be

available during working hours to carry out the duties of supervising journeymen, as set forth herein. (4-1-91)

b. Those duties include assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the Department; and any person designated under Subsection 015.01.a., and the contractor he represents, shall each notify the Department in writing if the supervising journeyman's working relationship with the contractor has been terminated. Each notice must be filed with the Department within ten (10) days of the date of termination. If the supervising journeyman's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising journeyman is qualified by the Department. (7-27-94)

02. Required Signatures on Application. An application for an electrical contractor license shall be signed by the applicant or by the official representative of the partnership, company, firm, association, or corporation making the application. The application shall be countersigned by the supervising journeyman electrician. (4-1-91)

03. Submission of Application. Application for electrical contractor's license shall be submitted prior to the time the applicant commences to act or attempts to act as an electrical contractor in Idaho. For the purposes of this paragraph, "attempts to act as an electrical contractor" includes, but is not limited to, submitting a bid to perform electrical contracting work in this state. "Electrical contracting work" includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. A person other than those so exempted who performs such installation, maintenance, or repair work is acting as an electrical contractor, whether or not he receives compensation for such work. Willful or repeated failure to make timely application for an electrical contractor's license or for the renewal or revival thereof shall constitute grounds for license suspension, revocation or denial for lack of fitness and qualification. (4-1-91)

04. Previous Revocation. Any applicant for an electrical contractor license who has previously had his electrical contractor license revoked for cause, as provided by Section 54-1009, Idaho Code, shall be considered as unfit and unqualified to receive a new electrical contractor license so long as such cause for revocation is continuing and of such nature that correction can be made by the applicant. (1-14-87)

05. Reviving an Expired License. Any applicant for an electrical contractor license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-1013, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violates any of the laws and/or rules applicable to electrical contractors. (4-1-91)

06. Qualification for Supervising Journeyman. A journeyman electrician shall not be considered as qualified to countersign an electrical contractor license application as the supervising journeyman, nor shall said application be approved if he does countersign said application as the supervising journeyman, if said journeyman has had his Idaho Electrical Contractor license revoked for cause under Section 54-1009, Idaho Code. A supervising journeyman shall not countersign for more than one (1) contractor. A journeyman who is a full time employee of a company, corporation, firm or association with an industrial account may sign as supervising journeyman for that industrial account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner and complies with the provisions of Subsection 015.01.a. and 015.01.b. (1-14-87)(7-1-97)

07. Failure to Correct Defects in Electrical Installations. If a journeyman countersigns an electrical contractor license application pursuant to Subsection 015.03 and thereafter willfully fails to correct defects in electrical installations he made or supervised, and such defects are within his power to correct and are not the fault of the contractor, then the Electrical Division shall have the power to suspend or revoke said journeyman's license pursuant to Section 54-1009, Idaho Code. (1-14-87)

08. Overcharging of Fees. It shall be grounds for suspension or revocation of an electrical contractor license if he charges and collects from the property owner an electrical permit or inspection fee which is higher than the fee actually in effect at the time of such charging and collection, pursuant to the current Electrical Laws and Rules of the Department of Labor and Industrial Services, Electrical Division, and the fee remitted by the contractor to the Department is less than the fee actually charged and collected by him. (4-6-83)

09. Electrical Contractor's Examination. (9-1-94)

a. Each electrical contractor's license applicant must pass a contractor's examination to be administered by the Department or its designee. Any applicant which purports to be a non-individual (i.e., corporation, partnership, company, firm, or association), must designate in writing an individual to represent the partnership, company, etc., for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other applicant for an electrical contractor's license. (9-1-94)

b. Any person designated under Subsection 015.09.a., and the contractor he represents, shall each notify the Department in writing if the designee's working relationship with the contractor has been terminated. Each notice must be filed with the Department within ten (10) days of the date of termination. If the designee's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another duly qualified designee passes the electrical contractor's examination on behalf of the contractor. (9-1-94)

c. Passage of the contractor's examination shall only be required for new electrical contractor license applications submitted after the effective date of this rule, September 1, 1994, and shall not apply to license renewal or revival under Section 54-1013, Idaho Code. (9-1-94)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.06 - RULES GOVERNING UNIFORM PLUMBING CODE
DOCKET NO. 07-0206-9601

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective July 10, 1996.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2605(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 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 the agency at the address below.

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

The current rule relating to 07.02.06.011.04 is in regards to changes to Section 1004(a) - Materials, 1991 edition of the Uniform Plumbing Code. These changes allow the use of PEX, PEX/AL/PEX, PE/AL/PE, and CPVC to be used in the hot and cold water distribution system within a building and in the cold water distribution system outside of buildings.

Temporary rule justification: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code, and are necessary in order to protect the public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS. For assistance on technical questions concerning the temporary or proposed rule, contact Joe Meyer, Bureau Chief, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720-0068, (208) 334-3442.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 26, 1996.

DATED this 17th day of July, 1996.

Renee Bryant
Division of Building Safety
277 N. 6th, Suite 100
P.O. Box 83720
Boise, ID 83720-4801
(208) 334-3442/fax (208) 334-2683

TEXT OF DOCKET NO. 07-0206-9601

011. ADOPTION OF 1991 UNIFORM PLUMBING CODE.

The 1991 Uniform Plumbing Code, including Appendix "E" and the installation standards for polybutylene hot and cold water distribution tubing systems, is adopted with the following amendments. (12-29-91)

01. Part 1. Administration. Delete the fee schedule (Table A). (12-29-91)
02. Section 403C. Underground Drainage Piping. No portion of the drainage system installed underground or below a basement or cellar shall be less than two (2) inches in diameter. (12-16-82)

03. Section 406A. Cleanouts. A full-sized accessible cleanout shall be installed at the base or above floor level in each vertical waste or soil stack. A full-size cleanout extending to or above finished grade line shall be installed at the junction of the building drain and the building sewer. (ref.: Section 1107a) Cleanouts shall be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches IPS or smaller. (12-16-82)

04. Section 1004a - Materials. Portion relating to polybutylene pipe is amended to provide that such materials may be used for hot and cold water distribution systems within a building, or cold water distribution systems outside of a building. ~~C.P.V.C. water pipe and tubing shall not be used for hot and cold distribution systems within a building~~ Crosslinked Polyethylene (PEX) Tubing manufactured to ASTM - F876/F877 and tested, approved, and listed to ANSI/NSF 14 and 61, for potable water, and Crosslinked Polyethylene, Aluminum, Crosslinked Polyethylene (PEX/AL/PEX) along with Polyethylene, Aluminum, Polyethylene (PE/AL/PE) manufactured to ASTM - F1281/F1282 and tested, approved, and listed to the ANSI/NSF 61, for potable water, along with all applicable installation standards. (12-29-94)(6-10-96)T

05. Table 4-3. Maximum unit loading and maximum length of drainage and vent piping. (EXCEPTION) The building drain and building sewer is not less than four (4) inches IPS extending from its connection with the city or private sewer system and shall run full size to inside the foundation or building lines (ref: Section 1105). (12-16-82)

06. Section 613. Exception - Vertical Wet Venting. A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 613 are met. (8-25-88)

07. Section 1119(b). Every cesspool, septic tank and seepage pit which has been abandoned or has been discontinued otherwise from further use or to which no waste or soil pipe from a plumbing fixture is connected, shall have the sewage removed therefrom and be completely filled with earth, sand, gravel, concrete or other approved material, if required by the Administrative Authority. (8-25-88)

08. Section 1119(e). Where disposal facilities are abandoned consequent to connecting any premises with the public sewer, the permittee making the connection shall fill all abandoned facilities if required by the Administrative Authority within 30 days from the time of connecting to the public sewer. (8-25-88)

09. Section 608(c). No domestic dishwashing machine in a non-residential installation shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher airgap fitting on the discharge side of the dishwashing machine. Listed airgaps shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher. (8-25-88)

IDAPA 09 - IDAHO DEPARTMENT OF LABOR

09.01.30 - BENEFIT PROGRAMS

DOCKET NO. 09-0130-9601

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 72-1333(b), Idaho Code.

PUBLIC HEARING SCHEDULE: 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, 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 persons with disabilities. Arrangements can be made for interpreters for persons with hearing impairments, and brailled or taped information for persons with visual impairments. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency addressed below.

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

This amendment deletes rule IDAPA 09.01.30.476.05. a. and b. that allows benefits to claimants who quit suitable work to accept definite offers of more gainful employment, and substitutes a new rule that allows benefits to claimants who quit temporary jobs for permanent jobs or who quit part-time positions for employment with an increase in the number of hours of work. This amendment also deletes rules IDAPA 09.01.30.066.01 and 09.01.30.067.02 that allow benefits to claimants who make trips out of the area for the sole purpose of seeking work or who are temporarily absent from the labor market for compelling personal reasons if the absence does not exceed the minor part of the work week, and substitutes a new rule providing that all claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the work week in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market or the absence is due to compelling personal circumstances and the absence does not exceed a minor portion of the week.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Jean Hull, Chief of Benefits Bureau, Idaho Department of Labor, at (208) 334-6317.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and received on or before September 25, 1996.

Dated this 23rd day of July, 1996

Roger B. Madsen, Director
Idaho Department of Labor
317 Main Street
Boise, ID 83735
Fax # (208) 334-6430

TEXT OF DOCKET NO. 09-0130-9601

061. AVAILABLE FOR WORK.

The phrase "available for work" is defined as a state of mind which involves a readiness and willingness to work, a desire to find a job, and having the physical ability to perform work, and including the possibility of marketing one's services in his area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired, for suitable work. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)

01. Availability Requirements. The type of work for which the claimant is available must exist in that area to the extent that a normal unemployed person would generally find work within a reasonable period of time. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)

02. Compelling Personal Circumstances. A claimant must be available for the whole of the week for which he claims benefits except if he is out of his normal labor market area ~~for less than the major portion of the work week~~ due to compelling personal circumstances and the absence does not exceed a minor portion of the week. Compelling absences are caused by circumstances over which the claimant has no control. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)()

03. Temporary Absence from Local Labor Market. All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the work week in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market or the absence is due to compelling personal circumstances as provided in Subsection 061.02. Ref. Sec. 72-1366(d) Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

066. DISTANCE TO WORK.

A claimant seeking work must be willing to travel the distance normally traveled by fellow workers. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)

~~01. Seeking Work Out of the Area. If other factors do not conflict, a claimant making a trip for the sole purpose of seeking work will be eligible for benefits. Ref. Sec. 72-1366(d) Idaho Code (2-1-94)~~

021. Moving to Remote Area. A claimant moving to a remote locality where there is very little possibility of obtaining work will be denied benefits. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)

032. Inadequate or Lack of Transportation. Difficulty with transportation is not a bona fide reason for failure to be available for or to seek work. Transportation must be the responsibility of the claimant. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)

067. DOMESTIC CIRCUMSTANCES.

A claimant is not eligible for unemployment insurance benefits if domestic circumstances are so compelling as to take precedence over the availability for work or seeking work. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)

01. Child Care. Child care must be arranged so as not to restrict a claimant's availability for work or seeking work. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)

~~02. Temporary Absence from Labor Market. A claimant's temporary absence from the labor market area for compelling personal reasons does not disqualify the claimant if it does not exceed the minor part of the work week. Ref. Sec. 72-1366(d) Idaho Code. (2-1-94)~~

(BREAK IN CONTINUITY OF SECTIONS)

476. VOLUNTARY QUIT.

The burden of proof lies with the claimant to establish good cause in connection with the employment to be eligible for benefits. Ref. Sec. 72-1366(e) Idaho Code. (2-1-94)

01. Moral or Ethical Quit. A claimant who leaves a job because of a reasonable and serious objection on moral or ethical grounds to work requirements of the employer and is otherwise eligible, shall not be denied benefits. Ref. Sec. 72-1366(e) Idaho Code. (12-1-78)

02. Unrelated Discharge Prior to Pending Resignation. A claimant, discharged before a pending

resignation has occurred, for reasons not related to the pending resignation, shall have his eligibility determined on the basis of the discharge, not on the pending resignation. Ref. Sec. 72-1366(e) Idaho Code. (12-1-78)

03. **When Notice of Resignation Prompts a Discharge.** Where the claimant had given notice of a pending resignation, but was discharged before the effective date of the resignation, both "separations" must be considered. The following three elements should be present: 1) the employee must have given notice to the employer of a specific separation date; 2) the employer's decision to discharge before the effective date of resignation must be a consequence of the pending separation; and 3) the discharge must occur a short time prior to the effective resignation date. Ref. Sec. 72-1366(e) Idaho Code. (2-1-94)

04. **Good Cause.** The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman. Whether good cause is present depends upon whether a reasonable person would consider the circumstances resulting in the claimant's unemployment to be real, substantial, and compelling. Ref. Sec. 72-1366(e) Idaho Code. (2-1-94)

a. **Quit Due to Health or Physical Condition.** A claimant who quits employment because the claimant's health or physical condition makes it impossible to continue to perform the duties of the job shall be deemed to have quit work with good cause connected with employment. (2-1-94)

b. **Cause Connected With Employment.** For purposes of Idaho Code Section 72-1366(e), to be connected with employment, a claimant's reason(s) for leaving the employment must arise from the working conditions, job tasks, or employment agreement. If the claimant's reason(s) for leaving the employment arise from personal/non job-related matters, the reasons are not connected with the claimant's employment. Ref. Sec. 72-1366(e) Idaho Code. (2-1-94)

~~05. **Quit to Accept New Job.** In addition to satisfying the requirements of Rule 30.476.04.b., a claimant who quits suitable work to accept other suitable work must prove both of the following in order to establish that the claimant quit with good cause in connection with the employment:~~ (2-1-94)

~~a. **Quit for Definite Job Offer.** That the claimant had a good faith and reasonable belief that the claimant had a definite job offer, that the job was expected to begin immediately or in the shortest reasonable time, and that the job would be a continuing one; and~~ (2-1-94)

~~b. **Quit for More Gainful Employment.** That after comparing the old job (and all reasonable alternatives available with that employer) to the offer of the new job, the new job would provide better compensation or other more favorable term(s) of employment, to such a degree that a reasonable and prudent person would feel compelled to leave the old job and accept the offer of the new job. Ref. Sec. 72-1366(e) Idaho Code.~~ (2-1-94)

05. **Quit for Permanent Work or for Increase in Work Hours.** A claimant who quits a temporary job for a permanent job or who quits part-time employment for employment with an increase in the number of hours of work shall be deemed to have quit work with good cause connected with employment. Ref. Sec. 72-1366(e) Idaho Code ()

06. **Quit or Retirement During Employer Downsizing.** An individual who has continuing suitable work available and who voluntarily elects to retire or to terminate employment during a period of reorganization or downsizing will be considered to have voluntarily quit the employment for personal reasons. (1-25-95)

IDAPA 09 - IDAHO DEPARTMENT OF LABOR

09.01.35 - EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-9601

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 72-1333(b), Idaho Code.

PUBLIC HEARING SCHEDULE: 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, 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 persons with disabilities. Arrangements can be made for interpreters for persons with hearing impairments, and brailled or taped information for persons with visual impairments. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency addressed below.

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

IDAPA 09.01.35.011 is amended as follows: 09.01.35.011.04, 05 and 06 are deleted; 09.01.35.011.10 corrects a typographical error, clarifies time period in which no interest or penalties are assessed during a bankruptcy action, and provides for compromise of post petition penalties and interest; 09.01.35.01.112 deletes requirement of how lien interest is to be applied on delinquent accounts; 09.01.35.011.13 is revised to allow for the compromise of penalty and interest during the period when the status or liability of an employer is in controversy; 09.01.35.011.15 and 16 are deleted; 09.01.35.011.23 is revised to redefine when appeal rights are given; 09.01.35.011.26 amends "Employment" to "Labor"; 09.01.35.011.28 is amended to allow contribution reports to be submitted in any form or medium which the Department may allow; 09.01.35.011.29 is added to provide that employment security contributions shall be deemed to be held in trust or held separately by the employer for the state of Idaho, whether or not they are separated. The subsections of this rule will be renumbered to account for any deleted subsections.

IDAPA 09.01.35.056 is amended to provide a new system for how payments made on a delinquent account are to be applied in the absence of agreement to the contrary.

IDAPA 09.01.35.061 is amended as follows: 09.01.35.061.02.a. deletes reference to past or future services; 09.01.35.061.02.e. is changed to add a reference to specific profit sharing exemptions from wages; 09.01.35.061.02.f. is changed to include certain excess employer business allowances and per diem rates to the definition of wages; 09.01.35.061.03 has surplus wording removed and clarifies exclusions; 09.01.35.061.c. is amended to correct a typographical error; 09.01.35.061.03.e. clarifies when rental charges on personal equipment are excluded from wages by the insertion of three subparagraphs, i, ii and iii; 09.01.35.061.03.f. corrects a typographical error; 09.01.35.061.03.g. allows employee expenses, or business allowance arrangements to be excluded from wages under certain circumstances and adds subparagraphs i, ii, and iii as clarification; 09.01.35.061.03.h. excludes from wages payments for employee travel expenses under certain circumstances and adds subparagraphs i, ii, and iii.

IDAPA 09.01.35.081 is amended as follows: The word "Employer" replaces "Payroll" in the title of this rule; 09.01.35.081.01 replaces "employing" with "hiring," and deletes a reference to covered employment; 09.01.35.081.01 adds the term "covered"; 09.01.35.081.03 is changed to include employee business expenses; and 09.01.35.081.05 redefines business records.

IDAPA 09.01.35.106 is changed to allow an employer to dispute both services and remuneration as constituting covered employment or wages.

IDAPA 09.01.35.107 is added as a new rule to provide that if excludable amounts are not properly recorded separately from taxable amounts, they will be deemed to be amounts paid in covered employment.

IDAPA 09.01.35.132 is amended as follows: 09.01.35.132.01 is revised to specify what records or data are necessary to be supplied to determine an employer's status as a covered employer, as well as any records showing the amount of liability; 09.01.35.132.02 is deleted; 09.01.35.132.06, 07, 08, 09, and 10 are deleted; 09.01.35.132.11 is revised to allow employers to file their quarterly reports in any medium or manner allowed by the Director or his authorized

representative (these sections will be renumbered).

IDAPA 09.01.35.166 is amended as follows: 09.01.35.166.01 is amended to allow for execution against all assets as allowed by Idaho Code Section 72-1360 and adds a reference to Idaho Code Sec. 67-1026; 09.01.35.166.02 is amended to provide that interstate investigations shall be conducted only when the indebtedness of the employer is \$500.00 or more, instead of the current \$200.00 level; 09.01.35.166.03 and 06 change the word "Employment" to "Labor."

IDAPA 09.01.35.186 is amended as follows: 09.01.35.186 provides for periodic refunds to employers who have made overpayments; 09.01.35.186.01 is amended to provide that employer overpayments of contributions is to be used to offset benefit overpayments if the employer has benefited from the benefit overpayment; 09.01.35.186.02 is amended to remove references to employer overpayments which are previously referenced in this rule.

IDAPA 09.01.35.196 is deleted since it is adequately covered by Idaho Code Section 72-1350.

IDAPA 09.01.35.241.01 changes the word "Employment" to "Labor"; 09.01.35.241.02.c. is amended to provide that lodging is to be excluded from gross income of an employee as long as the employee is being paid the prevailing wage.

IDAPA 09.01.35.286 is deleted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Mark Whitworth, Chief, Employer Accounts Bureau, Idaho Department of Labor, at (208) 334-6385.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and received on or before September 25, 1996.

Dated this 23rd day of July, 1996.

Roger B. Madsen, Director
Idaho Department of Labor
317 Main Street
Boise, ID 83735
Fax # (208) 334-6430

TEXT OF DOCKET NO. 09-0135-9601

011. GENERAL PROVISIONS.

The following Rules for Employer Contributions are adopted pursuant to Sec. 72-1333(b) Idaho Code. (4-1-79)

01. Advisory Service. The Employer Accounts Bureau shall provide advisory services and assistance regarding unemployment insurance tax to employers, legislative committees, and other interested associations and individuals. Ref. Sec. 72-1333(b) Idaho Code. (4-1-79)

02. Extension For Payment. The Chief of Employer Accounts, his designated representative, or any local office tax representative, may, for good cause, grant an extension for the payment of contributions or any part thereof up to a maximum of sixty (60) days. Ref. Sec. 72-1349 Idaho Code. (11-1-84)

03. Notification of Extension. Employers shall be promptly notified that an extension of time has been granted or denied. Ref. Sec. 72-1349 Idaho Code. (4-1-79)

~~04. Extension for Department Error. A delinquent account caused by a Department error shall be granted an extension of up to sixty (60) days beyond the due date for the quarter in which the error is discovered and~~

~~the employer so notified, to prevent late charges on that account. Ref. Sec. 72-1349 Idaho Code. (4-1-79)~~

~~05. Extension Due to Controversy. Whenever a valid controversy regarding liability exists between the employer and the Department, a new due date shall be established for payment of amounts due at the conclusion of the issue if the employer is determined liable (See Rule 35.024). Ref. Sec. 72-1349 Idaho Code. (6-1-81)~~

~~06. Notification of Due Date. The subject employer shall be notified by letter, advising him of the new due date for his contribution payment and that penalty and/or interest shall be assessed if not paid by the due date. Ref. Sec. 72-1349 Idaho Code. (6-1-81)~~

~~0704. Status Determinations. Status determinations regarding employment coverage or noncoverage under the Idaho Code shall be the primary responsibility of the status unit. Inquiries should be directed to the Status Examiner. Ref. Sec. 72-1333 Idaho Code. (4-1-79)~~

~~0805. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. Ref. Sec. 72-1328(a) Idaho Code. (4-1-79)~~

~~0906. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Sec. 72-1349(b) Idaho Code. (4-1-79)~~

~~407. Penalties and Interest on Bankruptcy. Penalty and/or interest shall not be assessed on ~~accounts~~ amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending ~~when the indebtedness is paid in full on or before~~ with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Sec. 72-1355 Idaho Code. (6-1-81)()~~

~~408. Late Penalty. Penalty shall be calculated on the unpaid balance for each quarter. Ref. Sec. 72-1354 Idaho Code. (6-1-81)~~

~~4209. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien ~~in District Court~~, at a rate established by law. ~~Payment made against such accounts shall be applied first to the lien interest of the quarter most delinquent in point of time, unless otherwise specified by the employer (See Rule 35.056). Ref. Sec. 72-1360 Idaho Code. (6-1-81)()~~~~

~~4310. Penalty and Interest During Controversy. Penalty and/or interest shall ~~not be charged~~ compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. ~~(See Rule 35.016).~~ Ref. Sec. 72-1354 and Sec. 72-1360 Idaho Code. (6-1-81)()~~

~~4411. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released unless authority for that release is provided for by an approved Rule or the Idaho Code. Ref. Sec. 72-1342 Idaho Code. (4-1-79)~~

~~15. Written Determination on Penalty and Interest Protests. An employer who protests assessment of penalty or interest against his account shall receive a written determination to uphold, adjust, or cancel the amount due. Ref. Sec. 72-1361 Idaho Code. (6-1-81)~~

~~16. Appeal Procedures. Employers shall be advised of appeal procedures and their rights to a written determination of late charge or interest due. Ref. Sec. 72-1361 Idaho Code. (4-1-79)~~

~~4712. Wages Reported to Another State. An employer's election to report wages to another state for covered employment performed in Idaho shall not be approved unless it is in the best interest of the Department. Ref. Sec. 72-1344 Idaho Code. (4-1-79)~~

~~4813. Multistate Employment. Reciprocal arrangements for coverage of multistate employment may be entered into by the Director or his designated representative, to avoid multiple taxation in each state and assist the~~

claimant in becoming monetarily eligible for unemployment insurance benefits. Ref. Sec. 72-1344 Idaho Code. (6-1-81)

~~19~~14. Advising Multistate Employers. Multistate employers shall be advised of the multistate agreement and the requirements for participation in the program. Ref. Sec. 72-1344 Idaho Code. (4-1-79)

~~20~~15. Authority to Approve Multistate Agreements. The Chief of Employer Accounts, or his designated representative shall have the authority to approve or disapprove the employer's participation in the multistate agreement based on the pertinent information available to him. Ref. Sec. 72-1333 Idaho Code. (6-1-81)

~~21~~16. Multistate Agreement Appeal Rights. The employer shall have the right to appeal a determination of noneligibility in the multistate agreement. Ref. Sec. 72-1361 Idaho Code. (4-1-79)

~~22~~17. Notification of Multistate Employers. When all states concerned have ratified the multistate agreement, employers shall be notified of the determination along with all covered employees for that employer. Ref. Sec. 72-1344 Idaho Code. (4-1-79)

~~23~~18. Right to Appeal Liability Determinations. The employer's right to appeal ~~in all~~ determinations of contribution liability shall be explained to said employer when he initially comes under coverage and in conjunction with any determination sent him. Ref. Sec. 72-1361 Idaho Code. (~~4-1-79~~)()

~~24~~19. Employer Protest or Appeal. A protest or appeal may be filed by an employer or his authorized representative. Ref. Sec. 72-1361 Idaho Code. (4-1-79)

~~25~~20. Contributions During Appeal. The employer shall be advised, but not required, to continue regular payment of contributions during the period of appeal. Ref. Sec. 72-1349 Idaho Code. (4-1-79)

~~26~~21. Request for Special Redetermination. A request for a special redetermination shall be in writing, signed by an interested party or representative. It must include an explanation as to why the protesting party disagrees with the original determination. The request may be delivered in person or mailed to the Department of ~~Employment Labor~~. A request for redetermination delivered in person shall be considered filed when received by a representative of the Department of ~~Employment Labor~~. A request for redetermination that is mailed shall be considered filed as of the date of the postmark on the envelope. Ref. Sec. 72-1361 Idaho Code. (~~2-1-90~~)()

~~27~~22. Determination of Payment Date. Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Sec. 72-1349(c) Idaho Code. (5-1-93)

~~28~~23. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report ~~on the forms in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required in the form,~~ including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on his behalf by someone having personal knowledge of the facts therein stated, and who has been authorized ~~to sign on behalf of by~~ the covered employer to submit the information. Ref. Sec. 72-1349 Idaho Code. (~~7-1-89~~)()

24. Contributions to be Deemed Held Separately. All moneys required by law to be paid by an employer for employment security contributions, penalties, and interest shall immediately, upon becoming due and payable, become state money, and every employer who is required to pay employment security contributions, penalties and interest therefor shall hold or be deemed to hold said money separately, aside, or in trust from any other funds, monies or accounts, for the state of Idaho for payment to the Department in the manner and at the times as provided by law. Ref. Sec. 72-1349 Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

056. APPLICATION OF PAYMENTS ON DELINQUENT ACCOUNTS.

Whenever and if a delinquency exists in the account of an employer ~~not covered by a tax lien~~, and payment in an amount less than the total delinquency is submitted to the Department upon said account, the Department shall, ~~unless the application of such payment is otherwise specifically directed by the employer; unless other arrangements have been made and approved by the Department.~~ apply payment as follows: (7-1-93)(____)

01. First Application. First, credit such payment in satisfaction of ~~penalty interest~~ due for the calendar quarter or period most delinquent in point of time; (6-1-81)(____)

02. Second Application. Next, credit the remainder of such payment in satisfaction of ~~amounts penalty~~ due for such calendar quarter or period most delinquent in point of time; (6-1-81)(____)

03. Third Application. Next, credit the remainder of such payment in satisfaction of ~~penalty contributions~~ due for the calendar quarter or period ~~next-most~~ delinquent in point of time; (6-1-81)(____)

04. ~~Fourth Application. Next, credit the remainder of such payment in satisfaction of amounts due for such calendar quarter or period next most delinquent in point of time;~~ (6-1-81)

~~0504. Subsequent Applications. And so on, in like manner, until the amount of payment is exhausted. Such applications shall be applied in a like manner for each remaining delinquent quarter until the amount of payment is exhausted.~~ Ref. Sec. 72-1354 Idaho Code. (6-1-81)(____)

(BREAK IN CONTINUITY OF SECTIONS)

061. DEFINITIONS.

The definitions listed in Rule 09.01.30.011 and the following are applicable to this Bureau. (7-1-93)

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Sec. 72-1349 Idaho Code. (12-27-95)

02. Wages. All remuneration for personal service performed from whatever source, including commissions and bonuses, and the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include: (9-1-86)

a. Bonuses, prizes, and gifts given to an employee in recognition of ~~past services or to stimulate future~~ services, sales, or production; (9-1-86)(____)

b. Commissions for past services in covered employment; (9-1-86)

c. Salaries or remuneration paid to corporate officers; (9-1-86)

d. Salary advances against commissions; (9-1-86)

e. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328 Idaho Code; (9-1-86)(____)

f. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (9-1-86)(____)

g. Vacation or "idle-time" pay, no matter when paid; (9-1-86)

h. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. Ref. Sec. 72-1328

Idaho Code. (9-1-86)

03. Exclusions From Wages. The term "wages" ~~which are adequately~~ described in Section 72-1328, Idaho Code does not include the following: (9-1-86)()

a. Prizes or gifts for special occasions which are expressions of good will; (9-1-86)

b. Bonuses paid for signing a contract; (9-1-86)

c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size; (9-1-86)()

d. Drawings or advances by partners against the distribution of profits; (9-1-86)

e. Rental charge for personal equipment provided by the employee on the job: if (9-1-86)()

i. There is a rental agreement; and ()

ii. The worker has received a reasonable wage for services performed; and ()

iii. The fees are held separately on the employer's records. ()

f. Stock issued for other than "services rendered" purposes; (9-1-86)()

g. Reimbursement for actual ~~travel~~ employee expense, or business allowance arrangements with employees that requires them: Ref. Sec. 72-1328 Idaho Code. (9-1-86)()

and i. To have paid or incurred reasonable job related expenses while performing services as employees; ()

ii. To account adequately to the employer for these expenses; and ()

iii. To return any excess reimbursement or allowance. Ref. Sec. 72-1328 Idaho Code. ()

h. Payments for employee travel expenses, provided: ()

i. Payments are job related expenses while performing services; and ()

travel; and ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of ()

iii. Records for days of travel pertaining to per diem payments are verifiable. ()

(BREAK IN CONTINUITY OF SECTIONS)

081. ~~PAYROLL-EMPLOYER RECORDS.~~

Each person ~~employing~~ hiring one or more individuals, ~~engaged in covered employment,~~ whether or not such employment is sufficient to create the status of a covered employer, shall establish and maintain records to show the information hereinafter indicated. Such records shall be kept for a period of three years after the calendar year in which the remuneration was due. Ref. Sec. 72-1337 Idaho Code. (6-1-81)()

01. Required Information. Such records shall show with respect to each employee unless the Department has ruled that his services do not constitute covered employment: (6-1-82)()

a. Full name and home address of worker; (7-1-93)

- b. Social Security Account number; (7-1-93)
- c. His place of work within this state; (7-1-93)
- d. Date on which employee was hired, rehired, or returned to work after temporary or partial layoff; (7-1-93)
- e. Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for discharge; (7-1-93)
- f. Wages paid for employment in each pay period and total wages for all pay periods ending in each quarter of the year, showing separately: (7-1-93)
- i. Money wages; (7-1-93)
- ii. The cash value of other remuneration; (7-1-93)
- iii. The amount of all bonuses or special commissions. (7-1-93)
02. Special Remuneration. Any special remuneration paid for services performed in more than one quarter of the year, such as annual commissions or bonuses, gifts, and prizes, showing separately;: ~~(7-1-93)~~(____)
- a. Money payments; (7-1-93)
- b. The cash value of other remuneration and the nature thereof. (7-1-93)
03. Travel or Employee Business Expenses. Amounts paid to employees as allowances or reimbursement for traveling and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them. ~~(6-1-82)~~(____)
04. State in Which Services Performed. The state or states in which his services are performed; and if any of such services are performed outside of this State and are not incidental to the services within the State, his base of operations (or if there is no base of operations, then the state from which such services are directed or controlled), and his residence (by state), and the name of the county in Idaho in which services were performed. (6-1-82)
05. Records to Be Made Available. The records to be made available to the director or his authorized representative, in accordance with the provisions of Section 72-1337 Idaho Code, shall include all of the business records, such as journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of and/or amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts, et cetera. Ref. Sec. 72-1350 Idaho Code. ~~(12-1-78)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

106. CLAIMS OF EXEMPTION.

Any employer claiming that services performed for him or remuneration paid by him does not constitute covered employment or covered wages, as defined in Section 72-1316 and 72-1328 Idaho Code, shall make a report to the Department of Employment Labor of all pertinent facts upon which said claim is based, which report shall be signed by the person making the claim, if he be the employer, or on behalf of the employer by its chief executive officer or manager-an authorized representative. Ref. Sec. 72-1337 Idaho Code. ~~(12-1-78)~~(____)

107. REMUNERATION PAID CONSTITUTES BOTH TAXABLE WAGES AND EXCLUDED AMOUNTS.

When remuneration paid includes payment for other than wages for services performed in covered employment, the

employer's records must account for wages and other remuneration separately. When this distribution is not shown on the records, the employee's entire remuneration will be deemed to be wages. Ref. Sec. 72-1337 Idaho Code. ()

~~107-108.~~ -- 110. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

132. STATUS.

01. Status Information Required. To determine the taxable status of an employer, detailed information regarding the business activities of ~~individuals and firms~~ any person engaged in business in Idaho shall be submitted as required, including articles of incorporation, articles of organization, minutes of boards of directors, financial reports, partnership agreements, number of employees, wages paid, employment contracts, income tax records, and any other records or other information which may tend to establish such person's status. Ref. Sec. 72-1337 Idaho Code.

~~(4-1-79)~~()

~~02. Notification of Employer Responsibilities. Employers who have not previously reported will be contacted by letter, explaining their responsibilities for reporting and payment of contributions. Ref. Sec. 72-1337 Idaho Code.~~

~~(4-1-79)~~

~~03. Notification to Liable Employers. Employers who are determined liable for contributions shall be notified by letter of their status as a covered employer. The employer's appeals rights to the determination shall also be explained in the letter. Ref. Sec. 72-1353 Idaho Code.~~

~~(4-1-79)~~

~~04. Status Determination. A formal determination of status shall be prepared if an employer questions his liability. This status determination shall state the received facts and arrive at a logical conclusion based on these facts and precedent appeals decisions or legal opinions. Ref. Sec. 72-1353 Idaho Code.~~

~~(4-1-79)~~

~~05. Ineligible to Assume Experience Rating Record. Upon the determination that the successor to a business is ineligible to assume the predecessor's experience rating, a formal determination to this effect, explaining the reason for the decision and outlining the appeal rights, shall be mailed to that employer. Ref. Sec. 72-1351 Idaho Code.~~

~~(4-1-79)~~

~~06. Election of Coverage. Upon written election by the employer, the Director, or his designated representative, shall have the option to grant coverage to employment not normally covered under Idaho Code. Ref. Sec. 72-1352 Idaho Code~~

~~(6-1-81)~~

~~07. Coverage Period. When election of coverage is approved, it shall remain in effect for at least two (2) full calendar years. Ref. Sec. 72-1352 Idaho Code.~~

~~(6-1-81)~~

~~08. Coverage Termination. An employer's covered employment may be terminated at the close of any calendar quarter during which the employer had no individual performing services for him in covered employment, and provided that he did not pay wages of \$300.00 or more during a preceding quarter in that or the previous year; and further that he did not have one or more employees in covered employment in that or the preceding calendar year. Ref. Sec. 72-1352 Idaho Code.~~

~~(6-1-81)~~

~~09. Inactive Status Notification. Employers with terminated coverage, placed in inactive status, shall be notified of their status and their responsibility to report any wages paid or employment during the next two (2) calendar years. Ref. Sec. 72-1352 Idaho Code.~~

~~(4-1-79)~~

~~10. Inactive Status Survey. Employers on inactive status shall be surveyed at least every two (2) years to review their inactive status. Ref. Sec. 72-1352 Idaho Code.~~

~~(4-1-79)~~

~~105. Employer Quarterly Report Forms. Employers who are liable to pay tax contributions, or who have elected a cost reimbursement option in lieu of tax contributions, shall have submit quarterly report forms mailed to~~

~~them~~ in any form or medium designated by the director or his authorized representative. Ref. Sec. 72-1333 Idaho Code. (6-1-81)(____)

~~4206.~~ Update Requirements. Covered employers shall furnish the Department with pertinent status data when new or additional information is available. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

(BREAK IN CONTINUITY OF SECTIONS)

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to his last known address of lien proceedings against his interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Sec. 72-1360 Idaho Code. (6-1-81)

01. Execution Against Assets. The Department of ~~Employment Labor~~ shall, when the situation warrants, ~~serve executions levy upon or execute~~ against ~~any real or personal property both tangible and intangible, in which an indebted person has an interest, including any offsets as allowed by Section 67-1026, Idaho Code, bank accounts, against accounts receivable, or garnish wages under the authority of Section~~ Ref. Sec. 72-1360(a)(4) Idaho Code. (4-1-79)(____)

02. Interstate Investigation Requests. Interstate requests to Employment Security agencies of other states for a field audit, an investigation, collection action, or other tax related activity shall be limited to employer accounts constituting an indebtedness of five hundred dollars (\$500) ~~\$200.00 or more, or limited by restrictions of other states. The five hundred dollar (\$500) minimum limit may not be applicable if the request involves wage credits for benefits.~~ Ref. Sec. 72-1344 Idaho Code. (6-1-81)(____)

03. Removal of Employer Records. With the employer's permission, the Department of ~~Employment Labor~~ Tax Representatives shall be authorized to remove the employer's payroll records and shall accept full responsibility for those records while in their possession. Ref. Sec. 72-1337 Idaho Code. (4-1-79)(____)

04. Frequency of Audits. The frequency of audits of an employer's payroll records shall be determined by the size and scope of the employer's operation and the number of errors discovered in previous audits. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

05. Notification of Audits. Employers shall be notified as soon as practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

06. Confidential Information. The Department of ~~Employment Labor~~ Tax Representative shall consider all information which he inspects during the course of an audit as confidential and shall not disclose the information to any unauthorized source. Ref. Sec. 72-1342 Idaho Code. (4-1-79)(____)

07. Statute of Limitations. In the absence of fraudulent practices, the department shall not audit an employer's records for a period greater than three (3) years for purposes of establishing a tax liability. The three (3) year period shall be determined by, and extend three (3) years back from, the date that the employer is notified, orally or in writing by any representative of the department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practices. (12-27-95)

a. The three (3) year statute of limitations is tolled for any period in which the employer does not reside within the state. (12-27-95)

b. If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations shall be extended an additional three (3) years from the date of such payment or acknowledgment. (12-27-95)

c. Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date that a subject employer receives notice that he owes any amount to the department. (12-27-95)

d. The time limits contained in Subsection 166.07.c. shall not apply once a tax liability is recorded as a lien against the property of an employer. (12-27-95)

08. Relief of Indebtedness. Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax indebtedness. Ref. Sec. 72-1364 Idaho Code. (4-1-79)

09. Cash Bonds. Employers subject to a property or interest lien shall have the option of posting a cash bond of double the amount of the tax liability with the clerk of the county wherein the lien is recorded. (4-1-79)

a. Upon the court's satisfaction, the court shall issue a certificate to the employer stating that bond is posted in lieu of property and the existing lien against the property is released. (4-1-79)

b. Collection by suit shall be required to receive judgment in the amount of the lien against this bond. Ref. Sec. 72-1360 Idaho Code. (4-1-79)

(BREAK IN CONTINUITY OF SECTIONS)

186. ACCOUNTING AND DELINQUENCY CONTROL.

Overpayments on employer accounts may be refunded without written application by the employer. Credits resulting from overpayments or adjustments to an employer's account shall be refunded periodically unless such credit is applied to a subsequent balance due. Ref. Sec. 72-1357 Idaho Code. (11-1-84)(____)

01. Erroneous Wage Reports. An employer's submitting an erroneous report of employee wages resulting in, causing payment of unearned unemployment insurance benefits due to the erroneous report, shall have said benefits payments subtracted from any overpayment of refund due that employer, if such employer benefited from the unearned benefit payments. Ref. Sec. 72-1333 Idaho Code. (6-1-81)(____)

02. Notification of Under/Overpayments. Employers quarterly reports shall be reviewed and employers shall be notified periodically of the current and cumulative underpayments, overpayments, excess any taxes, paid, penalties, or lien interest amounts for due on their tax account. Ref. Sec. 72-1349 Idaho Code. (6-1-81)(____)

03. Cancellation of Refund Warrants. Refund warrants, outstanding after the validity date, shall be canceled, stop-payment procedures initiated, and then reissued only upon completion of an affidavit for the replacement of the lost or destroyed warrant. Ref. Sec. 72-1333 Idaho Code. (4-1-79)

187. -- 1956. (RESERVED).

~~196. EXPERIENCE RATING.~~

~~All employers shall be eligible for the lowest tax rate consistent with the Idaho Code and the Department's Rules. Ref. Sec. 72-1350 Idaho Code. (4-1-79)~~

~~01. Contribution Rate After Experience Rating Record Transfers. When an experience rating record transfer has been approved, the new owner of a business shall be considered for a reduced contribution rate if all payroll reports are submitted timely and: (11-1-86)~~

~~a. A previous balance delinquency did not exist or; (11-1-86)~~

~~b. The new owner elected to pay the total amount of the indebtedness to protect his reduced rate eligibility. Ref. Sec. 72-1319 Idaho Code. (11-1-86)~~

~~02. Rate Notification. New employers, subject to the Idaho Code, will be notified of their contribution~~

~~rate upon receipt of their quarterly contribution and wage record reports. Subsequent to the annual computation of reduced and deficit experience ratings, all covered employers will receive a notice of their contribution rate for the calendar year following the computation date which will include a general explanation of the rate assignment and the appeals procedure for a rate protest. Ref. Sec. 72-1350 Idaho Code. (6-1-81)~~

~~03. Rate Protest. An employer protesting a contribution rate shall be provided a written determination consisting of an explanation of the rate structure, the specific factors governing the rate assignment, and the procedures for an appeal to the determination. Ref. Sec. 72-1350 Idaho Code. (4-1-79)~~

(BREAK IN CONTINUITY OF SECTIONS)

241. BOARD, LODGING, MEALS.

When board, lodging, meals, or any other payment in kind considered as payment for services performed by an employee constitute a part of wages or wholly comprise an employee's wages, the value of such board, lodging, or other payment shall be determined as follows: (9-1-89)

01. Cash Value. If a cash value for such board, lodging, or other payment is agreed upon in any contract of hire, the amount so agreed upon shall be used provided it is reasonable value. If there is no agreement, or if the contract of hire states an amount less than reasonable value, the Department of ~~Employment~~ Labor shall determine the reasonable value to be used. In no event shall the value used be less than the value listed below. Ref. Sec. 72-1328 Idaho Code

Full Board and Room, weekly	\$90.00
Meals per week	60.00
Meals per meal	3.00
Lodging per week	30.00
Lodging per day	4.50

~~(9-1-89)()~~

02. Meals and Lodging Not Included in Gross Wages. The value of meals and lodging furnished by an employer to his employee will not be included in the employee's gross income if it meets the following tests: (7-1-93)

a. The meals or lodging are furnished on the employer's business premises; (7-1-93)

b. The meals or lodging are furnished for the employer's convenience; and (7-1-93)

c. In the case of lodging (but not meals), the employees must be required to accept the lodging as a condition of their employment. This means that they must accept the lodging to allow them to properly perform their duties. In addition, in order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meets the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable or fair market value of the lodging will be included in the employee's gross income as wages. Ref. Sec 72-1328 Idaho Code. ()

03. Meals or Lodging for Employer Convenience. Meals or lodging furnished will be considered for the employer's convenience if the employer has a substantial business reason other than providing additional pay to the worker. A statement that the meals or lodging are not intended as pay is not enough to prove that either meals or lodging are furnished for the employer's convenience. Ref. Sec. 72-1328 Idaho Code. (4-1-90)

04. Subsistence Remuneration. In the case of employees who receive remuneration in the form of

subsistence, such as groceries, staples, and fundamental shelter, the fair value of such subsistence will be determined by the Director. Ref. Sec. 72-1328 Idaho Code. (4-1-90)

(BREAK IN CONTINUITY OF SECTIONS)

~~286. DETERMINATION OF TAX TABLES.~~

~~In determining the unencumbered balance in the Employment Security Fund for payment of benefits for tax rate purposes, the date of credit to the Fund by the U.S. Treasury of interest earned will be used in calculating the total funds available. The reserve ratio provided in Section 72-1350(e) Idaho Code, shall be computed not later than July 1 preceding each taxable year by dividing the unencumbered balance in the Employment Security Trust Fund as of December 31 in the preceding calendar year available for payment of benefits, excluding State government and cost reimbursement employer payments, by the total wages reported by tax-rated employers for the prior calendar year. Ref. Sec. 72-1350 Idaho Code. (9-1-73)~~

~~287.~~ -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 16-0105-9601

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-4401 et seq. and 39-5801 et seq., Idaho Code. In addition, 40 CFR 271.21 and Section 39-4404, Idaho Code, require the Idaho Department of Health and Welfare (Department) to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed rulemaking 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. Written requests for hearing must be received by the undersigned on or before September 18, 1996. If no such written request is received, a public hearing will not be held.

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

The Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's (EPA) federal regulations governing hazardous waste as directed by the Idaho Hazardous Waste Management Act. This proposed rulemaking is the annual update to make Idaho's rules consistent with federal hazardous waste regulations revised as of July 1, 1996. Idaho has declined to adopt the air emission standards in 40 CFR 264 Subpart CC and 40 CFR 265 Subpart CC until EPA has finalized the revisions to this regulation. The Department is seeking to adopt 40 CFR 268.44 (Variance from a Treatment Standard). Historically, this section of the RCRA rules was nondelegable. EPA has allowed delegation of this portion of the RCRA program to the states in 61 Fed. Reg. 18828 (April 29, 1996).

This proposed rulemaking was not initiated as a negotiated rulemaking because the Idaho Department of Health and Welfare is required by 40 CFR 271.21(e) and Section 39-4404, Idaho Code, to adopt amendments to federal law as proposed under this docket.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule-making, contact John Brueck at (208)373-0502.

Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before September 25, 1996.

DATED this 4th day of September, 1996.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Phone No. (208)373-0418
Fax No. (208)373-0481

TEXT OF DOCKET NO. 16-0105-9601

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal

Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, ~~1994~~1996, including any notes and appendices therein, unless expressly provided otherwise in these rules. (4-15-96)F(____)

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, ~~273~~, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (2-11-94)(____)

02. Availability of Referenced Material. ~~Copies of the~~The federal regulations adopted by reference throughout these rules are ~~available in~~maintained at the following locations: (6-10-88)(____)

a. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206)553-4270; and (4-26-95)(____)

~~b. Administrative Procedure Section, Idaho Department of Health and Welfare Central Office, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0036, (208)334-5552; and~~ (4-26-95)

and ~~eb.~~ State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; (4-26-95)(____)

c. Division of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (____)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~. For purposes of 40 CFR 260.20 and 260.22, "Federal Register" shall be defined as the Idaho Administrative Bulletin. (4-15-96)F(____)

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~. (4-15-96)F(____)

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by EnviroSAFE Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Section 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Division of Environmental Quality Hazardous Waste No. K061, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Section 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

- (1) The waste profile information; and (3-16-96)
- (2) The name and address of the generator. (3-16-96)
- iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)
- iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Section 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Section 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)
- v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)
- (1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)
- (2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)
- vi. For purposes of Subsections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)
- c. Subsequent Verification Testing. (3-16-96)
- i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)
- ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)
- iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)
- iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)
- v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)
- (1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)
- (2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)
- vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

- d. Delisting levels. (3-16-96)
- i. All leachable concentrations for these metals must not exceed the following levels (mg/l): antimony--0.06; arsenic--0.50; barium--7.6; beryllium--0.010; cadmium--0.050; chromium--0.33; lead--0.15; mercury--0.009; nickel--1; selenium--0.16; silver--0.30; thallium--0.020; vanadium--2; and zinc--70. (3-16-96)
- ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)
- e. Modification of Treatment Process. (3-16-96)
- i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)
- ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)
- iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)
- iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Division of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)
- f. Records and Data Retention and Submittal. (3-16-96)
- i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)
- ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)
- iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)
- iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation By Reference. 40 CFR Part 262 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995~~1996, except reference to 40 CFR 265 Subpart CC. For purposes of

40 CFR 262.53, 262.55, 262.56, and 262.57(b), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director., For purposes of 40 CFR 262.51 and 262.54(g)(1), EPA shall be defined as the U.S. Environmental Protection Agency. (4-15-96)F(____)

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 265.56(d)(2) and 262.34(d)(5)(iv)(c), (see 40 CFR 262.34(a)(4)), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (4-15-96)T

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~. (4-15-96)F(____)

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.149 264.150, 264.301(l), and Subpart CC) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~. For purposes of 40 CFR section 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. (4-15-96)F(____)

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, Subpart CC, 40 CFR 265.149 and 265.150) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~. For purposes of 40 CFR section 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. (4-15-96)F(____)

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.

40 CFR Part 266 and all Subparts (excluding Subparts A and B) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~. (4-15-96)F(____)

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~, except for 40 CFR 268.1(e)(3), 268.5, 268.6, and 268.42(b) and 268.44. The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(156) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. (4-15-96)F(____)

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~, except reference to 40 CFR 264 Subpart CC and 40 CFR 265 Subpart CC. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(3), 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. (4-15-96)F(____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).

40 CFR Part 124, Subpart A is herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (4-15-96)F(____)

(BREAK IN CONTINUITY OF SECTIONS)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, ~~1995-1996~~. ~~(4-15-96)F()~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - RULES GOVERNING VITAL STATISTICS

DOCKET NO. 16-0208-9601

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-252 and 39-253, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 1996.

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

The Center for Vital Statistics and Health Policy, under the Department of Health and Welfare, files approximately 50,000 new records (including, but not limited to, certificates of birth, death, marriage, divorce, etc.) each year and responded to over 116,500 requests for certified copies of these and other certificates during fiscal year 1996. Since the last fee change, there has been a 50% increase in requests, resulting in a 31% increase in the production of certified copies of certificates and a 72% increase in certified copies of legal amendments to certificates. The Department proposes an increase in certified copies of certificates from \$8 to \$10. The Department also proposes an increase in search fees from \$8 to \$10. Legal amendments (including adoptions, delayed registrations of any event, and/or the establishment of a new or amended birth certificate) will remain at \$10 per action, however, a certified copy reflecting the change will cost an additional \$10.

Currently, the Center does not charge any additional fees for the service associated with the use of credit cards for expedited requests taken over the facsimile. Last year 4,792 fax requests were completed. The Department proposes to impose a \$5 charge to faxed credit card requests for certified copies of certificates.

The Center also currently issues a certified "Heirloom Certificate of Birth" with one-half of the \$30 fee donated to the Idaho Children's Trust Fund as required by IDAPA rules. The \$15 retained by the Center does not cover the current costs of producing the commemorative certificate or the staff time required to hand assemble the documents. The Department proposes to discontinue the provision of an heirloom birth certificate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Jane S. Smith at (208) 334-5976.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before September 25, 1996.

DATED this 4th day of September, 1996.

STACI WELSH
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
PO Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

TEXT OF DOCKET NO. 16-0208-9601

251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.

01. Certified Copies. The fee shall be ~~eight ten~~ eight dollars (\$~~810~~8) per copy for the issuance of a certified copy of a vital record or birth registration card. ~~(12-31-91)()~~

02. Searches. The fee shall be ~~eight ten~~ eight ten dollars (\$810) for each search of the files when no record is found or no copy is made. (12-31-91)()

03. Verifications. Except for Idaho state executive agencies and public health districts, there shall be a fee of six dollars (\$6) for verification of data from certificates. (12-31-91)

04. Statistical, Research or Public Health Services. The State Registrar shall assess the fee for statistical, research or public health services. The costs shall be calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a pro-rated basis to reflect the number of expected requests for the same information or service. (12-26-83)

05. Other Services (12-31-91)

a. The fee shall be ten dollars (\$10) for establishing a new birth certificate pursuant to a report of adoption. ~~The fee shall include the issuance of one (1) certified copy of the new birth certificate.~~ (12-31-91)()

b. The fee shall be ten dollars (\$10) for establishing a delayed certificate of any event. ~~The fee shall include the issuance of one (1) certified copy of the delayed certificate.~~ (12-31-91)()

c. The fee shall be ten dollars (\$10) for establishing a new or amended birth certificate pursuant to Section 39-250(b) or (c), Idaho Code, or Section 39-257, Idaho Code. ~~The fee shall include the issuance of one (1) certified copy of the new or amended certificate.~~ (12-31-91)()

d. A service fee of three dollars (\$3), in addition to the ~~eight ten~~ eight ten dollar (\$810) fee for a certified copy, shall be paid to the local registrar for securing each expedited certified copy of a vital record. (12-31-91)()

e. The fee shall be ten dollars (\$10) for filing a copy of "Request and Consent for Artificial Insemination," as required by Section 39-5403, Idaho Code. (12-31-91)

f. The fee shall be ~~eight ten~~ eight ten dollars (\$810) for copies of certificates provided upon written request to local, states other than Idaho, or federal government agencies in accordance with Section 39-270(b), Idaho Code. (12-31-91)()

g. When a funeral director must correct an error on a certificate of death or stillbirth for which certified copies have been issued, the correction fee shall be ~~eight ten~~ eight ten dollars (\$810) and shall include issuance of one (1) certified copy of the corrected death or stillbirth record. The fee shall be two dollars (\$2) for additional (replacement) copies issued at the time of correction. (12-31-91)()

h. ~~The fee shall be thirty dollars (\$30) for the issuance of a certified "Heirloom Certificate of Birth." Fifteen dollars (\$15) of said fee shall be deposited to the Children's Trust Account in a manner prescribed by the state auditor. A service fee of five dollars (\$5) will be added to each faxed credit card request. This fee will be in addition to the current fee(s) for the requested certified copy(ies) and/or search(es).~~ (12-31-91)()

i. The fee shall be sixteen dollars (\$16) for registering with Putative Father Registry. The fee must be submitted with the registration form. (7-1-93)

06. Waiver of Fee Requirement. Fees may be waived for Idaho state executive agency and public health district requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. (12-26-83)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO
DOCKET NO. 16-0322-9603
NOTICE OF CANCELLATION OF PUBLIC HEARINGS

AUTHORITY:In compliance with Section 67-5222, Idaho Code, notice is hereby given that this agency has cancelled public hearings previously scheduled for the above referenced docket.

DESCRIPTIVE SUMMARY:The notice and text of the proposed rules was published in the August 7, 1996 Administrative Bulletin, Volume 96-8, pages 163 through 258. The hearings previously scheduled for September 16, 1996, at Idaho Falls, Idaho; September 18, 1996, at Lewiston, Idaho; and September 19, 1996, at Boise, Idaho, have been cancelled. The Department will still accept written comments in regard to this rulemaking by the date listed below.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:For assistance on technical questions concerning the temporary or proposed rule, contact John Hathaway at (208) 334-6626.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 26, 1996.

DATED this 4th day of September, 1996.

STACI WELSH
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 334-5548 fax

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.03 - RULES GOVERNING FEES FOR MENTAL HEALTH CENTER SERVICES

DOCKET NO. 16-0403-9701

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-119, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 1997.

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 the agency address below.

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

The program proposes to charge the insurance company the full charge and then apply the sliding scale fee to the client after the insurance company has paid the amount they are obligated for under the client's policy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Roy Sargeant at (208) 334-5528.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 22, 1997.

DATED this 1st day of October, 1997.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-04039701

100. FEE DETERMINATION.

The service recipient, parent or guardian must make application for Mental Health Program services and complete a "Fee Determination Form" (HW-0733) prior to delivery of services. The fee determination process includes the following procedures: (1-1-94)

01. Charges. An amount will be charged based on family size, income assets and allowable deductions, exclusive of third-party liable sources, but in no case will the amount charged for care services as specified in the table of charges exceed the cost of the services. (5-1-82)

02. Equity. To achieve equity in determining amounts to be charged, a "Discount Schedule" (HW-0734) will be employed. The "Discount Schedule" takes into consideration income, family size, and average expenditures by family size, and is shown in the TABLE in Subsection 100.03. (12-31-91)

03. Discount Schedule - TABLE. Incomes below the five percent (5%) level are to be charged the zero

percent (0%) minimum rate.

(7-1-93)

TABLE 100A
Poverty Guidelines per the Federal Register as of February 12, 1992
Standard Fee Percentage Schedule (Sliding Fee Scale)

Number of Persons in Household					
1	2	3	4	5	Client%
\$26,406	\$36,862	\$45,045	\$54,364	\$63,684	100%
\$25,244	\$35,241	\$43,064	\$51,974	\$60,883	95%
\$24,088	\$33,627	\$41,091	\$49,593	\$58,095	90%
\$22,941	\$32,025	\$39,135	\$47,232	\$55,328	85%
\$21,849	\$30,500	\$37,271	\$44,982	\$52,964	80%
\$20,808	\$29,048	\$35,496	\$42,840	\$50,185	75%
\$19,798	\$27,638	\$33,774	\$40,762	\$47,749	70%
\$18,802	\$26,247	\$32,074	\$38,710	\$35,346	65%
\$17,805	\$24,855	\$30,373	\$36,657	\$42,941	60%
\$16,813	\$23,471	\$28,681	\$34,615	\$40,549	55%
\$15,817	\$22,080	\$26,981	\$32,563	\$38,146	50%
\$14,823	\$20,693	\$25,287	\$30,519	\$35,750	45%
\$13,841	\$19,321	\$23,611	\$28,495	\$33,380	40%
\$12,851	\$17,940	\$21,923	\$26,458	\$30,994	35%
\$11,866	\$16,565	\$20,242	\$24,430	\$28,619	30%
\$10,876	\$15,183	\$18,554	\$22,393	\$26,231	25%
\$9,888	\$13,803	\$16,867	\$20,357	\$23,847	20%
\$8,900	\$12,424	\$15,182	\$18,323	\$21,464	15%
\$7,911	\$11,044	\$13,495	\$16,287	\$19,079	10%
\$6,970	\$9,730	\$11,890	\$14,350	\$16,810	5%

Number of Persons in Household				
6	7	8	9+	Client%
\$73,004	\$82,323	\$91,943	\$100,963	100%
\$69,793	\$78,703	\$87,613	\$96,522	95%
\$66,597	\$75,098	\$83,600	\$92,102	90%
\$63,425	\$71,522	\$79,619	\$87,719	85%

Number of Persons in Household				
6	7	8	9+	Client%
\$60,405	\$68,116	\$75,828	\$83,539	80%
\$57,529	\$64,873	\$72,217	\$79,561	75%
\$54,737	\$61,725	\$68,712	\$75,700	70%
\$51,982	\$58,618	\$65,254	\$71,890	65%
\$49,225	\$55,509	\$61,794	\$68,078	60%
\$46,483	\$52,417	\$58,351	\$64,285	55%
\$43,728	\$49,310	\$54,893	\$60,475	50%
\$40,982	\$46,214	\$51,446	\$56,678	45%
\$38,265	\$43,150	\$48,035	\$52,920	40%
\$35,530	\$40,065	\$44,601	\$49,137	35%
\$32,807	\$36,995	\$41,183	\$45,371	30%
\$30,070	\$33,909	\$37,748	\$41,586	25%
\$27,337	\$30,826	\$34,316	\$37,806	20%
\$24,605	\$27,746	\$30,888	\$34,029	15%
\$21,871	\$24,664	\$27,456	\$30,248	10%
\$19,270	\$21,730	\$24,190	\$26,650	5%

Clients with income below the Department's minimum level may have their fee established at zero (0) when properly authorized. (7-1-93)

04. Forms. To achieve simplicity of operation, two (2) basic documents are used to determine ability to pay -- a "Fee Determination Form" and a "Discount Schedule." (5-1-82)

a. The "Fee Determination Form," when properly completed, contains the economic factors -- income/allowable deductions/size of family -- necessary to determine the charge by easy referral to the "Discount Schedule." (5-1-82)

b. The "Discount Schedule" reflects variations in the cost of living by family size and adjusted gross income. (5-1-82)

05. Review of Fees. A review of ability determinations will be made: (5-1-82)

a. On petition of the person receiving services; or (1-1-94)

b. If circumstances are known to have changed; or (5-1-82)

c. Annually for the purpose of updating the determinations to current conditions which may or may not have changed during the previous year. (5-1-82)

06. Allowable Deductions from Income. The only allowable deductions from income are for expenses projected to occur during the annual charge period: (5-1-82)

a. Court-ordered obligations paid annually; and (5-1-82)

- b. Annual child care expenses necessary to availability for employment; and (5-1-82)
 - c. Annual dependent support payments for children not included in dependents for calculating percent of fee; and (5-1-82)
 - d. Annual medical expenses (1-1-94)
07. Adjustments to Established Fee. Adjustments, such as a waiver or reduction of fees, may only be made upon signature authorization of the Director. Clinical criteria based on the following guidelines may be used as a basis for adjustment: (12-31-91)
- a. There is reasonable expectation that without receiving the service, the mentally ill person would severely regress and require more intensive and costly care or institutionalization; and (5-1-82)
 - b. Adjustments to other agencies or organizational units may be negotiated and established by contract with the Department. (12-31-91)
08. Established Fee. The maximum fee charged for Community Mental Health Center services shall be that established by the Department of Health and Welfare. (12-31-91)
09. Charges for Community Mental Health Center Services. (1-1-94)
- a. Diagnostic: (1-1-94)
 - i. Psychiatric Examination - sixty-three dollars per hour (\$63/hr); (1-1-94)
 - ii. Psychosocial Examination - fifty-seven dollars per hour (\$57/hr); (1-1-94)
 - iii. Psychological Testing - fifty-seven dollars per hour (\$57/hr); (1-1-94)
 - iv. Medical - fifty-seven dollars per hour (\$57/hr). (1-1-94)
 - b. Treatment Service: (1-1-94)
 - i. Individual Therapy - fifty-seven dollars per hour (\$57/hr); (1-1-94)
 - ii. Family/Couple Therapy - fifty-seven dollars per hour (\$57/hr); (1-1-94)
 - iii. Group Therapy - twenty-one dollars per hour (\$21/hr); (1-1-94)
 - iv. Inpatient Service - fifty-seven dollars per hour (\$57/hr); (1-1-94)
 - v. Emergency Service - fifty-seven dollars per hour (\$57/hr). (1-1-94)
 - c. Medical Service: (1-1-94)
 - i. Chemotherapy Visit - twenty-eight dollars per visit (\$28/visit); (1-1-94)
 - ii. Blood Drawing - ten dollars per occurrence (\$10/occurrence); (1-1-94)
 - iii. Nursing Service - thirteen dollars per visit (\$13/visit); (1-1-94)
 - iv. Injections - eight dollars (\$8) plus cost of medication. (1-1-94)
 - d. Collateral Contact (Interview with collaterals - service recipient seen or not seen)* - sixty-three dollars per hour (\$63/hr). (1-1-94)

- e. Community Support Service (Day Treatment/Partial Care) - fourteen dollars per hour (\$14/hr). (1-1-94)
- f. Other Nonclient Specific (Consultation/Education) - sixty-three dollars per hour (\$63/hr). (1-1-94)
- g. Transportation - twenty-five cents per mile (\$.25/mile). (1-1-94)

* This activity includes those instances in which collaterals having primary treatment relationship to the client are interviewed regarding a client with the client included or intentionally excluded. This category does not include case management and other agency collaterals or service coordination activities. (1-1-94)

10. Obligation to Pay Difference Between Insurance and Mental Health Charges. If the person responsible for payment has insurance coverage, then the private insurance obligation will be one hundred percent (100%) of the amount contained in the policy, but not to exceed the Mental Health Charge. If the insurance company pays less than the Mental Health charge, then the participant will be responsible to pay towards the difference between what the insurance paid and the original Mental Health charge based upon their ability to pay as determined by the sliding fee schedule. ()

IDAPA 17 - INDUSTRIAL COMMISSION
17.04.06 - BOILER AND PRESSURE VESSEL SAFETY CODE 6
DOCKET NO. 17-0406-9601
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 September 18, 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 17.04.06, Boiler and Pressure Vessel Safety Rules, which is hereby repealed in its entirety. The proposed rules update the state's minimum safety standards dealing with requirements and qualifications for boiler attendants and bring them in line with nationally recognized safety standards for the both public and 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 September 25, 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

THIS CHAPTER IS REPEALED IN ITS ENTIRETY.

**It is being replaced by Dockets No's. 17-0601-9601
through 17-0605-9601 as published in this Bulletin
immediately following this notice.**

IDAPA 17 - INDUSTRIAL COMMISSION

17.06.01 - BOILER AND PRESSURE VESSEL SAFETY RULES -- GENERAL REQUIREMENTS

DOCKET NO. 17-0601-9601

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 September 18, 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 17.04.06, Boiler and Pressure Vessel Safety Rules, which is being repealed in its entirety. The proposed rules update the state's minimum safety standards dealing with legal authority, written interpretation, administrative appeals, and abbreviations and bring them in line with nationally recognized safety standards for both the public and 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 September 25, 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. 17-0601-9601

**IDAPA 17
TITLE 06
Chapter 01**

17.06.01 - BOILER AND PRESSURE VESSEL SAFETY RULES -- GENERAL REQUIREMENTS

000. LEGAL AUTHORITY.

These rules 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 06, Chapter 01, Boiler and Pressure Vessel Safety Rules- General Requirements and shall be applicable to all boilers, pressure vessels, water heaters, hot water storage tanks, and

nuclear components manufactured or installed in the State of Idaho, except those specifically exempted in these rules. ()

002. WRITTEN INTERPRETATIONS.

There are no written statements which pertain to the interpretation of these rules. ()

003. ADMINISTRATIVE APPEALS.

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. -- 009. (RESERVED).

010. DEFINITIONS.

01. Alteration. Any change in the item described on the original Manufacturer's Data Report which affects the pressure containing capability of the boiler or pressure vessel. Nonphysical changes such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler or pressure vessel shall be considered an alternation. A reduction in minimum temperature such that additional mechanical tests are required shall also be considered an alternation. ()

02. API Certified Inspector. An inspector who is certified by the American Petroleum Institute to perform functions specified in API-510 or API-570. ()

03. API-510 Pressure Vessel Inspection Code. The code for the maintenance inspection, repair, alteration, and rerating procedures for pressure vessels used by the petroleum and chemical process industries. API-510 is published by the American Petroleum Institute and is an approved ANSI standard. ()

04. API-570 Piping Inspection Code. The code for maintenance inspection, repair, alteration, and rerating procedures for process piping used by the petroleum and chemical process industries. API-570 is published by the American Petroleum Institute and is an approved ANSI standard. ()

05. Approved. An approval by the National Board of Boiler and Pressure Vessel Inspectors. ()

06. ASME Code. The Boiler and Pressure Vessel Code published by ASME International, including addenda and code cases approved by the council of that society. ()

07. Authorized Inspection Organization. An insurance company which has been authorized to write and does write boiler and pressure vessel insurance, and provides an inspection service of boilers and pressure vessels in Idaho and whose inspectors hold valid commissions issued by the National Board of Boiler and Pressure Vessel Inspectors and a commission from the State of Idaho. ()

08. Authorized Personnel. Persons who have been instructed in the operation and/or maintenance of the equipment and designated by the owner to use or maintain the equipment. ()

09. Board. The National Board of Boiler and Pressure Vessel Inspectors. ()

10. Boiler. A closed vessel in which water or other liquid is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use external to itself, by the direct application of energy from the combustion of fuels, or from electricity, or solar or nuclear energy. This term "Boiler" shall include fired units for heating or vaporizing liquids other than water, but does not include fired process heaters and systems. The term "Boiler" also shall include the apparatus used by which heat is generated and all controls and safety devices associated with such apparatus or the closed vessels. ()

a. Power boiler. A boiler in which steam or other vapor is generated at a pressure of more than fifteen (15) psig for use external to itself. ()

b. High-temperature boiler. A boiler in which water or other fluid is heated and intended for operation

at pressures in excess of one hundred sixty (160) psig and/or temperatures in excess of two hundred fifty (250) degrees Fahrenheit. ()

c. Heating boiler. A steam or vapor boiler operating at a pressure not exceeding fifteen (15) psig or a boiler in which water or other fluid is heated and intended for operation at pressures not exceeding one hundred sixty (160) psig or temperatures not exceeding two hundred fifty (250) degrees Fahrenheit. ()

d. Electric boiler. A power boiler or heating boiler in which the source of heat is electricity. ()

e. Miniature boiler. A power boiler or high temperature boiler which does not exceed the following limits: sixteen (16) inch inside diameter of shell; twenty (20) square feet of heating surface (not applicable to electric boilers); five (5) cubic feet gross volume exclusive of casing and insulation; one hundred (100) psig maximum allowable working pressure. ()

f. Unfired boiler. An unfired steam or other vapor generating system using heat from the operation of a processing system or other indirect heat source. ()

g. Hot water supply boiler. A boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding one hundred sixty (160) psig or at temperatures not exceeding two hundred (200) degrees Fahrenheit at or near the boiler outlet. ()

h. Portable boiler. A boiler which is primarily intended for temporary location and the construction and usage permits it to be readily moved from one location to another. ()

11. Certificate of Competency. A certificate issued by the National Board of Boiler and Pressure Vessel Inspectors or other national agency recognized by the Administrator of the Building Safety Division, or certificate issued by another state which has standards equal to those of the State of Idaho and which recognizes the certificate of competency issued by or on behalf of the state of Idaho. ()

12. Certificate of Inspection. A certificate issued by a person holding a certificate of competency and Idaho commission, to a person or persons owning or operating boilers or pressure vessels in the State of Idaho. ()

13. Commission. The Industrial Commission of the state of Idaho. ()

14. Commissioner. A member of the Industrial Commission of the state of Idaho. ()

15. Condemned Boiler, Pressure Vessel, or Nuclear Component. A boiler, pressure vessel, or nuclear component that has been inspected and declared unsafe or disqualified by legal requirements by an inspector qualified to take such action who has applied a stamping or marking designating its rejection. ()

16. Department. The Division of Building Safety. ()

17. Director. The Administrator of the Building Safety Division. ()

18. Existing Installation. Includes any boiler or pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1961 and for nuclear components constructed, installed, placed in operation, or contracted for before January 1, 1997. ()

19. External Inspection. An inspection made when a boiler, pressure vessel, or nuclear component is in operation condition, if possible. ()

20. Hot Water Storage Tank. A closed vessel connected to a water heater used exclusively to contain potable water. ()

21. Idaho Commission. A formal written authorization (Idaho Identification Card) granting the power to perform various acts or duties (Chapter 3 Subsection 011.07.a). ()

22. Inspector. A person holding a National Board Certificate of Competency, an Idaho State Commission, is regularly employed as an inspector by an authorized inspection organization, and authorized by the Director to conduct inspections of boilers, pressure vessels, and nuclear components. ()
23. Inspector of Record. The inspector who last inspected the boiler, pressure vessel, or nuclear component and whose name appears on the Certificate of Inspection. ()
24. Insurance Company of Record. The insurance company who has written an insurance policy on a boiler, pressure vessel, or nuclear component and whose name appears on the Certificate of Inspection. ()
25. Internal Inspection. As complete an examination as can reasonably be made of the internal surfaces of a boiler, pressure vessel, or nuclear component while it is shut down and hand- holes, manholes, or other inspection openings are opened for inspection of the interior as required by the inspector. ()
26. Jurisdiction. The state of Idaho. ()
27. Lined Potable Water Heater. A water heater with corrosion resistant lining used to supply potable hot water. ()
28. Major Repair. A repair upon which the strength of a boiler depends. ()
29. Modification. The process of changing an item that requires revision of the existing design requirements and may also require a revision to the design specification. ()
30. National Board. The National Board of Boiler and Pressure Vessel Inspectors. ()
31. National Board Inspection Code (NBIC). The adopted code for inspectors, users, and organizations performing repairs and alterations to pressure retaining items. It is published by the National Board and is developed under procedures accredited as meeting the criteria for American National Standards. ()
32. National Board Commission. A certificate issued by the National Board to an individual who has passed the National Board examination, who holds a valid certificate of competency, and who is regularly employed by an authorized inspection organization. ()
33. National Board Commissioned Inspector. An individual who: holds a valid certificate of Competency to perform in-service, repair, and alteration inspections as defined by the National Board Inspection Code; holds a National Board Commission; and is regularly employed as an inspector by an authorized inspection organization. ()
34. New Boiler, Pressure Vessel, or Nuclear Component Installation. Insofar as the application of these Boiler Safety Rules is concerned applies to, any boiler or pressure vessel, constructed, installed, placed in operation, or "contracted for" after January 1, 1961 and after January 1, 1997 for nuclear components. ()
35. Nonstandard Boiler, Pressure Vessel, or Nuclear Component. A boiler, pressure vessel, or nuclear component that does not bear an ASME and National Board stamp. ()
36. Nuclear Component. An item in a nuclear power plant such as vessels, piping systems, pumps, valves, and component supports. ()
37. Nuclear Power Plant. One or more nuclear power systems and containment systems. ()
38. Nuclear System. A system comprising nuclear components which collectively serve the purpose of producing and controlling an output of thermal energy from nuclear fuel and includes those associated systems essential to the function and overall safety of the power system. ()
39. Object. A boiler, pressure vessel, water heater, hot water storage tank, or nuclear component. ()

40. Original Code of Construction. The document promulgated by recognized national standards writing bodies that contain technical requirements for the construction of pressure retaining items or equivalent to which the pressure retaining item was certified by the original manufacturer. ()
41. Owner or User. Any person, firm, corporation, or governmental entity legally responsible for the safe installation, operation maintenance of any boiler, pressure vessel, or nuclear component within the State of Idaho. ()
42. Pressure vessel. A closed vessel in which pressure is obtained from an external source, or from an indirect application of heat, including but not limited to, evaporators, heat exchanges or vessels in which steam is generated incidental to the operating of a processing system containing two or more vessels. ()
43. Reinstated Boiler, Pressure Vessel, or Nuclear Component. A boiler, pressure vessel, or nuclear components removed from its original setting and erected at the same location or erected at a new location without change of ownership. ()
44. Related Appurtenances. Any equipment instrumental to the safe operation of a boiler or pressure vessel. ()
45. Relief Valve. A pressure relief valve actuated by inlet static pressure having a gradual lift generally proportional to the increase in pressure over opening pressure. It maybe provided with an enclosed spring housing suitable for closed discharge system application and is primarily used for liquid service. ()
46. Repair. The work necessary to restore a pressure retaining item to a safe and satisfactory operating condition. ()
- a. Nuclear Component Repair. The work necessary to restore a nuclear component or system to a safe and satisfactory operating condition provided there is no deviation from the original design requirements. ()
- b. Pressure Relief Valve Repair. The replacement, remachineing, or cleaning of any critical part, lapping of seat and disk or any other operation which may affect the flow passage, capacity function, or pressure retaining ability of the valve. Disassembly, reassembly, and/or adjustments which affect the pressure relief valve function are also considered a repair. ()
47. Safety Relief Valve. A pressure relief valve characterized by rapid opening or pop action, or by opening in proportion to the increase in pressure over opening pressure, depending on application. ()
48. Safety Valve. A pressure relief valve actuated by inlet static pressure and characterized by rapid opening or pop action. ()
49. Secondhand Boiler, Pressure Vessel or Nuclear Component. A boiler, pressure vessel, or nuclear component of which both the location and ownership have been changed after primary use. ()
50. Standard Boiler, Pressure Vessel, or Nuclear Component. A boiler, pressure vessel, or nuclear component which bears the ASME stamp, National Board stamp, or the API/ASME stamp. ()
51. State Identification Number. A number issued by the state of Idaho to identify a specific object. ()
52. Temperature-Pressure Relief Valve. A combination relief valve actuated by opening in proportion to the increase in pressure over opening pressure or by opening in proportion to the increase in temperature over opening temperature. ()
53. Water Heater. A closed vessel used to supply potable hot water which is heated by the combustion of fuels, electricity, or any other source and withdrawn for use external to the system at pressures not exceeding one hundred sixty (160) psig, and shall include all controls and devices necessary to prevent water temperatures from exceeding two hundred ten (210) degrees Fahrenheit. ()

011. ABBREVIATIONS.

- | | | |
|-----|---|-----|
| 01. | ANSI. American National Standards Institute. | () |
| 02. | API. American Petroleum Institute. | () |
| 03. | ASME. American Society of Mechanical Engineers. | () |
| 04. | ASTM. American Society for Testing and Materials. | () |
| 05. | AWS. American Welding Society. | () |
| 06. | BTU. British Thermal Unit. | () |
| 07. | BTUH. British Thermal Unit per Hour. | () |
| 08. | CFM. Cubic Feet per Minute. | () |
| 09. | DBS. Division of Building Safety. | () |
| 10. | DOT. Department of Transportation (Federal). | () |
| 11. | FRP. Fiberglass Reinforced Plastic. | () |
| 12. | GPM. Gallons per Minute. | () |
| 13. | IDAPA. Idaho Administrative Procedures Act. | () |
| 14. | ICC. Interstate Commerce Commission. | () |
| 15. | ID. Inside Diameter. | () |
| 16. | LPG. Liquefied Petroleum Gas. | () |
| 17. | NBFU. National Board of Fire Underwriters. | () |
| 18. | NBIC. National Board Inspection Code. | () |
| 19. | NEC. National Electrical Code. | () |
| 20. | NFPA. National Fire Protection Association. | () |
| 21. | NTP. Normal Temperature and Pressure. | () |
| 22. | OD. Outside Diameter. | () |
| 23. | PSI. Pounds per Square Inch. | () |
| 24. | PSIA. Pounds per Square Inch Atmospheric. | () |
| 25. | PSIG. Pounds per Square Inch Gauge. | () |
| 26. | UBC. Uniform Building Code. | () |
| 27. | UL. Underwriters Laboratories. | () |

012. -- 999. (RESERVED).

IDAPA 17 - INDUSTRIAL COMMISSION
17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES-ADMINISTRATION
DOCKET NO. 17-0602-9601
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 September 18, 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 17.04.06, Boiler and Pressure Vessel Safety Rules, which is being repealed in its entirety. The proposed rules update the state's minimum safety standards dealing with construction, notification, inspection, exemptions, and certification and bring them in line with nationally recognized safety standards for both the public and 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 September 25, 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. 17-0602-9601

IDAPA 17
TITLE 06
Chapter 02

17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES -- ADMINISTRATION

000. LEGAL AUTHORITY.

These rules 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 06, Chapter 02, Boiler and Pressure Vessel Safety Rules- Administration and shall be applicable to all boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components

manufactured or installed in the State of Idaho, except those specifically exempted in these rules. ()

002. WRITTEN INTERPRETATIONS.

There are no written statements which pertain to the interpretation of these rules. ()

003. ADMINISTRATIVE APPEALS.

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. -- 009. (RESERVED).

010. DEFINITIONS.

For definitions refer to IDAPA 17, Title 06, Chapter 01, Section 010. ()

011. ADMINISTRATION.

01. Incorporation by Reference. ()

a. The National Board Inspection Code 1995; parts RA, RB, RC, RD; Mandatory Appendices 1, 2, 3, 4, 5, 6, 7; and Non-mandatory Appendices A, B, C, D, E, F, G; latest addenda; and interpretations are adopted for use in Idaho in all matters dealing with boilers, pressure vessels, and nuclear components. ()

b. The ASME Boiler and Pressure Vessel Code 1995; Sections I, II, III, IV, V, VI, VII, VIII, IX, X, XI; latest addenda; and code cases are adopted for use in Idaho in all matters dealing with boilers, pressure vessels, and nuclear components. ()

c. The ASME CSD-1 1995, Controls and Safety Devices for Automatically Fired Boilers. ()

d. The ASME B31.1 1995, Power Piping Standard (As it applies directly to boilers). ()

02. Construction. ()

a. All new boilers, pressure vessels, nationally listed water heaters, hot water storage tanks, and nuclear components, unless otherwise exempt, to be shipped, installed, or operated in the State of Idaho shall be designed, constructed, inspected, stamped, and installed in accordance with the ASME code, the latest addenda, and code cases, and standards accepted by the National Board thereto in effect, and these rules. ()

b. Boilers, pressure vessels, and nuclear components for which an ASME (or other codes and standards accepted by the National Board) Manufacturer's Data Report is required shall bear the manufacturer's "NB" number as registered with the National Board and/or an ASME code stamp as applicable. A copy of the Manufacturer's, Data Report signed by the manufacturer's representative and the National Board authorized inspector shall be filed with the National Board and a copy filed with the Department for all boilers, pressure vessels, and nuclear components manufactured in or shipped into Idaho. ()

c. All boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components, unless exempted by these rules shall have a State of Idaho registration number permanently affixed to the object by a State of Idaho commissioned Boiler and Pressure Vessel Inspector. ()

03. Registration Fees. ()

04. Notification. ()

a. Before a new or secondhand boiler, pressure vessel, or nuclear component is installed in the State of Idaho notification shall be filed with the Department. ()

b. All insurance companies shall notify the Department, within thirty (30) days of all boilers, pressure vessels, or nuclear systems on which insurance is written, discontinued, canceled, not renewed, or suspended because

of unsafe conditions. ()

c. When an accident occurs to a boiler, pressure vessel, or nuclear system, the owner or user shall promptly notify the Department and submit a detailed report of the accident. In the event of a personal injury or any explosion, notice shall be given immediately by telephone, fax, E-Mail, or messenger, and neither the boiler, pressure vessel, nuclear system, nor any parts thereof shall be removed or disturbed before permission has been given by the inspector of record, except for the purpose of saving human life and limiting consequential damage. The insurer of record shall provide the Department a written report of the findings as to cause of the accident. ()

05. Inspection. ()

a. All boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components installed or operated in the State of Idaho shall have an inspection conducted by a person holding a certificate of competency and an Idaho Commission, in accordance with Chapter 3 Subsection 011.06, which must result in the issuance of a certificate of inspection before such vessel is placed into operation. Only if the boiler, pressure vessel, water heater, hot water tank, or nuclear component is safe in the judgment of the boiler and pressure vessel inspector, following a thorough inspection may a certificate of inspection be issued. If in the opinion of the inspector the boiler, pressure vessel, or nuclear component is unsafe, the inspector shall prohibit the use of the boiler, pressure vessel, or nuclear component until it is made safe. ()

06. Exemptions. ()

a. Listed or approved boilers (hot water heaters) or pressure vessels (hot water tanks) with a nominal water capacity of one hundred twenty (120) gallons or less, having a heat input of two hundred thousand (200,000) BTUs per hour or less, used for hot water supply at a pressure of one hundred sixty (160) pounds per square inch or less, and at temperatures of two hundred (200) degrees Fahrenheit or less and equipped with an approved ASME Temperature-Pressure Relief valve. ()

b. Pressure vessels used for transportation and storage of compressed gasses when constructed in compliance with specifications of the U.S. Department of Transportation and when charged with the gas marked, maintained, and periodically requalified for use, as required by appropriate regulations of the U.S. Department of Transportation. ()

c. Air tanks installed on the right of way of railroads and used directly in the operation of trains. ()

d. Pressure vessels that do not exceed: five (5) cubic feet in volume; two hundred fifty (250) psig; one and one-half (1 1/2) cubic feet in volume and six hundred (600) psig; or have an inside diameter of six (6) inches with no limitations on pressure. ()

e. Pressure vessels operating at a working pressure not exceeding fifteen (15) psig. ()

f. Vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less containing water under pressure of two hundred fifty (250) psi or less, with a water temperature of two hundred ten (210) degrees Fahrenheit or less, including those containing air, the compression of which serves only as a cushion. ()

g. Boilers, pressure vessels, and nuclear components owned and operated by the Federal Government. ()


h. Listed heating boilers, hot water heaters, or pressure vessels, which are located in private residences or in apartment houses of less than six (6) family units. ()

i. Pressure vessels containing only water under pressure for domestic purposes, including those containing air, the compression of which serves only as a cushion or air lift pumping system, when located in private residences or in apartment houses of less than six (6) family units. ()

- j. Chillers operating at pressures of fifteen (15) psig or less. ()
07. Certification Fees. ()
08. Reports. Whenever an inspection is made by a person holding a certificate of competency and an Idaho Commission, a copy of the inspection report must be filed with the Department within thirty (30) days from the date of the inspection. Such inspection reports shall be submitted on forms provided by the Department. ()
09. Posting Certificates of Inspection. Certificates of inspection issued for boilers shall be posted under glass or similarly protected, in the room containing the boiler. Certificates issued for pressure vessel shall be posted in like manner, if convenient, or filed where they will be readily available for examination. ()
10. Procedures for Completing the Certificate of Inspection. ()
- a. Previous Certificate No./State ID No. - Enter the six (6) digit serial number from the previous inspection certificate or the number issued by the State of Idaho for that specific object. Where a previous certificate number or State ID number does not exist, leave this block blank. (This block assists us in tracking Certificates of Inspection by computer.) ()
- b. Type of Object - Enter the type of object that is being inspected (boiler, pressure vessel, water heater, hot water storage tank, or nuclear component). ()
- c. Type of Inspection - Indicate whether this was an external or internal inspection. ()
- d. Date of Inspection - Enter the date the inspection was actually conducted. ()
- e. Object No. - Enter the number that identifies a particular object at the users location that corresponds with the certificate issued. It may be the National Board number or locally assigned number. ()
- f. External, Next Due Date - Enter the date that the next inspection is due. If it does not require inspecting, enter "NA" for not applicable. Otherwise, bring forward the due date from the previous certificate for the inspection not performed. ()
- g. Internal, Next Due Date - Enter the date that the next inspection is due. If it does not require inspecting, enter "NA" for not applicable. Otherwise, bring forward the due date from the previous certificate for the inspection not performed. ()
- h. Inspected By - Enter the name of the insurance carrier that insures the object certified. ()
- i. Name of Policy Holder - Enter the name of the person, company, association, etc. that holds the insurance policy for the certified object. ()
- j. Name of Owner and User - Enter the name of the person, company, association, etc. that owns and uses the object. If the owner and user are different, then both names must be entered. ()
- k. Address of Owner - Enter the mailing address of the object owner/user. ()
- l. Location of Object - Enter the physical location of the object which includes street location, city/town/municipality, county, and zip code. ()
- m. Type - Indicate the type of object, e.g., fire tube, cast iron, etc. ()
- n. Date Built - Enter the date the object was built or manufactured if known, otherwise, leave blank. ()
- o. Manufacturer - Enter the name of the company that built or manufactured the certified object. ()

- p. Use - Enter the primary use of the object. ()
- q. Fuel - For boilers or fired pressure vessels, enter the type of fuel used to fire the boiler or fired pressure vessel. For unfired pressure vessels, enter "NA" for not applicable. ()
- r. Method of Firing - For boilers or fired pressure vessels, enter how the boiler or fired pressure vessel is fired. For unfired pressure vessels, enter "NA" for not applicable. ()
- s. Pressure Not To Exceed - Enter the maximum pressure that the object may be operated at in pounds per square inch. ()
- t. Safety Relief Valve Set At - Enter the pressure that the safety valve will function for the object. ()
- u. Number of Valves Installed - Enter the number of safety valves installed for the object. ()
- v. Capacity (Boiler) - Enter the capacity of the object. If not applicable, enter "NA." ()
- w. Capacity (BTU/LBS HR Safety Valve) - Enter the capacity of the safety valve(s). If not applicable, enter "NA." ()
- x. Hydro Test Date - Enter the date that the last hydrostatic test was performed. ()
- y. PSI - Enter the pounds per square inch that the hydrostatic test was performed at. ()
- z. Is condition of object such that a certificate may be issued - Enter "yes" or "no." If the entry is "no" explain in the comments and/or requirements section. Both the white and yellow copies of the Certificate of Inspection will be returned to the Division of Building Safety. The Division will notify the Industrial Commission that a Certificate of Inspection was not issued and the reasons why. If the answer is yes, only write in the comments block if there are recommendations, requirements, or restrictions. Do not write "No adverse or hazardous conditions noted" in this block. Our computer system will flag this as a recommendation, requirement, or restriction. ()
- aa. Comments and/or Requirements - Only enter comments, requirements, or restrictions that may apply to the certified object. Do not enter any information in this area that does not pertain to an existing requirement, recommendation, or restriction. ()
- bb. Inspector - Enter the name of the inspector who performed the inspection for certification of the object. The inspector's name must appear here as it appears on the inspectors Idaho Identification Card. ()
- cc. Idaho Identification Card # - Enter the serial numbers from the inspectors Idaho Identification Card. If the Identification Card # is not registered as a current year Idaho commission number, the inspection shall be considered invalid, the certificate of inspection shall be revoked, a letter shall be sent to the owner/user and to the inspecting company to inform them of the situation, and a new inspection shall be performed upon issue of a current year Idaho commission. ()
- dd. The white copy of the Certificate of Inspection will be posted in a conspicuous place in the room containing the object. If the object is not certifiable, the white copy shall be sent to the Division of Building Safety. ()
- ee. The yellow copy of the Certificate of Inspection shall, in all cases, be sent to the Division of Building Safety. ()
- ff. The pink copy is the inspector's file copy. ()

012. -- 099. (RESERVED).

IC-7001		STATE OF IDAHO INDUSTRIAL COMMISSION and DIVISION OF BUILDING SAFETY Statehouse Mail Boise, ID 83720-0049	CERTIFICATE SERIAL No. # <u>000000</u>
CERTIFICATE OF INSPECTION <small>(BOILER/PRESSURE VESSEL/WATER HEATER/HOT WATER STORAGE TANKS/NUCLEAR COMPONENT)</small>			
PREVIOUS CERTIFICATE/STATE ID # <u>1</u>	DATE OF INSPECTION: <u>4</u> 19 <u> </u>		
TYPE OF OBJECT: <u>2</u>	OBJECT #: <u>5</u>		
TYPE OF INSPECTION: <u>3</u>	EXTERNAL, NEXT DUE DATE: <u>6</u>		
	INTERNAL, NEXT DUE DATE: <u>7</u>		
THIS IS TO CERTIFY THAT THE DESCRIBED OBJECT WAS INSPECTED BY:			
<u>8</u> Name of Insurance Company			
Name of Policy Holder: <u>9</u>			
Name of Owner/User: <u>10</u>			
Address of Owner: <u>11</u>			
	Street	City	Zip
Location of Object: <u>12</u>			
	Street Address	City	County Zip
Type: <u>13</u> Date Built: <u>14</u>			
Manufacturer: <u>15</u>			
Use: <u>16</u> Fuel: <u>17</u> Method of Firing: <u>18</u>			
May be Operated at a Pressure Not to Exceed <u>19</u> Pounds Per Square Inch.			
Safety Relief Valve Set at: <u>20</u> No. of Valves Installed: <u>21</u>			
CAPACITY: Boiler: <u>22</u> BTU/LBS HR Safety Valve: <u>23</u>			
Hydro Test Date: <u>24</u> PSI: <u>25</u>			
Is condition of object such that a certificate may be issued: <u>26</u>			
COMMENTS AND/OR REQUIREMENTS:			
<u>27</u>			
<u> </u>			
<u> </u>			
<u> </u>			
<u> </u>			
INSPECTOR: <u>28</u> IDAHO IDENTIFICATION CARD #: <u>29</u>			
POST THIS IN A CONSPICUOUS PLACE IN THE ROOM CONTAINING BOILER OR VESSEL (Certificate must be posted under glass or similarly protected.)			
WHITE - Posted at location		YELLOW - Division of Building Safety	PINK - Inspector

IDAPA 17 - INDUSTRIAL COMMISSION
17.06.03 - BOILER AND PRESSURE VESSEL SAFETY RULES -- INSPECTIONS
DOCKET NO. 17-0603-9601
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 17.04.06, Boiler and Pressure Vessel Safety Rules, which is being repealed in its entirety. The proposed rules update the state's minimum safety standards dealing with inspection requirements and bring them in line with nationally recognized safety standards for both the public and 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. 17-0603-9601

IDAPA 17
TITLE 06
Chapter 03

17.06.03 - BOILER AND PRESSURE VESSEL SAFETY RULES -- INSPECTIONS

000. LEGAL AUTHORITY.

These rules 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 06, Chapter 03, Boiler and pressure Vessel Safety Rules-Inspections and shall be applicable to all boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components manufactured or installed in the State of Idaho, except those specifically exempted in these rules. ()

002. WRITTEN INTERPRETATIONS.

There are no written statements which pertain to the interpretation of these rules. ()

003. ADMINISTRATIVE APPEALS.

There are no provisions for administrative appeal of these rules. The procedure for appeals in safety matters is prescribed by Sections 72-722, 72-714 through 72-718, Idaho Code. ()

004. -- 009. (RESERVED).

010. DEFINITIONS.

For definitions refer to IDAPA 17, Title 06, Chapter 01, Section 010.

011. INSPECTIONS.

01. Requirements. ()

a. Each boiler, pressure vessel, water heater, hot water storage tank, and nuclear component, used or proposed to be used within the State of Idaho, except boilers or pressure vessels specifically exempted, shall be thoroughly inspected as to their construction, installation and condition as listed below. ()

b. A grace period of two (2) months beyond the periods specified in IDAPA 17.06.03.001.02, 011.04, and 011.05 may elapse between certificate inspection. ()

c. No inspection certificate for a boiler, pressure vessel, water heater, hot water storage tank, or nuclear component shall be valid after the boiler, pressure vessel, water heater, hot water storage tank, or nuclear component ceases to be insured by a company duly authorized by the State of Idaho to carry such insurance. ()

d. Each boiler and pressure vessel shall be inspected during construction and after completion by an authorized inspector who has a current commission issued by the National Board. ()

e. All welding and installation of boilers and power piping shall be in strict accord with the A.S.M.E. Boiler and Pressure Code (1995), the NBIC (1995), and the A.S.M.E. Power Piping Code (ANSI B31.1) (1995). Each manufacturer and contractor shall be responsible for the welding done by this organization and shall have each welder tested in accordance with the A.S.M.E. requirements prior to performing any welding covered under this Code. ()

02. Power Boilers. All power boilers shall be inspected annually, both internally (where construction permits) and externally, while not under pressure. All power boilers shall have an annual external inspection while under pressure. ()

03. Low Pressure Boilers. ()

a. All low pressure boilers shall be inspected annually. ()

b. Steel steam boiler's shall be inspected externally every year and internally every three (3) years. The external inspection may be combined as part of an internal inspection. ()

c. Steel hot water boilers shall be inspected externally every year and internally at the discretion of the commissioned inspector. ()

d. Cast iron boilers shall receive an external inspection annually and the inspector shall require a more detailed inspection of conditions warrant. ()

04. Pressure Vessels. Pressure vessels shall receive an external inspection every three (3) years with and internal inspection at the discretion of the inspector. ()

05. Water Heaters and Hot Water Tanks. ()
- a. Water heaters and hot water storage tanks shall have an internal inspection every year which will include the function of all controls and devices. ()
- b. The owners of water heaters and/or hot water storage tanks that are otherwise exempted by these rules shall insure that the safety devices are inspected by a competent person annually. ()
06. Inspectors. All insurance carriers who may or do write policies of boiler and pressure vessel insurance in the State of Idaho are required to send the Department the name of each special inspector in their employment who will or may be making inspections in Idaho together with a copy of the individual's current certificate of competency or National Board Commission. ()
07. Identification Cards. Upon receipt of such notification, the Department will issue, to such inspector, an identification card certifying that he/she holds an Idaho commission and is authorized to inspect boiler and pressure vessel installations in the State of Idaho. Such identification card shall expire December 31 of each year or upon discontinuance of employment with the insurance carrier upon whose request it was issued. ()
08. Commission Fees. ()
09. Remuneration. Special inspectors, referred to in Chapter 03, Subsection 011.06 and 011.07, shall receive no salary from, nor shall any of their expenses be paid by the state of Idaho. ()
- 012. -- 999. (RESERVED).**

IDAPA 17 - INDUSTRIAL COMMISSION

17.06.04 - BOILER AND PRESSURE VESSEL SAFETY RULES -- REPAIRS AND ALTERATIONS

DOCKET NO. 17-0604-9601

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 September 18, 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 17.04.06, Boiler and Pressure Vessel Safety Rules, which is being repealed in its entirety. The proposed rules update the state's minimum safety standards dealing with repair and alteration requirements and bring them in line with nationally recognized safety standards for both the public and 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 September 25, 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. 17-0604-9601

**IDAPA 17
TITLE 06
Chapter 04**

17.06.04 - BOILER AND PRESSURE VESSEL SAFETY RULES -- REPAIRS AND ALTERATIONS

000. LEGAL AUTHORITY.

These rules 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 06, Chapter 04, Boiler and Pressure Vessel Safety Rules - Repairs and Alterations and shall be applicable to all boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear

components manufactured or installed in the State of Idaho, except those specifically exempted in these rules. ()

002. WRITTEN INTERPRETATIONS.

There are no written statements which pertain to the interpretation of these rules. ()

003. ADMINISTRATIVE APPEALS.

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. -- 009. (RESERVED).

010. DEFINITIONS.

For definitions refer to IDAPA 17, Title 06, Chapter 01, Section 010. ()

011. REPAIRS AND ALTERATIONS.

01. Requirements. Repairs and alterations to boilers and pressure vessels requiring welding shall be made only by an organization which holds a valid Certificate of Authorization for use of the National Board repair or alteration "R" symbol stamp. Repair, modification, or replacement of nuclear components shall be made only by an organization which holds a valid Certificate of Authorization for use of the National Board nuclear "NR" symbol stamp. ()

02. Repairs to Pressure Relief Valves. Repairs to pressure relief valves, shall be made only by an organization which holds a valid certificate of Authorization for use of the National Board Pressure Relief Valve Repair "VR" symbol stamp. Repair, modification, or replacement of ASME stamped "NV" pressure relief valves shall be made only by an organization which holds valid National Board Certificates of Authorization for the use of "NR" and "VR" symbol stamps. The initial installation, testing, and adjustments of a new pressure relief valve on a boiler, pressure vessel, or nuclear component are not considered a repair, if made by the manufacturer or assembler of the valve. ()

03. Safety Appliances. ()

a. No person shall attempt to remove or do any work on any safety appliance prescribed by these rules while the appliance is subject to pressure. ()

b. Should any of these appliances be removed for repair during an outage of a boiler or pressure vessel, they must be reinstalled and in proper working order before the object is again placed in service. ()

c. No person shall alter any safety or safety relief valves or pressure relief devices in any manner to maintain a working pressure in excess of that stated on the boiler or pressure vessel Certificate of Inspection. ()

012. -- 999. (RESERVED).

IDAPA 17 - INDUSTRIAL COMMISSION
17.06.05 - BOILER AND PRESSURE VESSEL SAFETY RULES - BOILER ATTENDANTS
DOCKET NO. 17-0605-9601
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 September 18, 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 17.04.06, Boiler and Pressure Vessel Safety Rules, which is being repealed in its entirety. The proposed rules update the state's minimum safety standards dealing with requirements and qualifications for boiler attendants and bring them in line with nationally recognized safety standards for the both public and 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 September 25, 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. 17-0605-9601

IDAPA 17
TITLE 06
Chapter 05

17.06.05 - BOILER AND PRESSURE VESSEL SAFETY RULES -- BOILER ATTENDANTS

000. LEGAL AUTHORITY.

These rules 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 06, Chapter 05, Boiler and Pressure Vessel Safety Rules- Boiler Attendants and shall be applicable to all boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components manufactured or installed in the State of Idaho, except those specifically exempted in these rules. ()

002. WRITTEN INTERPRETATIONS.

There are no written statements which pertain to the interpretation of these rules. ()

003. ADMINISTRATIVE APPEALS.

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. -- 009. (RESERVED).

010. DEFINITIONS.

For definitions refer to IDAPA 17, Title 06, Chapter 01, Section 010. ()

011. BOILER ATTENDANTS.

01. Requirements. Boilers that do not specifically contain all the fail-safe features necessary to operate fully unattended shall have qualified boiler attendants. ()

02. Qualifications. A boiler attendant will be deemed to be qualified if he/she is familiarized with the operating procedures of the boiler or boilers that he/she is operating and has been properly instructed in their safe operation. Boiler attendants shall be familiar with the requirements of the ASME Boiler and Pressure Vessel Code parts VI and VII as they pertain to the boiler(s) to be operated and the manufacturer's operating manual/instructions. ()

03. Competency. ()

a. The recommended minimum standards to be used by the employer to determine the competency of an attendant are: ()

b. Able to explain the functions and operation of all controls on the boiler or boilers. ()

c. Able to light off the boiler or boilers in a safe manner. ()

d. Know all possible methods of feeding water to the boiler or boilers. ()

e. Know how to blow down the boiler or boilers in a safe manner. ()

f. Know what would happen and the action to take if the water was permitted to drop below the lowest possible operating level. ()

g. Know what would happen and the action to take if the water in the boiler was carried too high. ()

h. Know how to shut down the boiler or boilers. ()

012. -- 999. (RESERVED).

IDAPA 20 - DEPARTMENT OF LANDS
20.03.17. - RULES GOVERNING LEASES ON STATE-OWNED SUBMERGED LANDS
AND FORMERLY SUBMERGED LANDS

DOCKET NO. 20-0317-9601

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearings concerning this rule-making have been scheduled as follows:

Monday, September 23, 1996, 2:00 p.m. - 7:00 p.m.
Southwestern Idaho Area Office, Idaho Department of Lands
8355 West State Street, Boise, Idaho

Wednesday, September 25, 1996, 2:00 p.m. - 7:00 p.m.
Sandpoint Community Hall,
204 South 1st St., Sandpoint, Idaho

Wednesday, September 25, 1996, 2:00 p.m. - 7:00 p.m.
Payettes Lake Area Office, Idaho Department of Lands
555 Deinhard Lane, McCall, Idaho

Thursday, September 26, 1996, 2:00 p.m. - 7:00 p.m.
Idaho Department of Fish and Game
2750 Kathleen Ave., Coeur d'Alene, Idaho

Hearing sites 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 Bryce Taylor, Chief, Bureau of Range Management and Surface Leasing, Idaho Department of Lands, at (208) 334-0251.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The Idaho State Board of Land Commissioners, pursuant to the duties and responsibilities set forth in Idaho Code, Chapters 1, 3, and 6, Title 58, and the Equal Footing Doctrine (Idaho Admission Act of July 3, 1890, 26 Stat. 215, Chapter 656) proposes to set forth procedures concerning the issuance of leases on state-owned submerged lands.

The state exercises its title over the beds of all navigable lakes, rivers, and streams. Issuance of a lease shall be contingent upon the applicant obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources, pursuant to Chapter 38, Title 42, Idaho Code, or an encroachment permit if required by the Idaho Department of Lands pursuant to the Lake Protection Act, Chapter 13, Title 58, Idaho Code and compliance with local planning and zoning regulations if applicable.

These rules shall apply to all existing and proposed submerged lands uses and encroachments over state-owned submerged lands EXCEPT: single or multiple family docks occupying less than eleven hundred (1,100) square feet of dock space that were constructed on or before July 1, 1993; single family docks constructed after July 1, 1993 occupying less than seven hundred (700) square feet of dock space; multiple family docks constructed after July 1, 1993 occupying less than eleven hundred (1,100) square feet of dock space; encroachments in aid of navigation for which use is offered free to the public; and uses that may be authorized by temporary permits or easements.

Lease application fees and rental rates shall be determined by the State Board of Land Commissioners.

Leases shall be issued for a term not to exceed ten (10) years, and shall be renewable for additional ten (10) year periods.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance

on technical questions concerning the proposed rules, contact Bryce D. Taylor, Chief, Bureau of Range Management and Surface Leasing, (208) 334-0251.

Anyone can submit written comments regarding these rules. All written comments and data concerning these rules must be directed to the undersigned and received on or before September 25, 1996.

DATED this 22nd day of July, 1996.

Bryce D. Taylor
Chief, Bureau of Range Management and Surface Leasing
Idaho Department of Lands
PO Box 83720
955 W. Jefferson
Boise, Idaho 83720-0050
Phone: (208) 334-0251 Fax: (208) 334-3698

TEXT OF DOCKET NO. 20-0317-9601

IDAPA 20
TITLE 03
Chapter 17

**20.03.17 - RULES GOVERNING LEASES ON STATE-OWNED SUBMERGED LANDS
AND FORMERLY SUBMERGED LANDS**

000. AUTHORITY.

These rules are promulgated pursuant to, and shall be construed in a manner consistent with, the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Idaho Code, Chapters 1, 3, and 6, Title 58, and the Equal Footing Doctrine (Idaho Admission Act of July 3, 1890, 26 Stat. 215, Chapter 656). ()

001. TITLE AND SCOPE.

01. Application of Rules. These rules set forth procedures concerning the issuance of leases on state-owned submerged lands. ()

02. Additional Application of Rules. These rules also apply to state-owned islands raised from submerged lands, or filled submerged lands, or other formerly submerged lands that are no longer covered by water at any time during an ordinary year. ()

03. State's Rights. While the state asserts the right to issue leases for all encroachments, navigational or non-navigational, upon, in or above the beds or waters of navigable lakes and rivers, nothing in these rules shall be construed to vest in the state of Idaho any property, right or claim of such right to any private lands lying above the natural or ordinary high water mark of any navigable lake or river. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. ()

005. -- 009. (RESERVED).

010. DEFINITIONS.

01. Artificial High Water Mark. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control work and impressing a new and higher vegetation line. (Section 58-1302(d), Idaho Code). ()

02. Board. The Idaho State Board of Land Commissioners or such representative as may be designated by the board. ()

03. Commercial Navigational Encroachment. A navigational encroachment for the use of which patrons pay a fee. ()

04. Community Dock or Multiple Family Dock. A structure that provides moorage facilities to occupants of two or more dwelling units. ()

05. Department. The Idaho Department of Lands. ()

06. Director. The director of the Department of Lands or such representative as may be designated by the director. ()

07. Dock Surface Area. Includes docks, slips, piers, and ramps and is calculated in square feet. Dock surface area does not include piles, submerged anchors or breakwaters. ()

08. Encroachment in Aid of Navigation. Includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, log storage, public boardwalks and other such aids to navigability on, in, or above the beds or waters of a navigable lake, river or stream. The term "encroachment(s) in aid of navigation" may be used interchangeably herein with the term "navigational encroachment(s)." ()

09. Encroachments not in Aid of Navigation. Includes all other encroachments on, in, or above the beds or waters of a navigable lake, river or stream, such as fills into waterways, bridges, floating restaurants, bars, stores or other structures not constructed primarily for use in aid of navigation. It shall also include float homes moored permanently or in any one place for a substantial period of time and used as either a permanent or temporary place of abode or residence. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "non-navigational encroachment(s)." ()

10. Formerly Submerged Lands. The beds of navigable lakes, rivers, and streams that have either been filled or subsequently became uplands because of human activities including construction of dikes, berms, and seawalls. Also included are islands that have been created on submerged lands through natural processes or human activities since statehood, July 3, 1890. ()

11. Market Value. The amount in cash or on terms reasonably equivalent to cash, for which, in all probability, the property would be sold by a knowledgeable owner who is willing but not obligated to sell to a knowledgeable purchaser who desires but is not obligated to buy. ()

12. Natural or Ordinary High Water Mark. The line that the water impresses upon the soil by covering it for a sufficient period of time to deprive the soil of its vegetation and destroy its value for agricultural purposes (Section 58-104 and 58-1302(c), Idaho Code). If, however, the soil, configuration of the surface, or vegetation has been altered by man's activity, the ordinary high water mark shall be located where it would have been if the alteration had not occurred. ()

13. Person. An individual, partnership, association, or corporation qualified to do business in the state of Idaho, and any federal, state, county or local unit of government. ()

14. Riparian or Littoral Rights. Only the rights of owners or lessees of land adjacent to navigable lakes, rivers or streams to maintain their adjacency to the lake, river or stream and to make use of their rights as riparian or

littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters or to remove state-owned bed materials. (Section 58-1302(f), Idaho Code). ()

15. Single Family Dock. A structure that provides moorage facilities to one dwelling unit. ()

16. Submerged Lands. The state-owned beds of navigable lakes, rivers and streams lying below the natural or ordinary high water marks. ()

17. Uplands. The land bordering on navigable lakes, rivers and streams. ()

011. -- 019. (RESERVED).

020. APPLICABILITY.

Leases shall be required for all encroachments on, in, or over state-owned submerged land except: ()

01. Single or Multiple Family Docks. Single or multiple family docks that were constructed on or before July 1, 1993, occupying less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. ()

02. Single Family Docks. Single family docks that were constructed after July 1, 1993, occupying less than seven hundred (700) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. ()

03. Multiple Family Docks. Multiple family docks that were constructed after July 1, 1993, occupying less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. ()

04. Encroachments Free to the Public. Encroachments in aid of navigation for which the complete use is offered free to the public. ()

05. Temporary Permits or Easements. Uses or encroachments that are customarily authorized by temporary permits or easements, such as roads, railroads, overhead utility lines, submerged cables, and pipelines. (See IDAPA 20.03.09, Rules for Easements on State-owned Submerged Lands.) ()

021. -- 024. (RESERVED).

025. POLICY.

01. Policy of The State of Idaho. It is the policy of the state of Idaho to regulate and control the use and disposition of lands in the beds of navigable lakes, rivers and streams to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided that the board shall take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands. (Section 58-104, Idaho Code). ()

02. Director May Grant Leases. The director may grant leases for uses that are in the public interest and consistent with these rules. ()

03. Requests or Inquiries Regarding Navigability. The state exercises its title over the beds of all lakes, rivers, and streams that are navigable in fact. The department will respond to requests or inquiries as to which lakes, rivers, and streams are deemed navigable in fact. Additional information about streams deemed navigable by the State of Idaho is available from the department. ()

04. Stream Channel Alteration Permit or Encroachment Permit. Issuance of a lease shall be contingent upon the applicant obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources, pursuant to Chapter 38, Title 42, Idaho Code, or an encroachment permit if required by the department pursuant to the Lake Protection Act, Chapter 13, Title 58, Idaho Code and compliance with local planning and zoning regulations if applicable. ()

05. Other Permits and Licenses. Issuance of a lease shall not relieve an applicant from acquiring other permits and licenses that are required by law. ()

06. Submerged Lands Lease Required Upon Notification. All persons using submerged lands in a manner that requires a submerged land lease shall obtain such a lease from the director when notified to do so. ()

07. Term of Lease, Renewal of Lease. Leases shall be issued for a term not to exceed ten (10) years, and shall be renewed for additional ten year (10) periods upon satisfactory performance during the present term. Renewals shall be processed with a minimum of procedural requirements and shall not be denied except in the most unusual circumstances involving noncompliance with the terms and conditions of the previous lease. Lease renewals shall be initiated by the director. ()

08. Director's Authorization to Issue and Renew Leases. The director is authorized to issue and renew leases for the use of submerged lands in accordance with these rules. ()

09. Rights Granted. The lease grants only such rights as are specified in the lease. The right to use the property for all other purposes that do not interfere with the rights authorized in the lease remain with the state. ()

10. Rules Applicable to All Existing and Proposed Uses and Encroachments. These rules shall apply to all existing and proposed uses and encroachments, whether or not authorized by permit under the Lake Protection Act or the Stream Channel Protection Act. These rules provide that a lease may be required in addition to existing permits. See Subsection 020.01 through 020.05 for information about exceptions to lease requirements. ()

11. Waiver of Lease Requirements. The director may, in his discretion, waive lease requirements for single or multiple family dock encroachments whose dock surface areas exceed square footages described in Subsection 020.01 through 020.03 when the additional dock surface area square footage is necessary to gain or maintain access to water of sufficient depth to sustain dock use. ()

026. -- 029. (RESERVED).

030. LEASE APPLICATION, FEE, AND PROCEDURE.

01. Fee Determined by Board. The lease application fee shall be determined by the Board. ()

02. Fee May Not Be Required. A lease application and fee may not be required if an encroachment permit application for a new or changed encroachment is filed simultaneously. In these cases, the encroachment permit application and fee will also serve as a lease application and fee. ()

03. Fee Shall Be Required. A lease application and fee shall be required for existing encroachments unless application for a new encroachment permit is filed simultaneously. A lease application fee shall be required for leases that are renewed upon expiration. ()

04. Encroachment Permit Application Fees. Information on encroachment permit application fees may be found in IDAPA 20.03.04, Regulation of Beds, Waters and Airspace Over Navigable Lakes In The State of Idaho. ()

05. Application to Lease and Fee. The lease application and fee shall be submitted with a letter of request stating the purpose of the lease; a scale drawing of the proposed lease area with plans detailing all intended improvements, including reference to the nearest known property corner(s); the permit number of each existing applicable encroachment permit(s); and the required rent. ()

06. Submittal of Application to Lease and Fee. The lease application and fee may be submitted to any office of the department. ()

07. Notification of Approval. If the lease application is approved, the applicant shall be notified. The applicant shall also be notified of any additional requirements. ()

08. Notification of Denial. If denied, the applicant shall be notified in writing. ()

09. Request for Reconsideration. Any applicant aggrieved with the director's determination of rent or denial of a lease application may request reconsideration per the Administrative rules of the Department of Lands, Rules of Practice and Procedures, IDAPA 20.01.01. ()

031. -- 034. (RESERVED).

035. RENTAL.

01. Rental Rates Determined by the Board. The rental rates for submerged land leases shall be set by the board. ()

02. Modification of Rent. The director may temporarily reduce, defer, or waive annual lease rent for a period not to exceed two (2) years upon showing by the lessee that irreversible financial harm will occur if the rent is not temporarily modified. ()

036. -- 039. (RESERVED).

040. LATE PAYMENT; EXTENSIONS OF PAYMENT.

01. Penalty for Late Payment Of Rent. Rent not paid by the due date shall be considered late. A penalty, calculated from the day after which payment was due, shall be added to the rent. The penalty shall be determined by the Board and shall be calculated for the first month or any portion thereof and one percent (1%) of the rent due, including penalty, per month thereafter. ()

02. Extension in Time for Payment of Rent. An extension in time in which to submit payment of rent may be granted for commercial submerged lands leases only. Such extensions may not exceed two (2) successive years. (Section 58-305, Idaho Code). ()

03. Request for Extension in Time for Payment of Rent. Lessees must request extensions on forms supplied by the lessor and pay an extension fee to be determined by the Board. The lessee must also provide a statement from his banker or accountant verifying that money is not available for the payment of rent. ()

04. Interest Rate for Extension in Time for Payment Of Rent. If an extension is granted, rent plus interest at a rate established by the board will be due no later than October 1 of the rent year. Specifically, interest will be the average monthly rate for conventional mortgages as quoted in the Federal Reserve Statistical Report; the rate to be rounded downward to the nearest one quarter percent (1/4%) on the tenth of each month following the release of data. ()

041. -- 044. (RESERVED).

045. APPRAISAL PROCEDURES.

01. Per Acre Market Value of Adjacent Uplands. The per acre market value of adjacent uplands is the appraised market value of the lands, extending back from the existing natural or artificial high water mark at least one lot in depth or three hundred (300) feet, whichever is greater. ()

02. Appraisal. The appraisal normally will be performed by qualified department staff. If desired by the applicant and agreed to by the director, the applicant may provide the appraisal, which shall be submitted to and meet the specifications of the director. ()

03. Cost of Appraisal. If the appraisal is performed by department staff, the appraisal costs shall be the actual cost plus transportation and personnel costs, including per diem and administrative overhead. An itemized

statement of these costs shall be provided to the applicant. The cost of the appraisal shall be in addition to those costs outlined in Subsection 035.01 and 035.02 and shall be billed separately from the application fee and rent. ()

046. -- 049. (RESERVED).

050. LEASE MODIFICATION OR AMENDMENT.

01. Modification of Existing Lease. Modification or amendment of an existing lease will be processed in the same manner as a new application. Modification or amendment includes change of use, location, size or scope of the lease site, but does not include ordinary maintenance, repair or replacement of existing structures or facilities. ()

02. Modification of Interior Facilities. Changes in the interior arrangement of existing facilities that do not constitute a change of use and do not alter or enlarge the exterior dimensions, shall not be deemed a modification under this rule. However, the lessee must give written notice to the department ten (10) days in advance of making such changes. The lessee shall also furnish one (1) set of as-built plans to the department within thirty (30) days following completion of changes. ()

051. -- 054. (RESERVED).

055. ASSIGNMENTS; ASSIGNMENT FEE.

01. Assignment of Lease. Leases may be assigned upon approval of the director provided that the lease conforms with Subsection 025.02 and all other provisions of these rules. The assignor and assignee must complete the department's standard assignment form and forward it to any department office. ()

02. Assignment Fee. The assignment fee shall be determined by the Board and shall be paid at the time the assignment is submitted to the department. ()

03. Approval Required for Assignment. An assignment is not valid until it has been approved by the director. ()

056. -- 059. (RESERVED).

060. CANCELLATION.

01. Cancellation of Lease for Violation of Terms. Any violation of the terms of the lease by the lessee, including nonpayment of rent or any violation by lessee of any rule now in force or hereafter adopted by the board may subject the lease to cancellation. The lessee shall be provided written notification of any violation. The letter shall specify the violation, corrective action necessary, and specify a reasonable time to make the correction. If the corrective action is not taken within the specified reasonable period of time, the department shall notify the lessee of cancellation of the lease; provided, however, that the notice shall be provided to lessee no later than thirty (30) days prior to the effective date of such cancellation. ()

02. Reinstatement of Lease. A lease may be reinstated within thirty (30) days after cancellation for nonpayment by paying the rental, plus interest, and a reinstatement fee to be determined by the Board. ()

03. Cancellation of Lease for Use Other Than Intended Purpose. A lease not used for the purpose for which it was granted may be canceled. The department shall notify the lessee in writing of any proposed cancellation. The lessee shall have thirty (30) days to reply in writing to the department to show cause why the lease should not be cancelled. Within sixty (60) days, the department shall notify the lessee in writing as to the department's decision concerning cancellation. The grantee will have thirty (30) days to appeal an adverse decision to the board. ()

04. Removal of Improvements Upon Cancellation. Upon cancellation, the director shall provide the lessee with a specific, but reasonable, amount of time, not to exceed six (6) months from the date of final notice, to remove any facilities and improvements. Failure to remove any facilities or structures within such time period established by the director shall be deemed a trespass on submerged or formerly submerged lands. ()

061. -- 064. (RESERVED).

065. BOND.

01. Bond Requirement Determined by Director. Bonds may be required for commercial non-navigational leases. The need for bond shall be at the discretion of the director who shall consider the potential for abandonment of the facility, harm to state-owned submerged land and water resources, and the personal and real property of adjacent upland owners. ()

02. Performance Bond. In the event a bond is necessary, the lessee shall submit a performance bond in favor of the state of Idaho and in a format acceptable to the director before a lease is issued. Acceptable bonds include surety, collateral, and letters of credit. The amount of bond shall be the estimated cost of restoration as established by the director in consultation with the lease applicant on a case by case basis. To determine restoration costs, the director may consider the potential for damage to land, to improvements, and the cost of structure removal. ()

066. -- 069. (RESERVED).

070. LIABILITY AND INDEMNITY.

A lessee shall indemnify and hold harmless the lessors, its departments, agencies and employees for any and all claims, actions, damages, costs, and expenses which may arise by reason of lessee's occupation of the leased premises, or the occupation of the leased premises by any of the lessee's agents, or by any person occupying the same with the lessee's permission. ()

071. -- 074. (RESERVED).

075. RULES AND LAWS OF THE STATE.

The lessee shall comply with all applicable rules and laws of the State of Idaho insofar as they affect the use of the lands described in the lease. ()

076. -- 079. (RESERVED).

080. BINDING ON HEIRS.

All of the terms, covenants, and conditions in a state lease shall be binding upon the heirs, executors, and assigns of the lessee. ()

081. -- 084. (RESERVED).

085. CIVIL RIGHTS.

The lessee shall not discriminate against any person on the basis of such person's race, creed, color, sex, national origin or handicap. ()

086. -- 999. (RESERVED).

IDAPA 20 - DEPARTMENT OF LANDS
20.06.02 - IDAHO BOARD OF SCALING PRACTICES
DOCKET NO. 20-0602-9501
NOTICE OF VACATION OF PROPOSED RULE-MAKING

ACTION: The action, under Docket No. 20-0602-9501, concerns the vacation of proposed rule-making of IDAPA 20, Title 06, Chapter 02, General Rules, Licensing and Checkscales of the Idaho Board of Scaling Practices.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency is vacating the proposed rule-making of Docket No. 20-0602-9501.

DESCRIPTIVE SUMMARY: Docket No. 20-0602-9501, IDAPA 20.06.02.600.05, was published as a permanent, proposed rule in Volume 95-10, October 4, 1995, edition of the Idaho Administrative Bulletin, pages 205 through 207. That proposed rule is hereby being vacated and is being amended now as a permanent proposed rule under Docket No. 20-0602-9601, which clarifies the term "directly affected".

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this action, contact Henry Gotz, Executive Director, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this 22nd day of July, 1996.

Henry Gotz, Executive Director
Idaho Board of Scaling Practices
N. 9407 Government Way, Suite #8
PO Box 999
Hayden, ID 83835-0999
(208) 769-1445
FAX (208) 769-1485

IDAPA 20 - DEPARTMENT OF LANDS

**20.06.02 - GENERAL RULES, LICENSING AND CHECKSCALES
OF THE IDAHO BOARD OF SCALING PRACTICES**

DOCKET NO. 20-0602-9601

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed regular rule-making procedures. The action is authorized pursuant to Section 38-1215, Idaho Code.

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

- Tuesday, September 10, 1996, 7:00 p.m.
Joe R. Williams Building, West Conference Room
700 W. State Street, Boise;
- Monday, September 16, 1996, 7:00 p.m.
Idaho Department of Fish and Game, Panhandle Room
2750 Kathleen Avenue, Coeur d'Alene.

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

DESCRIPTIVE SUMMARY: The following is the required finding and a concise statement of the supporting reasons for the proposed regular rule-making and a statement in nontechnical language of the substance of the proposed rule:

Under Docket No. 20-0602-9601: Pursuant to the Idaho Public Records Act, Idaho Code 9-340(15), the check scale report is exempt from disclosure. However, Idaho Code 38-1215 states that any person directly affected shall be entitled to receive a copy of the check scale report. There is a need to clarify and define the term "directly affected." The changes in the rule will specifically list those directly affected who should receive check scale reports in order to clarify this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Henry Gotz, Executive Director, Idaho Board of Scaling Practices, at (208) 769-1445.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 25, 1996.

DATED this 19th day of July, 1996.

Henry Gotz, Executive Director
Idaho Board of Scaling Practices
N. 9407 Government Way, Suite #8
PO Box 999
Hayden ID 83835-0999
(208) 769-1445 phone, (208) 769-1485 fax

TEXT OF DOCKET NO. 20-0602-9601

600. CHECK SCALING.

01. Check Scalers. The chairman of the Board shall, with approval of the Board, appoint such qualified licensed scalers as check scalers as may be needed to perform check scaling within the state. (10-18-84)

02. Bonding. All check scalers appointed by the Board shall obtain and execute a bond to the Board for the benefit of those businesses and/or persons using the services of the check scaler covering the performance of his check scaling duties, which bond shall be in the sum of one thousand dollars (\$1,000.00), executed by a qualified surety, duly authorized to do business in this state, upon the condition that said applicant, if said bond be issued to him, shall conduct his check scaling duties without fraud or fraudulent misrepresentation and will faithfully perform his duties as check scaler for those persons using his services; said bond to be reissued annually on or before the 1st day of July each year, and said bond shall be regarded as a proper and necessary expense of the Board and shall be paid out of the state scaling account. (10-18-84)

03. Procedures. (10-18-84)

a. Check scaling may be performed by the Board in order to check licensed scaler's proficiency or for purposes of re-licensing. This check will consist of a minimum of fifty (50) logs containing a gross and/or net scale of at least ten thousand (10,000) board feet scaled under similar conditions as original scale was made. If after three (3) instances of check scaling in any twelve (12) month period a scaler's work in all three (3) occasions is found unacceptable based upon standards of check scaling established under Subsection 500.02 the scaler will be given a hearing in accordance with these rules. (10-18-84)

b. A check scale for purposes of re-licensing shall be performed upon written request and under the time limitations prescribed and at a time and place established by the Executive Director of the Board of Scaling Practices: (10-18-84)

i. For any licensed scaler who has not received a check scale the Board must receive written request for such check scale on or before January 1st of the year in which the scaler's license expires. (10-18-84)

ii. For any scaler whose license has expired the Board must receive written request for such check scale on or before January 1st of the second year following the last licensure expiration. (10-18-84)

iii. Check scaling may be performed upon request of any individual, company or corporation who desires such service. The minimum number of logs, volume or scaling conditions will vary with each request. The check scaler will investigate the situation and determine the most logical method of check scaling. His report will include a detailed section on conditions and procedures as well as on volume comparisons. (10-18-84)

04. Cost. The cost of all check scales other than in the regular course of the check scaler's duties shall be paid by the person requesting the same or by the party in error where the check scaler finds and determines scaling error outside the allowable limits set by the Board. All check scaling costs shall be determined by using the costs of check scaling at the time of request as determined by the Board. (10-18-84)

05. Report. The check scaler shall make a report of his findings to the Board within a reasonable time after each check scale and said report shall be accepted as prima facie evidence of the facts stated in such report. (10-18-84)

a. Except as provided herein, check scale reports are exempt from disclosure pursuant to the Idaho Public Records Act, Idaho Code, Section 9-340(15). This includes check scale reports relating to temporary permits, relicensures, routine and requested check scales. ()

b. Any person directly affected by a check scale report shall be entitled to receive a copy of said report as soon as the check scale has been completed, in accordance with Idaho Code, Section 38-1215. ()

i. Persons directly affected and entitled to a copy of the check scale report on temporary permits and relicensure check scales are the scaler and the scaler's employer(s). ()

ii. Persons directly affected and entitled to a copy of the check scale report on routine and requested check scales include the scaler, the scaler's employer(s), the scaler's supervisor(s), the logging contractor(s), or other persons directly affected by the check scale report as determined by the executive director of the Idaho Board of Scaling Practices. ()

IDAPA 20 - DEPARTMENT OF LANDS
20.06.03 - RULES FOR SCALING SPECIFICATIONS AND CHECK SCALING STANDARDS
STATE BOARD OF SCALING PRACTICES

DOCKET NO. 20-0603-9601

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed regular rule-making procedures. The action is authorized pursuant to Section 38-1215, Idaho Code.

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

- Tuesday, September 10, 1996, 7:00 p.m.
Joe R. Williams Building, West Conference Room
700 W. State Street, Boise;

- Monday, September 16, 1996, 7:00 p.m.
Idaho Department of Fish and Game, Panhandle Room
2750 Kathleen Avenue, Coeur d'Alene

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

DESCRIPTIVE SUMMARY: The following is the required finding and a concise statement of the supporting reasons for the proposed regular rule-making and a statement in nontechnical language of the substance of the proposed rule:

Under Docket No. 20-0603-9601: Current Chapter 3 rules establish mandatory log length measurement procedures to reflect a standard gross scale volume in compliance with Idaho Code 38.1202.c. These current procedures result in increased scale volume that is not reflective of increased value in the log produced on a small percentage of mismanufactured log lengths. Resulting payment based on gross scale is compromised; loggers are assessed penalties on log quality and increased volumes are not realized by manufacturers. The proposed rule would change log length measurement determination from the current permissive trim allowance of six inches (6") maximum trim per log segment to a mandatory trim allowance of three inches (3") minimum trim per log segment.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Henry Gotz, Executive Director, Idaho Board of Scaling Practices, at (208) 769-1445.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 25, 1996.

DATED this 23rd day of July, 1996.

Henry Gotz, Executive Director
Idaho Board of Scaling Practices
N. 9407 Government Way, Suite #8
PO Box 999
Hayden ID 83835-0999
(208) 769-1445 phone, (208) 769-1485 fax

TEXT OF DOCKET NO. 20-0603-9601

100. SAWLOGS.

01. Definition. Sawlogs are those logs which are suitable for the manufacture of lumber, beams, veneer, etc. Classification as "sawlog" requires a log or log segment to meet minimum merchantability specifications. Contractual scaling agreements may establish minimum merchantability specifications; otherwise, all logs or log segments measured for board foot volume by means of the Coconino Scribner decimal C scale rule shall be defined as sawlogs when their net scale volume is equal to or greater than 33-1/3% of their gross scale volume as determined by these rules. (12-31-90)

02. Species Identification. By its nature, log scaling reflects an arbitrary usable content of a log. It does not reflect grading. Because of this, species differentiation for check scaling purposes shall be made, according to normal commercial species. Contractual scaling agreements may establish further species differentiation, including a differentiation according to scaling diameter or scaling length, or lumping together of like species; otherwise, differentiation of species shall be made as follows: (12-31-90)

WP	Western of Idaho White Pine (<i>Pinus monticola</i>)	
PP	Ponderosa Pine (<i>Pinus ponderosa</i>)	
S	Engelmann Spruce (<i>Picea engelmanni</i>)	
C	Western Redcedar (<i>Thuja plicata</i>)	
L	Western Larch or Tamarack (<i>Larix occidentalis</i>)	
DF	Douglas Fir or Red Fir (<i>Pseudotsuga menziesii</i>)	
GF	Grand Fir or White Fir (<i>Abies grandis</i> , <i>Abies concolor</i>)	
AF	Subalpine Fir (<i>Abies lasiocarpa</i>)	
H	Western Hemlock (<i>Tsuga heterophylla</i>)	
LP	Lodgepole Pine (<i>Pinus contorta</i>)	
CW	Black Cottonwood (<i>Populus trichocarpa</i>)	
O	All other tree or shrub species shall be classified as "other."	(12-31-90)

03. Gross Scale Determination. (12-31-90)

a. The gross scale of a sawlog shall be determined by the volume obtained from the log rule after measuring and applying the scaling length and scaling diameter, in accordance with the Scribner decimal C volume table as listed in the National Forest Log Scaling Handbook, Appendix, Table II, EXCEPT that the volumes listed in the Appendix, Table I, of these rules shall apply to diameter classes 3" through 8" inclusive. (1-1-95)

b. Scaling length shall be determined by the length of the scaling cylinder (as explained in the National Forest Log Scaling Handbook) plus trim allowance. Length determination shall recognize logs measuring from the minimum length (plus trim) to 20' (plus trim) as single-segment logs; from 21' (or 22' plus trim) to 40' (plus trim) as two-segment logs; from 41' (or 42' plus trim) to 60' (plus trim) as three-segment logs, etc. (12-31-90)

c. Scaling diameters shall be determined by the methods outlined in the National Forest Log Scaling Handbook. Scaling diameters are measured down to a minimum top diameter. Mid-point diameters on second-cut, multi-segment logs are determined on the basis of calculated taper; mid-point diameters on butt-cut, multi-segment logs shall be determined by the methods stated in the Appendix, Table II, of these rules. (1-1-95)

04. Gross Scale Contractual Specifications. (12-31-90)

a. Contractual scaling agreements relating to determination of gross scale may establish the following specifications: (12-31-90)

i. Permissive minimum or maximum trim allowances per scaling segment. (12-31-90)

ii. Whether logs are to be scaled in one (1) or two (2) foot multiples, provided that they recognize scale for odd-length logs when odd-length logs are requested in addition to logs cut in two-foot multiples. (12-31-90)

iii. A minimum log length (plus trim). (12-31-90)

iv. A minimum top diameter. (12-31-90)

05. Gross Scale Non-Contractual Specifications. In the absence of a contractual scaling agreement denoting otherwise, the following specifications are established: (12-31-90)
- a. Logs shall be scaled with a ~~six-inch~~ three-inch ~~maximum~~ minimum trim allowance per segment for the scaling length in accordance with the Appendix, Table III, of these rules. (~~1-1-95~~)()
 - b. Minimum log length shall be ~~8'4"~~ 8'3". (12-31-90)()
 - c. Minimum top diameter shall be 5.51" (actual measure). (12-31-90)
06. Net Scale Determination. (12-31-90)
- a. The net scale of a sawlog is the usable scale volume, after deductions have been made for scaling defects; it is subject to minimum merchantability specifications. (12-31-90)
 - b. Types of defects and methods of deduction for sawlogs shall be made according to the National Forest Log Scaling Handbook and as herein elaborated. (12-31-90)
 - c. Rot defects probably cause most of the overall volume loss in sawlogs. Scaling requires a thorough inspection of a log showing a deductible rot defect in order to determine the extent of total loss. This includes determining whether rot is in initial or advanced stages, recognition of external indicators to determine extent of decay, and knowledge of rot characteristics in specific stands of timber. (12-31-90)
 - d. For "conk rot" and "Indian Paint rot" when nothing is evident to determine the overall extent of decay to the contrary, the following shall be used as guidelines: (12-31-90)
 - i. For conk rot, from the "punk" or indicator of decay (except in White Pine), rot shall be estimated to extend 4' up the log and 6' down the log, and affect the entire heartwood. (12-31-90)
 - ii. For conk rot in White Pine, from the "punk" or indicator of decay, rot shall be estimated to extend 2' up the log and 4' down the log, and affect 1/2 of the scaling cylinder. (12-31-90)
 - iii. For Indian Paint rot, from the "punk" or indicator of decay, rot shall be estimated to extend 4' up the log and 6' down the log, and affect the entire scaling cylinder. (12-31-90)
 - iv. On multi-segment logs, each segment shall be judged individually in order to determine whether it meets merchantability minimums. (12-31-90)
07. Net Scale Contractual Specifications. (12-31-90)
- a. Contractual scaling agreements relating to determination of net scale may establish the following specifications: (12-31-90)
 - i. A merchantability minimum that net scale shall be in relation to the gross scale of a log or log segment. (12-31-90)
 - ii. A minimum lumber length recovery. (12-31-90)
 - iii. A provision for "combination logs" on multi-segment pieces (i.e., one segment sawlog, the other pulp log or cedar products log). (12-31-90)
08. Net Scale Non-contractual Specifications. (12-31-90)
- a. In the absence of a contractual scaling agreement denoting otherwise, the following specifications are established: (12-31-90)
 - i. Merchantability minimum of net scale in relation to gross scale shall be 33-1/3%. (12-31-90)

- ii. Minimum lumber length consideration shall be 6' (with allowance for trim) and 1" x 4" board nominal (or rough cut) measurement. (12-31-90)
- iii. There are no "combination logs" on multi-segment pieces. (12-31-90)
- 09. Summary - Sawlogs. (12-31-90)
- a. These scaling specifications enumerate the rules applicable to sawlog scaling by establishing rules for determining volumes and rot deductions in addition to the material in the National Forest Log Scaling Handbook. (12-31-90)
- b. They allow for contractual scaling agreements to specify: (12-31-90)
 - i. Species differentiation, including an allowance for differentiation based on scaling length or diameter. (12-31-90)
 - ii. Permissive minimum or maximum trim allowances. (12-31-90)
 - iii. Log scaling in one (1) or two (2) foot multiples. (12-31-90)
 - iv. A minimum acceptable log length. (12-31-90)
 - v. A minimum acceptable top diameter. (12-31-90)
 - vi. A merchantability percentage minimum for net scale in relation to gross scale volume. (12-31-90)
 - vii. A minimum lumber length recovery. (12-31-90)
 - viii. A provision for "combination logs." (12-31-90)
 - ix. In the absence of a contractual scaling agreement, these specifications enumerate what the aforementioned shall be. (12-31-90)

(BREAK IN CONTINUITY OF SECTIONS)

200. PULP LOGS.

01. Definition. Pulp logs are logs (or log segments) that are suitable for the manufacture of "wood chips." They are usually logs that do not meet net scale merchantability for sawlog classification although contractual scaling agreements may provide otherwise. In the absence of a contractual scaling agreement specifying otherwise, a pulp log is defined as a log whose net scale volume, as determined by the sawlog method, does not meet merchantability minimums. (12-31-90)

02. Species Identification. Normally, no species differentiation shall be made for pulp logs; classification shall be "pulp." A contractual scaling agreement may provide otherwise, including limitations as to species acceptable or the differentiation of species. (12-31-90)

03. Gross Scale. When the method of measurement is the Coconino Scribner decimal C scale rule, the gross scale of a pulp log shall be determined in the same manner as the gross scale of a sawlog. (12-31-90)

04. Gross Scale Contractual Specifications. Contractual scaling agreements relating to gross scale determination for pulp logs may establish the following specifications: (12-31-90)

- a. Permissive minimum or maximum trim allowances per scaling segment. (12-31-90)

- b. Whether logs are to be scaled in one (1) or two (2) foot multiples, provided that they recognize scale for odd-length logs when odd-length logs are requested in addition to logs cut in two-foot multiples. (12-31-90)
- c. A minimum log length (plus trim). (12-31-90)
- d. A minimum top diameter. (12-31-90)
05. Gross Scale Non-Contractual Specifications. In the absence of a contractual scaling agreement denoting otherwise, the following specifications are established: (12-31-90)
- a. Logs shall be scaled with a ~~six (6) inch~~ three-inch (3") ~~maximum~~ minimum trim allowance per segment for the scaling length in accordance with the Appendix, Table III, of these rules. (~~1-1-95~~)()
- b. Minimum log length shall be ~~8'4"~~ 8'3". (~~12-31-90~~)()
- c. Minimum top diameter shall be 5.51" (actual measure). (12-31-90)
06. Contractual Multi-product Classification. In addition, if a contractual scaling agreement provides for multi-product classification, the gross scale included in pulp log classification may be one or more segments of a "combination log." (12-31-90)
07. Net Scale Determination. (12-31-90)
- a. The net scale of a pulp log shall be determined by deducting defects which reduce the pulp volume, or chip yield, as determined by the pulp method, and subject to minimum merchantability. These defects are advanced stages of fungus rots and voids. In addition, a pulp log or log segment must be completely free of charred wood AND mechanically debarkable. (12-31-90)
- b. Deduction procedures and deductible defects are as follows: (12-31-90)
- i. Diameter cut. Use a diameter reduction for rotten sapwood extending around or part-way around the circumference of the log. The deduction procedure is the same as in sawlogs. Note: Only wood that has deteriorated to a degree severe enough to reduce chip volume shall be deductible. (12-31-90)
- ii. Sector or pie-cut. Use this method when the pulp defect can be confined to a sector of a circle for the length affected. It applies to V-shaped rot pockets sometimes found in conjunction with sap rot or surface scars. The deduction procedure is the same as in sawlogs. (12-31-90)
- iii. Interior defects. Usually caused by various fungi which have decayed the wood to the point where it becomes unsuitable for pulp manufacture; it is probably the most common and extensive type of defect in pulp logs. Not all stages of decay cause loss of volume; the usual field test to determine usability shall be to chop into the defect with a sharp ax removing a "chip" of wood. If the "chip" holds together it is usable; if the "chip" crumbles or falls apart it is not usable. After determining that a defect is deductible, the deduction procedure shall be to take out "a log within a log" for the length affected. This is accomplished by measuring the size of the defect to approximate an equivalent "log" diameter, and deducting the "log" volume (or a percentage of this volume if there is some pulp recovery within the defect measured) for the length affected. (12-31-90)
- c. On multi-segment logs, each segment shall be judged individually in order to determine whether it meets merchantability minimums. (12-31-90)
08. Net Scale Contractual Specifications. Contractual scaling agreements relating to determination of net scale for pulp logs may establish the following specifications: (12-31-90)
- a. A merchantability minimum that net scale shall be in relation to the gross scale of a log or log segment as determined by the pulp method. (12-31-90)

b. A provision for "combination logs" on multi-segment pieces (i.e., one segment pulp log, the other sawlog). (12-31-90)

09. Net Scale Non-Contractual Specifications. In the absence of a contractual scaling agreement denoting otherwise, the following specifications are established: (12-31-90)

a. Merchantability minimum of net scale in relation to gross scale (as determined by the pulp method) shall be fifty percent (50%). (12-31-90)

b. There are no "combination logs" on multi-segment pieces. (12-31-90)

10. Summary - Pulp Logs. (12-31-90)

a. These scaling specifications enumerate the rules applicable to pulp log scaling by establishing rules for the determination of gross scale and defect deductions. Except where a contractual agreement may specify otherwise, pulp logs are generally logs that are cull for sawlog classification. (12-31-90)

b. They allow for contractual scaling agreements to specify: (12-31-90)

i. Species differentiation. (12-31-90)

ii. Permissive minimum or maximum trim allowances. (12-31-90)

iii. Log scaling in one (1) or two (2) foot multiples. (12-31-90)

iv. A minimum acceptable log length. (12-31-90)

v. A minimum acceptable top diameter. (12-31-90)

vi. A merchantability percentage minimum for net scale in relation to gross scale volume as determined by the pulp method. (12-31-90)

vii. A provision for "combination logs." (12-31-90)

viii. In the absence of a contractual scaling agreement, these specifications enumerate what the aforementioned shall be. (12-31-90)

201. -- 299. (RESERVED).

300. CEDAR PRODUCTS LOGS.

01. Definition. Cedar products are those products generally manufactured from "shell material", or wood obtained from the outer circumference of cedar logs that have interior rot. Cedar products are usually derived from logs that do not meet minimum merchantability specifications for sawlog classification, although contractual scaling agreements may provide otherwise. Scaling of cedar products in Idaho according to the Coconino Scribner decimal C log rule shall be accomplished in compliance with these rules. The Scribner decimal C method of determining volume for cedar products shall be to measure the scaling diameter and scaling length to compute a gross volume, subtract the deductible defect, and arrive at a net volume. The concept of a "scaling cylinder" is modified when scaling cedar products logs. Taper is not actually considered, but recognized because shell thickness determines volume. (12-31-90)

02. Gross Scale Determination. (12-31-90)

a. The gross scale of a cedar products log in round form shall be determined by the volume obtained from the log rule after measuring and applying the scaling length and scaling diameter, in accordance with the Scribner decimal C volume table, Appendix, Table II, of the National Forest Log Scaling Handbook. (12-31-90)(____)

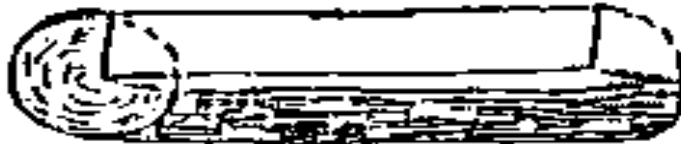
b. The scaling length of a cedar products log in round form shall be determined by the length of the scaling cylinder (as explained in the National Forest Log Scaling Handbook) plus trim allowance. All gross scaling shall recognize scale for odd-length logs when odd-length logs are requested in addition to logs cut in two (2) foot multiples. All gross scaling shall recognize logs measuring from the minimum length (plus trim) to 20' (plus trim) as single-segment logs; from 21' (or 22' plus trim) to 40' (plus trim) as two (2) segment logs; from 41' (or 42' plus trim) to 60' (plus trim) as three-segment logs, etc. Length distribution on multi-segment logs shall be determined according to the methods stated in the National Forest Log Scaling Handbook, including "combination logs." (12-31-90)

c. Diameter measurement of logs in round form shall be accomplished according to the method stated in the National Forest Log Scaling Handbook. Mid-point diameters on second-cut, multi-segment logs shall be determined on the basis of calculated taper; mid-point diameters on butt-cut, multi-segment logs shall be determined by the methods stated in the Appendix, Table II, of these rules. (1-1-95)

d. Logging of cedar products often results in split logs, producing slabs. The following rules shall govern gross volume determination of pieces not in round form: (12-31-90)

i. Logs which are half of a round log or greater shall be gross scaled according to the portion of the log which is existent. For example see DIAGRAM I below: (1-1-95)

DIAGRAM I



(16' Scaling length, 20" scaling diameter)

ii. If this were an entire log intact (i.e., no slab missing) it would gross scale 28 decimal C. However, since 1/4 of the log is missing, the gross scale would be 1/4 less or 21 decimal C. This is determined by figuring:

$$\frac{1}{4} \times 16' = 4' \qquad 16' - 4' = 12' \qquad (12-31-90)$$

iii. The volume for 12' with a 20" scaling diameter is 21 decimal C. Estimates for the slab missing are the same as those used for pie-cut deductions, such as 1/16, 1/8, 1/6, 1/4, 1/3, etc. (12-31-90)

e. Logs less than half of a round log (slabs) shall be gross scaled as follows: (12-31-90)

i. Mentally "square up" the sound wood within the slab; in other words, figure an approximate square or rectangle that can be shaped on the small end of the slab. For example see DIAGRAM II below:

DIAGRAM II



- the average width is 10"
- the average shell thickness is 6"
- this approximates a rectangle of 6" x 10"

(1-1-95)

- ii. Use the following formula to determine volume:

(12-31-90)

$W \times H \times (L / 16) =$ volume in board feet

(round this to the nearest ten board feet to arrive at Scribner decimal C volume, five board feet or more rounds up)

W = the width of the slab in inches as measured using a Coconino-type scalestick.

H = the shell thickness of the slab in inches as measured using a Coconino-type scalestick.

L = the scaling length of the slab in feet.

If we use our previous example (assuming a slab length of 16')

$10 \times 6 \times (16 / 16) = 60$

This slab would gross scale 60 board feet or 6 decimal C.

(12-31-90)

- iii. Slabs are always measured on the small end.

(12-31-90)

- f. Length measurement for split logs and slabs shall be determined in the same manner as for logs in round form.

(12-31-90)

03. Cord Measurement. In the absence of a contractual scaling agreement stating otherwise, cord measurement shall be used on material shorter than 8' (plus trim) in length.

(12-31-90)

04. Piece Count. A piece count measure may be used on posts, rails, and shake boards.

(12-31-90)

05. Gross Scale Contractual Specifications. Contractual scaling agreements relating to gross scale determination for cedar products logs may establish the following specifications:

(12-31-90)

- a. Permissive minimum or maximum trim allowances per scaling segment.

(12-31-90)

b. Whether logs are to be scaled in one (1) or two (2) foot multiples, provided that they recognize scale for odd-length logs when odd-length logs are requested in addition to logs cut in two (2) foot multiples.

(12-31-90)

- c. A minimum log length (plus trim).

(12-31-90)

- d. A minimum top diameter.

(12-31-90)

- e. A minimum slab size.

(12-31-90)

f. A provision for "combination logs" on multi-segment logs (i.e., one segment cedar products, the other sawlog).

(12-31-90)

06. Gross Scale Non-Contractual Specifications. In the absence of a contractual scaling agreement denoting otherwise, the following specifications are established:

(12-31-90)

a. Logs shall be scaled with a ~~six-inch~~ ~~three-inch~~ ~~maximum~~ ~~minimum~~ trim allowance per segment for the scaling length in accordance with the ~~APPENDIX Appendix, TABLE Table III, of these rules.~~ (1-1-95)(____)

- b. Minimum log length shall be 8'4" 8'3". ~~(12-31-90)~~(____)
- c. Minimum top diameter shall be 8.0" (actual measure). (12-31-90)
- d. Minimum slab size shall be 4.0" x 4.5" (actual measure) with a minimum length of 8' (plus trim). (12-31-90)
- e. There are no "combination logs." (12-31-90)
07. Net Scale Determination. (12-31-90)
- a. The net scale of a cedar products log is the volume remaining after deductions have been made for defects. (12-31-90)
- b. Deductible defects in the scaling of cedar products are those defects which reduce the usable quantity of cedar products that can be derived; they do not include such things as heart checks and straight splits. (12-31-90)
- c. For cedar products scaling the four (4) types of defect deduction methods are: (12-31-90)
- i. The interior defect deduction method. (12-31-90)
- ii. Causing the largest volume loss in the scaling of cedar products is rot in the interior of a cedar log. The interior defect deduction method is used to determine defect volume. (12-31-90)
- iii. The procedure for making the deduction is a modification of the squared defect procedure used for sawlogs. Instead of squaring the defect, a "round log" with dimensions equal to the average rot diameter is taken out. (12-31-90)
- iv. The diameter of the rot is measured on the small end using the same procedures as in obtaining a scaling diameter, EXCEPT that, if the average of the right-angle measurements falls on the half-inch (1/2") it is rounded UP. The resulting diameter is used to find the corresponding "log volume" from the scale rule. The volume obtained is the defect volume to subtract from the gross scale, to arrive at net scale. (12-31-90)
- v. On multi-segment, second-cut logs, the mid-point diameter of the rot is determined by averaging the sizes of the rots showing on the ends of the log. When this average falls on the half-inch, it is rounded UP. (12-31-90)
- vi. On multi-segment, butt-cut logs, the rot is first measured on the top end. The mid-point diameter of the rot is then increased according to the gross scale taper of the log, unless there are definite indications to the contrary. (12-31-90)
- vii. If sound wood exists within any interior defect (as is sometimes the case with "ring rot") it must have a diameter of at least 10" on the small end. Careful examination of the log must be made to ensure that there is indeed recoverable sound material. (12-31-90)
08. The Diameter Reduction Method. (12-31-90)
- a. Some types of defects, such as sap rot, large massed wormholes and shallow catfaces, affect only the outer circumference of a cedar products log. The diameter reduction method is used to determine defect volume. (12-31-90)
- b. The procedure is to reduce the diameter to obtain a "new" diameter for the resulting sound core. The difference of these corresponding volumes is the defect deduction. If only a portion of the circumference is affected the defect is a fraction of the volume difference, such as 1/4, 1/3, 1/2, etc. (12-31-90)
09. The Length-Cut Method. (12-31-90)

a. Defects such as fluted butts, twisted grain, and some types of "thin shells" usually can be confined or reduced to an equivalent loss of length. The length-Cut method is used to determine defect volume. (12-31-90)

b. The procedure is to determine the length affected and make a length-cut deduction that provides a net scale length which is in a multiple of two feet. (12-31-90)

10. The Sector Or Pie-Cut Method. (12-31-90)

a. Other types of defects such as crook and sweep, large knots, burls, deep catfaces, scars, twisted grain, and portions of "thin shells" can be contained in a sector or segment of a cedar products log. The sector or pie-cut method is used to determine defect volume. (12-31-90)

b. Based on the fraction of the length affected the procedure shall be to compute the equivalent length cut deduction. For example: 1/4 of 8' is equal to a two (2) foot length cut; 1/3 of 10' is equal to a three-and-one-third (3 1/3) foot length cut. All defect computations ending in five (5) board feet or "half-a-board" are rounded up for a deduction of ten (10) board feet or one (1) decimal C. (12-31-90)

11. Sequence Of Defect Deduction Methods. One or more of these defect deduction methods may be applied to any particular log, provided that the order of application shall be (1) length-cut method, (2) interior defect deduction method, (3) diameter reduction method, (4) sector or pie-cut method. For ~~Example:~~ example see DIAGRAM III. (1-1-95)



a. This is a cedar products log with a 16' scaling length and a 28" scaling diameter. The defects are: (12-31-90)

- a fluted, "thin shell" estimated to affect the butt end for a length of 4',
- interior rot measuring 18" on the small end,
- sap rot affecting 3/4 of the collar to a 1" depth,
- a catface affecting 1/4 of the shell.

(12-31-90)

b. After determining that the shell thickness meets merchantability requirements (4" of sound shell wood thickness in this example) the next step is the determination of gross scale. (12-31-90)

28" on 16' = 58 boards (12-31-90)

c. The next step is defect deductions, in the order of application. (12-31-90)

12. Length-Cut Method. The butt end of this log requires a 4' length cut; 16' - 4' = 12'; the difference between the volumes of a 16' log and a 12' log is 14 boards

58 (total gross scale)
 $\frac{-14}{44}$ (length-cut defect) (12-31-90)

13. Interior Defect Deduction Method. This log has 18" of rot which will be deducted for a 12' length (since 4' has already been deducted) 18" on 12' = 16 boards.

44 (total scale remaining after step #1)
 $\frac{-16}{28}$ (interior defect deduction) (12-31-90)

14. Diameter Reduction Method. This log has rotten sapwood affecting the collar to a 1" depth (requiring a 2" diameter drop), the difference between the gross scale (28" for 12') and the core scale (26" for 12') on 3/4 of the collar is 5 boards.

28 (total scale remaining after step #2)
 $\frac{-5}{23}$ (diameter reduction defect) (12-31-90)

15. Sector Or Pie-Cut Method. The catface causes a loss of 1/4 of the remaining volume (the shell thickness), 1/4 of 23 = 6 boards.

23 (total scale remaining after step #3)
 $\frac{-6}{17}$ (pie-cut defect) (12-31-90)

a. This cedar products log has a gross scale of 58 boards, a net scale of 17 boards, and a total defect of 41 boards. (12-31-90)

b. On multi-segment logs, each segment shall be judged individually in order to determine whether it meets merchantability minimums. (12-31-90)

16. Net Scale Contractual Specifications. Contractual scaling agreements relating to determination of net scale for cedar products logs may establish the following specifications: (12-31-90)

a. A merchantability minimum that net scale shall be in relation to the gross scale of a log or log segment as determined by the cedar products method. (12-31-90)

b. A minimum "shell thickness." (12-31-90)

c. A minimum length recovery for cedar products material per log segment. (12-31-90)

d. A provision for "combination logs" on multi-segment pieces (i.e., one segment cedar products log, the other sawlog). (12-31-90)

17. Net Scale Non-Contractual Specifications. In the absence of a contractual scaling agreement denoting otherwise, the following specifications are established: (12-31-90)

a. Merchantability minimum of net scale in relation to gross scale (as determined by the cedar products method) shall be ten percent (10%). (12-31-90)

b. Minimum shell thickness shall be 4.0" (actual measure). (12-31-90)

c. Minimum length recovery for cedar products material is 6'. (12-31-90)

d. There are no "combination logs" on multi-segment pieces. (12-31-90)

18. Summary - Cedar Products Logs. (12-31-90)
- a. These scaling specifications enumerate the rules applicable to cedar products scaling by establishing rules for the determination of gross scale and defect deductions. Except where a contractual agreement may specify otherwise, cedar products logs are generally logs that are cull for sawlog classification. (12-31-90)
- b. They allow for contractual scaling agreements to specify: (12-31-90)
- i. Permissive minimum or maximum trim allowances. (12-31-90)
- ii. Log scaling in one (1) or two (2) foot multiples. (12-31-90)
- iii. A minimum acceptable log length. (12-31-90)
- iv. A minimum acceptable top diameter. (12-31-90)
- v. A minimum slab size. (12-31-90)
- vi. A merchantability percentage minimum for net scale in relation to gross scale volume as determined by the cedar products method. (12-31-90)
- vii. A minimum length recovery for cedar products material. (12-31-90)
- viii. A provision for "combination logs." (12-31-90)
- ix. In the absence of contractual scaling agreements, these specifications enumerate what the aforementioned shall be. (12-31-90)

(BREAK IN CONTINUITY OF SECTIONS)

APPENDIX III
TABLE III

Appendix III Table III					
Log Length	Scaling Length	Segment Length	Segment Length	Segment Length	Segment Length
8'1" - 8'6"	8				
8'7" - 9'6"	9				
9'7" - 10'6"	10				
10'7" - 11'6"	11				
11'7" - 12'6"	12				
12'7" - 13'6"	13				
13'7" - 14'6"	14				
14'7" - 15'6"	15				
15'7" - 16'6"	16				
16'7" - 17'6"	17				
17'7" - 18'6"	18				
18'7" - 19'6"	19				
19'7" - 20'6"	20				
20'7" - 22'0"	21	11	10		
22'1" - 23'0"	22	12	10		
23'1" - 24'0"	23	12	11		
24'1" - 25'0"	24	12	12		
25'1" - 26'0"	25	13	12		
26'1" - 27'0"	26	14	12		
27'1" - 28'0"	27	14	13		
28'1" - 29'0"	28	14	14		
29'1" - 30'0"	29	15	14		
30'1" - 31'0"	30	16	14		
31'1" - 32'0"	31	16	15		
32'1" - 33'0"	32	16	16		
33'1" - 34'0"	33	17	16		
34'1" - 35'0"	34	18	16		
35'1" - 36'0"	35	18	17		
36'1" - 37'0"	36	18	18		
37'1" - 38'0"	37	19	18		

Appendix III Table III					
Log Length	Scaling Length	Segment Length	Segment Length	Segment Length	Segment Length
38'1" - 39'0"	38	20	18		
39'1" - 40'0"	39	20	19		
40'1" - 41'0"	40	20	20		
41'1" - 42'6"	41	14	14	13	
42'7" - 43'6"	42	14	14	14	
43'7" - 44'6"	43	15	14	14	
44'7" - 45'6"	44	16	14	14	
45'7" - 46'6"	45	16	15	14	
46'7" - 47'6"	46	16	16	14	
47'7" - 48'6"	47	16	16	15	
48'7" - 49'6"	48	16	16	16	
49'7" - 50'6"	49	17	16	16	
50'7" - 51'6"	50	18	16	16	
51'7" - 52'6"	51	18	17	16	
52'7" - 53'6"	52	18	18	16	
53'7" - 54'6"	53	18	18	17	
54'7" - 55'6"	54	18	18	18	
55'7" - 56'6"	55	19	18	18	
56'7" - 57'6"	56	20	18	18	
57'7" - 58'6"	57	20	19	18	
58'7" - 59'6"	58	20	20	18	
59'7" - 60'6"	59	20	20	19	
60'7" - 61'6"	60	20	20	20	
61'7" - 63'0"	61	16	16	15	14
63'1" - 64'0"	62	16	16	16	14
64'1" - 65'0"	63	16	16	16	15
65'1" - 66'0"	64	16	16	16	16

In the table above, the butt segment is the longest.

APPENDIX III
TABLE III

<u>Appendix III Table III</u>					
<u>Log Length</u>	<u>Scaling Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>
8'3" - 9'2"	8				
9'3" - 10'2"	9				
10'3" - 11'2"	10				
11'3" - 12'2"	11				
12'3" - 13'2"	12				
13'3" - 14'2"	13				
14'3" - 15'2"	14				
15'3" - 16'2"	15				
16'3" - 17'2"	16				
17'3" - 18'2"	17				
18'3" - 19'2"	18				
19'3" - 20'2"	19				
20'3" - 21'5"	20				
21'6" - 22'5"	21	11	10		
22'6" - 23'5"	22	12	10		
23'6" - 24'5"	23	12	11		
24'6" - 25'5"	24	12	12		
25'6" - 26'5"	25	13	12		
26'6" - 27'5"	26	14	12		
27'6" - 28'5"	27	14	13		
28'6" - 29'5"	28	14	14		
29'6" - 30'5"	29	15	14		
30'6" - 31'5"	30	16	14		
31'6" - 32'5"	31	16	15		
32'6" - 33'5"	32	16	16		
33'6" - 34'5"	33	17	16		
34'6" - 35'5"	34	18	16		
35'6" - 36'5"	35	18	17		
36'6" - 37'5"	36	18	18		
37'6" - 38'5"	37	19	18		

Appendix III Table III					
<u>Log Length</u>	<u>Scaling Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>
38'6" - 39'5"	38	20	18		
39'6" - 40'5"	39	20	19		
40'6" - 41'8"	40	20	20		
41'9" - 42'8"	41	14	14	13	
42'9" - 43'8"	42	14	14	14	
43'9" - 44'8"	43	15	14	14	
44'9" - 45'8"	44	16	14	14	
45'9" - 46'8"	45	16	15	14	
46'9" - 47'8"	46	16	16	14	
47'9" - 48'8"	47	16	16	15	
48'9" - 49'8"	48	16	16	16	
49'9" - 50'8"	49	17	16	16	
50'9" - 51'8"	50	18	16	16	
51'9" - 52'8"	51	18	17	16	
52'9" - 53'8"	52	18	18	16	
53'9" - 54'8"	53	18	18	17	
54'9" - 55'8"	54	18	18	18	
55'9" - 56'8"	55	19	18	18	
56'9" - 57'8"	56	20	18	18	
57'9" - 58'8"	57	20	19	18	
58'9" - 59'8"	58	20	20	18	
59'9" - 60'8"	59	20	20	19	
60'9" - 61'11"	60	20	20	20	
62'0" - 62'11"	61	16	16	15	14
63'0" - 63'11"	62	16	16	16	14
64'0" - 64'11"	63	16	16	16	15
65'0" - 65'11"	64	16	16	16	16
66'0" - 66'11"	65	17	16	16	16
...et cetera.					

In the above table, the butt segment is the longest.

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IDAPA 20 - DEPARTMENT OF LANDS
20.06.04 - RULES OF FOREST PRODUCTS MEASUREMENT FOR THE PURPOSE OF
PAYMENT FOR LOGGING OR HAULING LOGGED FOREST PRODUCTS ONLY

DOCKET NO. 20-0604-9601

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed regular rule-making procedures. The action is authorized pursuant to Section 38-1215, Idaho Code.

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

Tuesday, September 10, 1996, 7:00 p.m.
Joe R. Williams Building, West Conference Room
700 W. State Street, Boise;

Monday, September 16, 1996, 7:00 p.m.
Idaho Department of Fish and Game, Panhandle Room
2750 Kathleen Avenue, Coeur d'Alene.

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

DESCRIPTIVE SUMMARY: The following is the required finding and a concise statement of the supporting reasons for the proposed regular rule-making and a statement in nontechnical language of the substance of the proposed rule:

Under Docket No. 20-0604-9601: Current Chapter 4 rules establish mandatory log length measurement procedures to reflect a standard gross scale volume in compliance with Idaho Code 38.1202.c. These current procedures result in increased scale volume that is not reflective of increased value in the log produced on a small percentage of mismanufactured log lengths. Resulting payment based on gross scale is compromised; loggers are assessed penalties on log quality and increased volumes are not realized by manufacturers. The proposed rule would change log length measurement determination from the current permissive trim allowance of six inches (6") maximum trim per log segment to a mandatory trim allowance of three inches (3") minimum trim per log segment.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Henry Gotz, Executive Director, Idaho Board of Scaling Practices, at (208) 769-1445.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before September 25, 1996.

DATED this 22nd day of July, 1996.

Henry Gotz, Executive Director
Idaho Board of Scaling Practices
N. 9407 Government Way, Suite #8
PO Box 999
Hayden ID 83835-0999
(208) 769-1445 phone, (208) 769-1485 fax

TEXT OF DOCKET NO. 20-0604-9601

200. GROSS SCALE DETERMINATION - LOGS IN ROUND FORM.

01. Scribner Decimal "C". (1-1-95)

a. The gross scale shall be determined by the volume obtained from the log rule after measuring and applying the scaling length and scaling diameter, in accordance with the Scribner decimal "C" volume table as listed in the National Forest Log Scaling Handbook, Appendix, Table II, EXCEPT that the volumes listed in Appendix, Table I of these rules shall apply to diameter classes 3" through 8" inclusive. (1-1-95)

b. Scaling length shall be determined by the length of the scaling cylinder (as explained in the National Forest Log Scaling Handbook) plus a ~~maximum~~ minimum trim allowance of ~~6" 3"~~ per segment. Length determination shall recognize logs measuring from ~~8'1" 8'3"~~ to ~~20'6" 21'5"~~ as single-segment logs; from ~~20'7" 21'6"~~ to ~~41'0" 41'8"~~ as two-segment logs; from ~~41'1" 41'9"~~ to ~~61'6" 61'11"~~ as three-segment logs, etc. Refer to Appendix, Table III of these rules. (1-1-95)()

c. Scaling diameters shall be determined by the methods outlined in the National Forest Log Scaling Handbook. Scaling diameters are measured from a minimum top diameter of 5.51" (6" Scribner class). Topwood attached that is smaller than the minimum top diameter of 5.51" shall be disregarded EXCEPT when a written logging and hauling agreement specifies a smaller minimum top diameter. (1-1-95)

d. Mid-point diameters on second-cut, multi-segment logs are determined on the basis of calculated taper. (1-1-95)

e. Mid-point diameters on butt-cut, multi-segment logs shall be determined by the methods stated in Appendix, Table II of these rules. (1-1-95)

(BREAK IN CONTINUITY OF SECTIONS)

APPENDIX III
TABLE III

Appendix III Table III					
Log Length	Scaling Length	Segment Length	Segment Length	Segment Length	Segment Length
8'1" - 8'6"	8				
8'7" - 9'6"	9				
9'7" - 10'6"	10				
10'7" - 11'6"	11				
11'7" - 12'6"	12				
12'7" - 13'6"	13				
13'7" - 14'6"	14				
14'7" - 15'6"	15				
15'7" - 16'6"	16				
16'7" - 17'6"	17				
17'7" - 18'6"	18				
18'7" - 19'6"	19				
19'7" - 20'6"	20				
20'7" - 22'0"	21	11	10		
22'1" - 23'0"	22	12	10		
23'1" - 24'0"	23	12	11		
24'1" - 25'0"	24	12	12		
25'1" - 26'0"	25	13	12		
26'1" - 27'0"	26	14	12		
27'1" - 28'0"	27	14	13		
28'1" - 29'0"	28	14	14		
29'1" - 30'0"	29	15	14		
30'1" - 31'0"	30	16	14		
31'1" - 32'0"	31	16	15		
32'1" - 33'0"	32	16	16		
33'1" - 34'0"	33	17	16		
34'1" - 35'0"	34	18	16		
35'1" - 36'0"	35	18	17		
36'1" - 37'0"	36	18	18		

Appendix III Table III					
Log Length	Scaling Length	Segment Length	Segment Length	Segment Length	Segment Length
37'1" - 38'0"	37	19	18		
38'1" - 39'0"	38	20	18		
39'1" - 40'0"	39	20	19		
40'1" - 41'0"	40	20	20		
41'1" - 42'6"	41	14	14	13	
42'7" - 43'6"	42	14	14	14	
43'7" - 44'6"	43	15	14	14	
44'7" - 45'6"	44	16	14	14	
45'7" - 46'6"	45	16	15	14	
46'7" - 47'6"	46	16	16	14	
47'7" - 48'6"	47	16	16	15	
48'7" - 49'6"	48	16	16	16	
49'7" - 50'6"	49	17	16	16	
50'7" - 51'6"	50	18	16	16	
51'7" - 52'6"	51	18	17	16	
52'7" - 53'6"	52	18	18	16	
53'7" - 54'6"	53	18	18	17	
54'7" - 55'6"	54	18	18	18	
55'7" - 56'6"	55	19	18	18	
56'7" - 57'6"	56	20	18	18	
57'7" - 58'6"	57	20	19	18	
58'7" - 59'6"	58	20	20	18	
59'7" - 60'6"	59	20	20	19	
60'7" - 61'6"	60	20	20	20	
61'7" - 63'0"	61	16	16	15	14
63'1" - 64'0"	62	16	16	16	14
64'1" - 65'0"	63	16	16	16	15
65'1" - 66'0"	64	16	16	16	16

In the table above, the butt segment is the longest.

APPENDIX III
 TABLE III

<u>Appendix III Table III</u>					
<u>Log Length</u>	<u>Scaling Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>
8'3" - 9'2"	8				
9'3" - 10'2"	9				
10'3" - 11'2"	10				
11'3" - 12'2"	11				
12'3" - 13'2"	12				
13'3" - 14'2"	13				
14'3" - 15'2"	14				
15'3" - 16'2"	15				
16'3" - 17'2"	16				
17'3" - 18'2"	17				
18'3" - 19'2"	18				
19'3" - 20'2"	19				
20'3" - 21'5"	20				
21'6" - 22'5"	21	11	10		
22'6" - 23'5"	22	12	10		
23'6" - 24'5"	23	12	11		
24'6" - 25'5"	24	12	12		
25'6" - 26'5"	25	13	12		
26'6" - 27'5"	26	14	12		
27'6" - 28'5"	27	14	13		
28'6" - 29'5"	28	14	14		
29'6" - 30'5"	29	15	14		
30'6" - 31'5"	30	16	14		
31'6" - 32'5"	31	16	15		
32'6" - 33'5"	32	16	16		
33'6" - 34'5"	33	17	16		
34'6" - 35'5"	34	18	16		
35'6" - 36'5"	35	18	17		
36'6" - 37'5"	36	18	18		

Appendix III Table III					
<u>Log Length</u>	<u>Scaling Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>
37'6" - 38'5"	37	19	18		
38'6" - 39'5"	38	20	18		
39'6" - 40'5"	39	20	19		
40'6" - 41'8"	40	20	20		
41'9" - 42'8"	41	14	14	13	
42'9" - 43'8"	42	14	14	14	
43'9" - 44'8"	43	15	14	14	
44'9" - 45'8"	44	16	14	14	
45'9" - 46'8"	45	16	15	14	
46'9" - 47'8"	46	16	16	14	
47'9" - 48'8"	47	16	16	15	
48'9" - 49'8"	48	16	16	16	
49'9" - 50'8"	49	17	16	16	
50'9" - 51'8"	50	18	16	16	
51'9" - 52'8"	51	18	17	16	
52'9" - 53'8"	52	18	18	16	
53'9" - 54'8"	53	18	18	17	
54'9" - 55'8"	54	18	18	18	
55'9" - 56'8"	55	19	18	18	
56'9" - 57'8"	56	20	18	18	
57'9" - 58'8"	57	20	19	18	
58'9" - 59'8"	58	20	20	18	
59'9" - 60'8"	59	20	20	19	
60'9" - 61'11"	60	20	20	20	
62'0" - 62'11"	61	16	16	15	14
63'0" - 63'11"	62	16	16	16	14
64'0" - 64'11"	63	16	16	16	15
65'0" - 65'11"	64	16	16	16	16
66'0" - 66'11"	65	17	16	16	16
...et cetera.					

In the above table, the butt segment is the longest.

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IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.03.01 - RULES GOVERNING THE STATE BOARD OF CHIROPRACTIC PHYSICIANS
DOCKET NO. 24-0301-9601
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 54-707, 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 a statement in nontechnical language of the substance of the proposed rules: The proposed changes will remove the "grace" period from the rules; establish reinstatement requirements; and provide for cancellation on June 30th if license fee is not paid prior to July 1st.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, 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 September 25, 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. 24-0301-9601

250. RENEWAL OR REINSTATEMENT OF LICENSE (Rule 250).

01. Expiration Date. All chiropractic licenses expire on June thirtieth (30th) of each year and must be renewed annually on or before July first (1st). Licenses not so renewed will be canceled ~~on October (1st) first of that year.~~ (7-1-93)(____)

02. Reinstatement. ~~Reinstatement shall be governed by the provisions of Section 67-2614, Idaho Code. Any license canceled for failure to renew may be reinstated upon payment of two hundred fifty dollars (\$250) together with all delinquent renewal fees and documentation of continuing education for the year of reinstatement.~~ (7-1-93)(____)

a. Provided further, that where a license has been canceled for a period of more than five (5) years, the person so affected shall be required to make application to the board, using the same forms and furnishing the same information as required of a person originally applying for a license and pay the same fee that is required of a person taking the chiropractic examination. Said applicant shall appear in person before the board at a regular meeting for an examination, the nature of which shall be determined by the board. If after an examination, the board is of the opinion that the person examined is the bona fide holder of the canceled license, is of good moral character and, if found capable of again practicing chiropractic in this state, the license shall be reinstated and the holder thereof entitled to practice subject to the laws of this state (____)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.04.01 - RULES GOVERNING THE IDAHO BOARD OF COSMETOLOGY
DOCKET NO. 24-0401-9601
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 54-821, 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 a statement in nontechnical language of the substance of the proposed rules: The Idaho Board of Cosmetology proposes repeal of all existing cosmetology rules and adoption of new rules in total. The original rules are being reorganized to make them more easily utilized. Specific proposed changes are: add the definition of record of instruction, certificate of graduation, hospital grade sanitation, and first aid kit; clarify circumstances under which a work permit may be issued; update board acceptance of an equivalent tenth grade education; explain the meaning of the word "overlap" in a contiguous establishment; deletion of minimum number of daily hours required for attendance of cosmetology students; provide for annual publication of the dates and places of the examination.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, 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 September 25, 1996.

DATED this 22nd day of July, 1996.

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

THIS CHAPTER IS REPEALED IN ITS ENTIRETY.

**It is being replaced by Docket No. 24-0401-9602
as published in this Bulletin immediately following this notice.**

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.04.01 - RULES GOVERNING THE IDAHO BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-9602

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 54-821, 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 a statement in nontechnical language of the substance of the proposed rules: The Idaho Board of Cosmetology proposes repeal of all existing cosmetology rules and adoption of new rules in total. The original rules are being reorganized to make them more easily utilized. Specific proposed changes are: add the definition of record of instruction, certificate of graduation, hospital grade sanitation, and first aid kit; clarify circumstances under which a work permit may be issued; update board acceptance of an equivalent tenth grade education; explain the meaning of the word "overlap" in a contiguous establishment; deletion of minimum number of daily hours required for attendance of cosmetology students; provide for annual publication of the dates and places of the examination.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, 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 September 25, 1996.

DATED this 22nd day of July, 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. 24-0401-9601

**IDAPA 24
TITLE 04
Chapter 01**

24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY

000. LEGAL AUTHORITY (Rule 0).

These rules are hereby prescribed and established pursuant to the authority vested in the Idaho Board of Cosmetology by the provisions of Section 54-821, Idaho Code. ()

001. TITLE AND SCOPE (Rule 1).

These rules shall be cited as IDAPA 24, TITLE 04, Chapter 01, "Rules of the Idaho Board of Cosmetology". ()

002. (RESERVED).

003. WRITTEN INTERPRETATIONS (Rule 3).

The board may have written statements which pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. ()

004. ADDRESS OF THE IDAHO BOARD OF COSMETOLOGY (Rule 4).

Carmen Westberg, Chief
Bureau of Occupational Licenses
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702 ()

005. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

01. Gender. Any reference to a gender shall mean both masculine and feminine. ()
02. Board. The Idaho Board of Cosmetology as prescribed in Section 54-802, Idaho Code. ()
03. Bureau. The Bureau of Occupational Licenses, Section 67-2601, Idaho Code. By authority delegated in written agreement, the Bureau of Occupational Licenses will act as the agent of the Board, in assisting the Board to carry out its duties as outlined in law and rule. ()
04. Chief. The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. ()
05. Current License. An unexpired license in good standing. ()
06. Establishment. A licensed cosmetological establishment. ()
07. Record of Instruction. The final documentation submitted by a school or, in the case of an apprentice, the instructor, detailing the total hours and operations completed by a student. ()
08. Certificate of Graduation. A signed, notarized statement from a school or, in the case of an apprentice, the instructor, which indicates that the student has fulfilled all requirements of that school or apprenticeship and is eligible for examination. ()
09. Rules. The rules of the board. ()
10. School. A licensed school of cosmetology. ()
11. School of Electrology/Esthetics. A licensed school of cosmetology approved to teach electrology/esthetics. ()
12. Endorsement Certification. In accordance with Section 54-812, Idaho Code. ()
13. Hospital Grade. Hospital grade means a sanitizing agent registered by the Environmental Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant when used in accordance with the manufacturer's instructions. ()
14. First-Aid Kit. First-aid kit means a commercially packaged and identifiable assortment of medical

supplies, including adhesive bandages, skin antiseptic, approved bio-hazard disposable container, disposable gloves, and gauze, which may be used for cleaning and protecting minor emergency traumas of the human body. ()

011. -- 099. (RESERVED).

100. BOARD QUALIFICATIONS - PROCEDURES - MEETINGS - POLICIES. (Rule 100).

- 01. Board Member Qualifications. ()
 - a. The Cosmetology board member shall meet the requirements set forth in Section 54-829, Idaho Code. ()
 - b. Cosmetology school representative: To be eligible for appointment to the Cosmetology Board the individual must: ()
 - i. Currently hold a license as a cosmetologist in this state; and ()
 - ii. For the three (3) years immediately preceding appointment meet the following requirements:()
 - (1) Monetary interest in school ownership; and ()
 - (2) Actively involved in school management. ()
 - c. Electrologist/Esthetician board member qualification requirements - the Electrology/esthetics board member shall: ()
 - i. Be at least twenty-five (25) years of age; and ()
 - ii. Be a resident of this state for at least five (5) years prior to appointment; and ()
 - iii. Have been engaged in the practice of electrology/esthetics for at least three (3) years immediately preceding appointment; and ()
 - iv. Be a licensed electrologist/esthetician under the provisions of this act. ()
- 02. Board Meetings - Dates - Places. ()
 - a. The board shall meet at least three (3) times a year in regular session beginning on the first Monday of February, June and October. ()
 - b. Board meetings will be held in Boise, Idaho, at the bureau. ()
 - c. Dates and places of board meetings may be changed and other meetings scheduled by the action of a majority of the board. ()

101. -- 124. (RESERVED).

125. FEES (Rule 125).

Fees are established in accord with Section 54-818, Idaho Code, as follows: ()

- 01. Original Registrations, Licenses, and Annual Renewals. ()
 - a. Cosmetological establishment, original registration - Fifty dollars (\$50). ()
 - b. Cosmetological establishment, annual renewals - Thirty dollars (\$30). ()
 - c. Retail cosmetics Dealer, original registration - Fifty dollars (\$50). ()

- d. Retail cosmetics dealer, annual renewals - Thirty dollars (\$30). ()
- e. Domestic school of cosmetology, original registration - Five hundred dollars (\$500). ()
- f. Domestic school of cosmetology, annual renewals - One hundred fifty dollars (\$150). ()
- g. Registered cosmetologist, original license/annual renewals - Twenty dollars (\$20). ()
- h. Nail technician, original license/annual renewals - Twenty dollars (\$20). ()
- i. Apprentice, original license (no renewal fees required) - Twenty dollars (\$20). ()
- j. Student certificate (registration) (no renewal fees required) - Twenty dollars (\$20). ()
- k. Instructor, original license/annual renewals - Twenty-five dollars (\$25). ()
- l. Student instructor certificate - Twenty-five dollars (\$25). ()
- m. Electrologist/esthetician, original license/annual renewals - Twenty-two dollars (\$22). ()
- n. Esthetician, original license/annual renewals - Twenty-two dollars (\$22). ()
- o. Endorsement - One hundred dollars (\$100). ()
- p. Interim certificate when endorsement denied, also constitutes examination - Thirty-five dollars (\$35). ()
- q. Temporary license to practice, demonstrate and teach - Ten dollars (\$10). ()
- 02. Examination Fees. ()
 - a. As a registered cosmetologist - Thirty-five dollars (\$35). ()
 - b. As a nail technician - Thirty-five dollars (\$35). ()
 - c. As an instructor - Thirty-five dollars (\$35). ()
 - d. As an electrologist/esthetician - Thirty-five dollars (\$35). ()
 - e. As an esthetician - Thirty-five dollars (\$35). ()
- 03. Fees Shall Not Be Prorated Or Returnable. Fees shall not be prorated or returnable. ()
- 04. All Certificates Expire December 31. All certificates expire December 31. ()
- 05. Default. When the board is notified by a lending facility, that a person holding a license is in loan default, no license may be issued or renewed until proper documentation is received from the lending institution. Reference 54-816(9), Idaho Code. ()

126. -- 149. (RESERVED).

150. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT (Rule 150).

- 01. Filing Application. Applicants for license by endorsement under the provisions of Section 54-812, Idaho Code, shall file an application on forms provided by the board and ()

a. Furnish proof of current license in another state, territory, possession or country, having requirements equal to the requirements of Idaho; or ()

b. Document completion of three (3) years of practical experience under licensure within the five (5) years immediately preceding application. ()

02. Certification of Licensure. Certification of licensure must be completed and signed by the licensing agency of the other state, territory, possession or country, and filed in the office of the board with the application for license and required fee. ()

03. Application Must Be Accompanied by Proof of Meeting Educational Requirements. Application for license by endorsement must be accompanied by proof of the applicant having met the educational requirements as set forth in Section 54-805, Idaho Code, and satisfactory completion of at least two (2) years of high school (tenth grade), or equivalent education. ()

04. Submit Proof of Birth. Endorsement applicants must furnish a copy of their birth certificate or other acceptable proof of birth. ()

05. Application Must Be Accompanied By Endorsement Fee and Original License Fee. Applications for license by endorsement must be accompanied by the endorsement fee and the original license fee. If the board finds that the applicant is ineligible for license by endorsement, but is eligible for license by examination, a refund may be made of the endorsement fee in excess of the required examination fee, and the applicant permitted to take the examination. ()

151. -- 174. (RESERVED).

175. WORK PERMITS (Rule 175).

When an original application for license by examination, or by endorsement, is accepted by the board as being fully completed, in accordance with the requirements of the Idaho Cosmetology Law and these Rules, a permit to work may be issued. ()

01. Only One Permit May Be Issued. Only one (1) permit may be issued under any circumstances to any individual. A permit holder may work only when under the immediate personal supervision of a practitioner currently licensed in Idaho whose license embraces that particular category for which the work permit is issued. ()

02. Validity of Work Permits. Work permits will be valid only until the scheduled examination results have been released. Upon failure of any portion of an examination, no work permit will be issued. Unexcused failure to sit for the scheduled examination will invalidate the work permit and no further permits will be issued. ()

176. APPLICATION AND FEE FOR PERMIT TO DEMONSTRATE OR TEACH COSMETOLOGY. (Rule 176).

Application and fee for permit to demonstrate or teach cosmetology shall be made by the sponsoring agent on forms furnished by the board and must be received in that office at least seven (7) days prior to the date of demonstration or instruction. The applicant shall include the name, address, license number, and state of licensure, and a ten dollar (\$10) fee for each person who shall practice, demonstrate, or instruct. Said demonstration or instruction shall not commence until the permit is received by the applicant. The permit shall be available for inspection by the board or its agent at the location of said demonstration or instruction. The applicant shall be required to inform each person of the sanitary rules for shops and schools prior to said demonstration, or instruction. ()

177. -- 199. (RESERVED)

200. APPLICATIONS (Rule 200).

01. Application for License by Examination. Application for license by examination shall be made on forms furnished by the board and must be received in that office at least thirty (30) days prior to the date of examination. ()

02. Applications Must Be Complete to Be Accepted. To be complete applications must meet the following criteria: ()

a. Applications from students educated in-state must be accompanied by records of instruction, a signed and notarized Certificate of Graduation, proof of tenth grade education or equivalent, and acceptable verification of applicants age upon registration in school, together with the required fees. Do not send original diploma to the board. A copy will be acceptable. ()

b. Applications from an apprentice must be accompanied by records of instruction and a certificate of graduation, from a licensed establishment and the required fees. ()

c. Applicants not completing their education in Idaho must document other state licensure, provide verification of practical experience, and submit the required fees. ()

03. Fees Which May Be Refunded. If a license is not issued, the license fee may be refunded, providing a permit has not been issued. Examination fees are not refundable. ()

04. Deadline Date for Filing. Applications which are not fully completed, in accordance with Rule 200. and the fees paid thirty (30) days prior to the examination will be held over until the next scheduled examination. ()

201. -- 249. (RESERVED).

250. ESTABLISHING EQUIVALENCY IN LIEU OF TENTH GRADE EDUCATION (Rule 250).
The Board will accept the following tests as being equivalent in lieu of a tenth grade education. ()

01. GED Test. The General Educational Development (G.E.D.) Tests approved by the Department of Education, when an applicant receives an average cutting score of not less than thirty-five (35), with no category below a cutting score of thirty (30). ()

02. CPAt Test. The CPAt (Career Programs Assessment test), when an applicant receives a cutting score of thirty five (35%) percent. ()

251. -- 299. (RESERVED).

300. LICENSURE AND OPERATION OF PRIMARY AND CONTIGUOUS ESTABLISHMENTS (Rule 300.)

01. Applications. Application for establishment license shall be made on forms furnished by the board. The fully completed application form, with the required fees, must be submitted to the board and a license issued prior to the opening or operation of any cosmetological establishment. ()

02. Primary Establishment License. A primary establishment license may be issued and annually renewed only under the following condition: ()

a. Compliance with Subsection 300.01; and ()

b. There is a working floor space of not less than one hundred eight (108) square feet for a single station shop in addition to any restroom and access areas and an additional fifty (50) square feet of floor space for every station in excess of one; and ()

c. There is an approved hot and cold running water source and drainage system that is available to any contiguous cosmetology establishment or barber shop that may exist; and must be within the perimeters of the licensed establishment and separate from the toilet facilities. ()

d. The licensed area does not overlap any portion of a contiguous or other primary establishment

designated area; and ()

e. There is access to restroom facilities from within the building in which the primary establishment is located and which shall be accessible from the primary area and to all contiguous establishments. Said restroom facilities shall contain an approved hot and cold running water source and approved drainage system. Said water source shall be in addition to the work area facilities. ()

f. All primary areas shall be connected by an access area not less than three (3) feet wide and said access shall not be part of any contiguous establishment's designated area. ()

03. Contiguous Establishment License. A contiguous establishment license may be issued and annually renewed only under the following condition: ()

a. Compliance with Subsection 300.01; and ()

b. The licensed area is contiguous to an area licensed as a primary cosmetology establishment or barber shop and which is accessible from the primary area by not less than a three (3) foot wide access area; and ()

c. The licensed area does not overlap any portion of a primary or other contiguous establishments' designated area. "Overlap" will not include the cooperative or joint use of "common areas" such as shampoo bowls, restrooms, entrance or reception areas or the like, which are physically located within the designated licensed area of the primary shop but which are not within the designated licensed area of any contiguous shop. As these common areas are within the designated area licensed by the primary establishment, the holder of the primary license will be responsible for any violations which occur there; and ()

d. The licensed area provides a minimum of fifty (50) square feet of working floor space for each individual station; and ()

e. There is access to restrooms from within the building. ()

04. Businesses Other Than Cosmetological Establishments or Barber Shops. Businesses other than cosmetological establishments or barber shops, and living quarters shall be separate and apart. Home establishments must provide a separate outside entrance directly into the establishment and substantial partitions or walls shall extend from the floor to not less than seven (7) feet high, separating the establishment from adjoining rooms used for business or domestic purposes. All doors to an establishment from adjacent rooms shall be closed. ()

05. Adequate Toilet Facilities. Adequate toilet facilities shall be conveniently located and accessible from within the building where the establishment is located. ()

06. Conditions for Issuance. No cosmetological establishment license may be issued which includes or overlaps all or any portion of an existing establishment license. ()

301. COSMETOLOGICAL ESTABLISHMENT CHANGES IN - OWNERSHIP - LOCATION - LICENSURE REQUIREMENTS (Rule 301).

01. Change of Ownership or Location. Whenever a change of ownership or fixed location of a establishment occurs, an original registration fee must be paid and compliance with all rules concerning a new establishment met, before a new license will be issued. LICENSE IS NOT TRANSFERABLE. ()

02. Board Must Be Informed of All Changes. The board must be informed in writing of any and all changes of ownership of establishments. ()

03. Deletion of an Owner. Deletion of an owner in a multiple ownership may be effected by filing a written statement with the board signed by the person withdrawing and/or the remaining owner(s). ()

04. Transfer of Owner. If the transfer involves change of corporate structure or deleting one or more

owners, a written notarized statement signed by all former owners as registered with the board shall be accepted. If the existing establishment license has expired, the procedure as set forth in Subsection 300.01 shall be followed. ()

05. Addition of an Owner. Addition of an owner to multiple ownership constitutes a change in ownership and the requirements for a new establishment apply. ()

06. Supervision in an Establishment. A properly licensed establishment must operate under proper supervision, refer to Idaho Code 54-803. ()

302. MOBILE COSMETOLOGICAL ESTABLISHMENT REQUIREMENTS FOR LICENSURE AND OPERATION (Rule 302).

01. Mobile Cosmetological Establishment. "Mobile Cosmetological Establishment" means a self-contained, self-supporting, enclosed mobile unit where one or more persons engage in practice of cosmetology, electrology/esthetics or nail technology. ()

02. Procedures for Mobile Establishment. Mobile Cosmetological Establishment: Procedures for opening a new establishment or transfer of ownership: ()

a. Ownership shall be determined by the person(s) or corporation owning or leasing the equipment and mobile unit. ()

b. An application for a new or transfer of existing establishment license shall be filed with the board not less than ten days before the proposed opening date. Each application shall include the following: ()

i. A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment and dimension of mobile unit. ()

ii. Proof of purchase of mobile unit and shop equipment. ()

iii. Required fee. ()

iv. Proof that the unit meets applicable codes and standards as adopted by Idaho Division of Building Safety. ()

c. After initial approval of floor plan and application has been granted, the applicant must schedule an appointment to show the mobile unit to the board for final approval. ()

d. An itinerary showing dates, locations, and times of service throughout the state shall be available at the board's request. ()

03. Mobile Cosmetological Establishments. Mobile Home Establishments shall comply with the following: ()

a. All storage cabinets shall be secured by the use of spring struts or friction catches in mobile establishments. ()

b. All equipment shall be securely anchored to the mobile unit. ()

c. Mobile units shall be no less than twenty-four (24) feet long. ()

d. A ramp or lift shall be provided for access to the mobile unit if providing services for handicapped individuals. ()

e. No services shall be performed while the mobile unit is in motion. ()

- f. Sleeping provisions shall not be placed or maintained in the mobile unit. ()
- g. Mobile units shall be required to provide facilities to properly sanitize equipment and to maintain the sanitization until used. ()
- 04. Water Supply. ()
 - a. The potable water supply for mobile units shall be self- contained. Gray and black holding tanks shall be of adequate capacity. In the event of depletion of potable water, operation shall cease until the supply is replenished. ()
 - b. Mobile units shall have continuous demand hot water tanks which shall not be less than six (6) gallon capacity. ()

303. -- 399. (RESERVED).

400. REQUIREMENTS FOR LICENSURE BY EXAMINATION - GENERAL. (Rule 400).

Applicants for license by examination must complete an application (Refer to Rule 200) and file it with the board, along with a completed certificate of graduation submitted to the board by the school. ()

01. If Applicant is From Another State. If applicant is from another state, territory, possession or country, and is ineligible for license by endorsement, proof of having a current license in good standing and training equivalent to the foregoing requirements. ()

401. COSMETOLOGY REQUIREMENTS FOR LICENSURE BY EXAMINATION. (Rule 401).

01. Filing of Record of Instruction. Applicant must file Record of Instruction covering: cosmetology: two thousand (2,000) hours, apprentice, four thousand (4,000) hours. ()

02. Credit For Training. Credit for training as a student or apprentice will be given for each year of practical experience under licensure in another state, territory, possession or country as follows: ()

- a. Cosmetologist: Two hundred (200) hours, as an apprentice four hundred (400) hours. ()
- b. Credit will be allowed only on six (6) month experience increments. ()

03. Hours Credit Toward Licensure. ()

a. A licensed nail technician shall be given credit of two hundred fifty (250) hours toward the required two thousand (2000) hours for a cosmetology course or five hundred (500) hours toward the required four thousand (4,000) hours as a cosmetology apprentice. ()

b. A licensed electrologist/esthetician shall be given credit of three hundred (300) hours toward the required two thousand (2000) hours for a cosmetology course or six hundred (600) hours toward the required four thousand (4,000) hours as a cosmetology apprentice. ()

c. A licensed esthetician shall be given credit of two hundred fifty (250) hours toward the required two thousand (2000) hours for a cosmetology course. ()

d. A nail technician student (not licensed) may receive eighty (80%) percent of accumulated hours, but no more than two hundred fifty (250) hours, as credit toward a student cosmetology course. ()

e. An esthetician student (not licensed) may receive eighty (80%) percent of accumulated hours, but no more than two hundred fifty (250) hours as credit toward a student cosmetology course. ()

f. An electrologist/esthetician student or apprentice (not licensed) may receive eighty (80%) percent of accumulated hours, but no more than three hundred (300) hours as a student or six hundred (600) hours as an

apprentice as credit toward a cosmetology course. ()

402. -- 406. (RESERVED).

407. ELECTROLOGY/ESTHETICS REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 407).

01. Filing of Record of Instruction. Applicant must file Record of Instruction covering eight hundred (800) hours, apprentice, one thousand six hundred (1600) hours. ()

02. Credit Given For Training. As a student will be eighty (80) hours; as an apprentice one hundred sixty (160) hours for each year of practical experience under licensure in another state, territory, possession or country. ()

c. Credit will be allowed only on six (6) month experience increments. ()

d. Electrologist/esthetician applicant lacking three hundred (300) hour requirement on skin care may apprentice for six hundred (600) hours under a licensed electrologist/esthetician instructor. Refer to Idaho Code Section 54-807. ()

03. Hours Credit Toward Licensure. ()

a. Individuals possessing a current Idaho Cosmetologist license will receive credit toward the requirements for licensure as an electrologist/esthetician in the esthetics requirement only as follows: ()

i. When attending a cosmetology school approved to teach electrology/esthetics: Three hundred (300) hours credit. ()

ii. When enrolled in the electrology/esthetics apprenticeship program: Six hundred (600) hours credit. ()

b. Cosmetology students or apprentices (not licensed) may receive one seventh (1/7) of accumulated cosmetology hours, but no more than two hundred (200) student or four hundred (400) apprentice hours toward the esthetics requirement for electrologist/esthetician licensure. ()

408. -- 412. (RESERVED).

413. ESTHETICS REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 413).

01. Filing of Record of Instruction. Applicant must file Record of Instruction covering five hundred (500) hours. ()

02. Credit Given For Training. Credit given for training as a student will be fifty (50) hours for each year of practical experience under licensure in another state, territory, possession or country. ()

03. Six Month Allowance For Credit. Credit will be allowed only on six (6) month experience increments. ()

414. -- 418. (RESERVED).

419. NAIL TECHNOLOGY REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 419).

01. Filing of Record of Instruction. Applicant must file Record of Instruction covering three hundred (300) hours. ()

02. Credit Given for Training. Credit given for training as a student will be thirty (30) hours for each year of practical experience under licensure in another state, territory, possession or country. ()

03. Six Month Allowance For Credit. Credit will be allowed only on six (6) month experience increments. ()

04. Hours Credit Toward Licensure. ()

a. A licensed nail technician shall be given credit of two hundred fifty (250) hours toward the required two thousand (2000) hours for a cosmetology course or five hundred (500) hours toward the required four thousand (4,000) hours as a cosmetology apprentice. ()

b. One seventh (1/7) of cosmetology student training hours may be credited toward nail technology training requirements. ()

420. -- 449. (RESERVED).

450. EXAMINATIONS - GENERAL (Rule 450).

01. Dates and Places. ()

a. Examinations for licensure are to be held at the discretion of the board. ()

b. The dates and places of examination will be published annually. ()

02. Written Examination. The written examination consists of two (2) parts: theory and Idaho jurisprudence. ()

a. The theory examination will be the national examination provided by the National Interstate Council of State Boards of Cosmetology. ()

b. The Idaho jurisprudence examination will be a comprehensive written examination which will include all aspects of Idaho laws and rules relating to the provision of cosmetological services. ()

03. Oral Test. As authorized by Idaho Code 54-810, the examiners may direct questions to individual examinees during the course of the practical examination. ()

04. Supplies. Each applicant is required to bring adequate supplies and materials for the practical examination. Detailed information will be provided upon notification of acceptance for examination. ()

05. Failure to Pass Examination. Failure to pass examination. ()

a. The practical examination is failed when an applicant obtains below seventy-five percent (75%) in one or more categories. Reexamination shall consist only of the practical category or categories failed. ()

b. Written examination is failed when the applicant obtains a score of below seventy-five percent (75%) on the national theory examination or the Idaho jurisprudence examination. Reexamination shall consist of the written examination on the portion or portions failed. ()

c. When an applicant fails either a written or practical examination on a second attempt, reexamination shall consist of the written and practical examinations in their entirety. ()

06. Eligibility for Reexamination. The applicant must register with the board. A new apprentice application must be filed with the board. The prescribed fee must accompany said application. ()

07. Termination. All application records in the bureau of applicants who have not qualified for reexamination within five (5) years of notification of failure in any examination under the Cosmetology Law will be terminated and destroyed. ()

451. COSMETOLOGY EXAMINATION. (Rule 451).

01. Theory Examination. The theory examination will cover all phases of the art of cosmetology, hair dressing, manicuring and pedicuring, facial massage, sanitation. ()

02. The Categories on the Practical Examination. The categories on the practical examination are hair color, permanent waving, haircutting, thermal waving, wet set styling, facials, manicure/nail. ()

03. Practical Examination Additional Training. Additional training required to qualify for practical reexamination shall be as follows: ()

a. Applicant failing below seventy five percent (75%) in one (1) category only of the practical examination will not be required to complete any additional training. ()

b. Applicant failing below seventy five percent (75%) in two (2) or more categories of the practical examination will be required to complete a minimum of four hundred (400) hours of additional training. ()

c. Upon failing any category of the practical examination on a second attempt, applicant must complete a minimum of four hundred (400) hours of additional training. ()

04. Written Examination Additional Training. Additional training required to qualify for the written reexamination shall be as follows: ()

a. Applicant failing below seventy-five percent (75%) in either the theory or Idaho jurisprudence examination will not be required to complete any additional training. ()

b. Applicant failing below seventy five percent (75%) in both the theory and Idaho jurisprudence examination may qualify for reexamination by taking not less than forty (40) hours of additional training in theory and Idaho jurisprudence, in a curriculum approved by the board, in an Idaho licensed school, and complying with all other requirements for reexamination. ()

05. Reexamination. An applicant who has failed the practical portion of the Idaho Cosmetology examination must receive, as a student or apprentice, additional training as set forth in Rule 451. and must obtain a minimum of operations set out below in each category where a score below seventy-five percent (75%) was received: ()

a. Permanent Waves - Thirty (30). ()

b. Hairstyling - Twenty-five (25). ()

c. Hair Shaping - Thirty-five (35). ()

d. Hair Tinting & Bleaches - Twenty-five (25). ()

e. Facials - Fifteen (15). ()

f. Thermal Styling - Twenty-five (25). ()

g. Manicures - Fifteen (15). ()

h. Artificial Nails - Five (5). ()

452. -- 456. (RESERVED).

457. ELECTROLOGY/ESTHETICS EXAMINATION (Rule 457).

01. The Written Examination. The written examination will cover all phases of the art of electrology,

esthetics and sanitation. ()

02. The Practical Examination. The practical examination will cover: ()

a. Electrology: Preparation and sanitation of equipment and supplies, epilation, adjusting and control of machine, after treatment and personal appearance, attitude, sanitation. ()

b. Esthetics: Preparation, cleansing/basic facial, massage, makeup and personal appearance, attitude, sanitation. ()

c. Additional training will be required when more than one section of the practical examination is failed or an applicant fails a portion of the examination more than once. ()

03. Additional Training. Additional training required to qualify for reexamination shall be as follows: ()

a. Additional training required to qualify for practical reexamination shall be twenty percent (20%) of the hour requirement for original examination. ()

b. Additional training required to qualify for the written reexamination shall be not less than forty (40) hours in theory and Idaho jurisprudence, in a curriculum approved by the board, in an Idaho licensed school, and complying with all other requirements for reexamination. ()

458. -- 462. (RESERVED).

463. ESTHETICS EXAMINATION (Rule 463).

01. The Written Examination. The written examination will cover all phases of the art of skin care and sanitation. ()

02. The Practical Examination. The practical examination will cover preparation, cleansing/basic facial, massage, makeup and personal appearance, attitude, sanitation. ()

03. Additional Training. Additional training required to qualify for reexamination shall be as follows: ()

a. Additional training required to qualify for practical reexamination shall be twenty percent (20%) of the hour requirement for original examination. ()

b. Additional training required to qualify for the written reexamination shall be not less than forty (40) hours in theory and Idaho jurisprudence, in a curriculum approved by the board, in an Idaho licensed school, and complying with all other requirements for reexamination. ()

464. -- 468. (RESERVED).

469. NAIL TECHNOLOGY EXAMINATION (Rule 469).

01. The Written Examination. The written examination will cover all phases of the art of manicuring, artificial nails and sanitation. ()

02. The Practical Examination. The practical examination will include a complete basic manicure on one hand, sculptured nails (with form), tips (finished), nail overlay with fabric. ()

03. Additional Training. Additional training required to qualify for reexamination shall be as follows: ()

a. Additional training required to qualify for the practical reexamination shall be twenty (20%)

percent of the hour requirement for original examination. ()

b. Additional training required to qualify for the written reexamination shall be not less than forty (40) hours in theory and Idaho jurisprudence, in a curriculum approved by the board, in an Idaho licensed school, and complying with all other requirements for reexamination. ()

c. Additional training will be required when more than one section of the practical examination is failed or an applicant fails a portion of the examination more than once. ()

d. Additional training required to qualify for the written reexamination shall be not less than forty (40) hours in theory and Idaho jurisprudence, in a curriculum approved by the board, in an Idaho licensed school, and complying with all other requirements for reexamination. ()

470. -- 474. (RESERVED).

475. MODELS FOR EXAMINATION (Rule 475).

01. Appropriate Model. applicants scheduled for an examination must bring an appropriate model. Models may be human or mannequin, depending upon the specific examination. If a mannequin is required, it must be treated in all respects, the same as a live model. ()

02. Models Must Not Be Students. Models must not be students in any school or apprentice in any establishment, nor licensed under the Cosmetology Law. ()

03. Models Must Be Able to Remain Until Conclusion of the Examination. ()

04. Models Cannot Be Candidates. Models cannot be candidates for the examination who may be examined on another day. ()

476. -- 478. (RESERVED).

479. MODELS FOR THE COSMETOLOGY EXAMINATION (Rule 479).

01. Human Models. Human models must be people to whom makeup may be applied. ()

02. Model/mannequin with Hair of At Least Four (4) Inches. Model/mannequin must have hair at least four (4) inches long, sufficient length to be cut. No model/mannequin shall have hair longer than shoulder length. ()

03. Live, Human Models. Live, human models are mandatory for the facial and manicure/artificial nail application portions of the cosmetology examination. ()

04. Mandatory Mannequins for Hair Color Portion. Mannequins are mandatory for the hair color portion of the cosmetology examination and must be treated in all respects, the same as a live model. ()

480. -- 482. (RESERVED).

483. MODELS FOR THE ELECTROLOGY/ESTHETICS EXAMINATION (Rule 483).

01. Human Models. Human models will be used for the skin care demonstration only. ()

02. Hair Removal. Hair removal will be demonstrated directly on the Examiners. ()

03. Human Models. Human models must be people to whom makeup may be applied. ()

484. -- 486. (RESERVED).

487. MODELS FOR THE ESTHETICS EXAMINATION (Rule 487).

- 01. Human Models for Skin Care. Human models will be used for the skin care demonstration. ()
- 02. Human Models. Human models must be people to whom makeup may be applied. ()

488. -- 490. (RESERVED).

491. MODELS FOR THE NAIL TECHNOLOGY EXAMINATION (Rule 491).

- 01. Human Models for Manicure. Human models must be people who can be given a manicure. They may not have artificial nails. ()

492. -- 499. (RESERVED).

500. RULES OF SCHOOLS OF COSMETOLOGY (Rule 500).

Section 54-808, Idaho Code, provides for the rules of schools of cosmetology. Supplementing this section, the board adopts the following rules: ()

01. Application Before Opening and Operating a School. No school of cosmetology will be opened and/or operated until the board has issued its approval. See Section 54-806, Idaho Code. Application for a school license shall be made on forms furnished by the board. The fully completed application to operate a school, with the required fee, shall be submitted to the board. ()

a. As soon as practicable, upon receipt of said application, the board or its designated agent, will cause the school to be inspected. Based on this inspection, a recommendation for the issuance or rejection of a license will be made and a decision entered, within a reasonable time not to exceed thirty (30) days, after said application has been received. ()

b. All new schools applying for license must have one thousand eight hundred (1800) square feet of space. Schools approved to teach electrology/esthetics refer to Rule 550. ()

c. All new schools must be separated completely from establishments with no connecting entrances. ()

02. Adequate Space. Schools provide adequate space for the number of students to be trained in said schools. An additional forty (40) square feet of floor space shall be provided in excess of the minimum one thousand eight hundred (1800) square feet required for each student enrolled over twenty (20) students. ()

03. Annual Review of Curriculum and Catalog. Schools must provide a curriculum and catalog to the board. Schools must provide a curriculum and catalog to the board for review on an annual basis. Curricula must be submitted at the time of license renewal. If there are no changes in the curriculum or catalog during the previous year, the school may submit a letter of explanation to the board. ()

04. Minimum Two Hundred (200) Hours of Instruction. Student cosmetologists. Student cosmetologists may not be permitted to render any clinical service to patrons until students have completed at least two hundred (200) hours of instruction, nor clinical services considered to be possibly harmful or detrimental to patrons, such as tints, hair-coloring, permanent waves and similar services, until the student has completed three hundred (300) hours of instruction. ()

05. Records Required. Records required of schools of cosmetology: ()

a. Schools shall maintain monthly records for each student which will show: ()

i. Daily hours spent in classroom recitation and study. ()

ii. Daily hours spent in instructional and practical training. ()

- iii. Theory grade, practical grade, sanitation grades, daily number of requirements completed. ()
- b. Monthly records shall be signed and dated by the student and instructor. A copy of the signed and dated monthly record shall be provided to the student. The school shall maintain the monthly records for a period of two (2) years following completion or termination of the student training. These records are subject to inspection by the board at any time. ()
- c. The number of operations and hours accumulated on the monthly record forms are to be totaled and transferred to the Record of Instruction Form, showing the day of the month beginning and the day of the month ending the monthly period of time. ()
- d. When a student's course of training at a school has been completed or terminated, the completed operations, number of classroom hours and practical training are to be totaled by the school on the Record of Instruction Form. This form is to be filed with the board by the school within thirty (30) days of the completion or termination of training or a letter of explanation filed with the board by the school as to why student's hours are not verified by the school. ()
- e. Schools shall maintain on the premises proof of student meeting education requirements. Schools must maintain proof of student having satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education. If student is a high school graduate, schools may accept a photostatic copy of the high school diploma or transcript. A letter written on high school stationary, signed by an officer of the high school, may be accepted to verify student's satisfactory completion of the tenth grade and eligibility to commence the eleventh grade. ()
- f. Proof of age must be submitted. Schools must maintain on their premises proof of students compliance with minimum age requirement. Acceptable proof of birth date will be a copy of the student's birth certificate, a passport, military identification, drivers license or other similar form of documentation. ()
06. Record of Training. The operations to be recorded on the monthly record form and the Student Record of Instruction Form performed by students are: ()
- a. Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling - three hundred thirty five (335) ()
- b. Scalp Treatments - ten (10) ()
- c. Permanent Waves (All Methods) - ninety (90) ()
- d. Haircutting/shaping which shall include scissor and razor/clipper - one hundred (100) ()
- e. Bleaching - ten (10) ()
- f. Tinting - thirty-five (35) ()
- g. Semi Permanent/Temporary Color - twenty (20) ()
- h. Frosting/Hilites - ten (10) ()
- i. Facials which shall include plain, makeup and arches. forty-five (45) ()
- j. Manicures which shall include plain and oil - forty (40) ()
- k. Pedicures - five (5) ()
- l. Artificial Nails - five (5) ()

07. Discontinuance of School. If a school discontinues to operate as a school, records of instruction covering all students attending said school at the time of discontinuance or prior thereto, must be filed in the office of the board. ()

08. Out of State Applicants. ()

a. Prior to commencing a course of study in an Idaho approved school, an applicant is required to file with the board a copy of the record of instruction from the out of state school(s). For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of training, and which is to be verified by the licensing agency or school(s) in the state in which the training was obtained. ()

09. Student Registration. Schools are required to register all students with the board within five (5) days of beginning training (post office cancellation date will be accepted) prior to providing any instruction. Student registration fee must be submitted at time of registration. ()

10. Outside School Activities. Schools may allow a student credit for no more than thirty (30) hours for outside activities during the course of their training. These hours must be approved by the instructor. ()

501. -- 539. (RESERVED).

540. COSMETOLOGICAL SCHOOL CHANGES IN - OWNERSHIP - LOCATION - LICENSURE REQUIREMENTS (Rule 540).

01. Change of Ownership or Location. Whenever a change of ownership or location of a school occurs, an original registration fee must be paid and compliance with all rules concerning a new school met, before a new license will be issued. LICENSE IS NOT TRANSFERABLE. ()

02. Board Must Be Informed of All Changes. The board must be informed in writing of any and all changes of ownership of schools. ()

03. Deletion of an Owner. Deletion of an owner in a multiple ownership may be effected by filing a statement with the board signed by the person withdrawing and the remaining owner(s). This does not constitute a change in ownership of the school. ()

04. Addition of an Owner. Addition of an owner to multiple ownership constitutes a change in ownership and the requirements for a new school apply. ()

541. -- 549. (RESERVED).

550. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY/ ESTHETICS (Rule 550).

Section 54-802(n), Idaho Code provides for the teaching of electrology/esthetics in cosmetology schools. ()

01. Board Approval. The board may approve a school to teach electrology/esthetics who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach electrology/esthetics. ()

02. Minimum Square Footage. Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. ()

03. Required Equipment. Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. ()

a. Work stations equal to seventy-five percent (75%) of total enrollment. ()

- Blend.
- b. Two (2) brands of machines (one with three (3) method capability) Galvanic, Thermolysis, and ()
 - c. Two (2) treatment tables and adjustable technician chairs. ()
 - d. Two (2) swing arm lamps with magnifying lens. ()
 - e. One (1) facial machine. ()
 - f. One (1) steam/vaporizer machine. ()
 - g. Two (2) magnifying glasses. ()
 - h. Tweezers. ()
 - i. One (1) basin with approved water source. ()
 - j. Necessary sanitation equipment for implements. ()
 - k. Closed storage cabinet. ()
04. Kit. Each student to be issued a basic kit containing: two (2) tweezers, disposable probes, eye shields, before treatment solution, after treatment lotion, hair pins or clippies, one (1) sharps container. Basic skin care kit: Cleansing lotion, toner, moisturizer, massage cream/oil, two (2) facial sponges, five (5) spatulas, one (1) masque brush, protective eye covers, head and body drape, facial bowl. Basic cosmetic kit: foundation base, translucent powder, eye pencil, lip pencil, eyeshadow, mascara, blush, lip color, lip brush, eyebrow brush, two (2) cosmetic sponges, mascara applicator brush, make up cape, mirror. ()
05. Electrologist/Esthetician Instructor/Student Ratio. Schools have at least one (1) licensed electrologist/esthetician instructor for every six (6) students or portion thereof, being trained therein. ()
06. Records Required. Records required of cosmetology schools approved to teach electrology/esthetics. ()
- a. Students must complete a course of training which includes: ()
 - i. Electrology: Three hundred (300) clinical hours; Two hundred (200) theory hours, for a total of five hundred (500) hours. ()
 - ii. Skin care: Two hundred (200) clinical operations; One hundred (100) theory hours, a total of three hundred (300) hours. ()
 - b. Students may not render any clinical services to patrons until completing at least eighty (80) hours of instruction in electrology and forty (40) hours of instruction in estheology. ()
07. Record Of Training. The recorded operations on the monthly record form and the Student Record of Instruction Form performed by students are as follows: (The first numbers are required minimum hours of theory; the second numbers are required minimum clinical hours.) ()
- a. Permanent Removal of Hair (Electrology). ()
 - i. Bacteriology, sanitation and sterilization, safety precautions, anatomy, and physiology 55. ()
 - ii. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment - 15. ()

- iii. Electrolysis which shall include the use and study of galvanic current - 15/20. ()
- 15/50. iv. Thermolysis which shall include the use and study of high frequency current automatic and manual ()
- v. A combination of high frequency and galvanic currents - 15/30. ()
- vi. The study and cause of hypertrichosis - 15. ()
- vii. Additional training of up to two hundred (200) hours may be taken in bookkeeping, salesmanship and public relations. ()
- b. Esthetics (The first numbers are required minimum theory operations; the second numbers are required minimum clinical operations.) ()
 - i. Massage and manipulation application of lotions, creams, etc. - 30/60. ()
 - ii. Cosmetics - 30/60. ()
 - iii. Machine application: Use of mechanical or electrical equipment - 40/80. ()

551. -- 559. (RESERVED).

560. RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS (Rule 560).

Section 54-802 (p), Idaho Code, provides for the teaching of esthetics in cosmetology schools. ()

01. Board Approval. The board may approve a school to teach esthetics who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach esthetics. ()

02. Records Required. Records required of schools teaching esthetics. ()

a. Students must complete a course of training which includes: Two hundred fifty (250) clinical hours; Two hundred fifty (250) theory hours, for a total of five hundred (500) hours. ()

b. Students may not render any clinical services to patrons until completing at least sixty (60) hours of instruction in esthetics. ()

c. The recorded operations on the monthly record form and the Student Record of Instruction Form performed by students are as follows: (The first numbers are required minimum hours of theory; the second numbers are required minimum clinical hours.) ()

i. Massage & Manipulation application of lotions, creams, etc. 30/60. ()

ii. Cosmetics - 30/60. ()

iii. Machine Application: use of mechanical or electrical equipment 40/80. ()

iv. Bacteriology, Sanitation & sterilization, safety precautions, anatomy & physiology 55. ()

v. Additional Training - 60. ()

vi. Eyebrow arch and hair removal - 15/20. ()

vii. Special field sciences - 15/30. ()

561. -- 569. (RESERVED).

570. RULES FOR COSMETOLOGY SCHOOLS TEACHING NAIL TECHNOLOGY (Rule 570).

Section 54-802 (d), Idaho Code. provides for the teaching of nail technology in cosmetology schools. ()

01. Board Approval. The board may approve a school to teach nail technology who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach nail technology. ()

02. Records Required. Records required of schools teaching nail technology. ()

a. Students may not render any clinical services to patrons until the student has completed at least forty (40) hours of instruction. All work done on patrons must be completed by students and supervised by instructors. ()

03. Record of Training. The recorded operations on the monthly record form and the Student Record of Instruction Form performed by students are formed nails ten (10) sets, finished tips ten (10) sets, wraps and mends ten (10) sets, basic manicure fifty (50), pedicure five (5). ()

571. -- 599. (RESERVED).

600. COSMETOLOGY, ELECTROLOGY/ESTHETICS INSTRUCTOR RULES. (Rule 600).

01. Requirements for Instructor License. ()

a. Application for an instructor license shall be made on forms furnished by the board and accompanied with the required fees. ()

b. Section 54-805(2)(8), Idaho Code, provides for twelve (12) semester college credit hours or equivalent, as approved by the board, or successful completion of the examination required by board rules. Credit hours must be obtained from the Education Department, Speech Communications Department or from the Psychology/Sociology Department and other credit at the discretion of the Board. ()

c. Equivalent: ()

i. Teaching seminars directed to cosmetology or electrology/esthetics must be approved by the board. Fourteen (14) clock hours is equivalent to one (1) semester college credit hour in an approved seminar. Verification of satisfactory completion must be submitted to the board for their approval. ()

ii. Verified satisfactory teaching as a qualified instructor from another state three (3) of the previous five (5) years immediately prior to application. ()

d. Experience Requirements for Instructor Applicant (Reference Section 54-805(2)(8), Idaho Code). Five (5) years experience is deemed "immediately preceding" if obtained during the seven (7) year period immediately preceding application for licensure. ()

e. An electrologist/esthetician with fewer than five (5) years' experience as a licensed electrologist/esthetician must complete three (3) months, five hundred (500) hours of teacher's training in a cosmetology school approved to teach electrology/esthetics as set forth in Subsection 350.08. ()

02. Examination Dates and Places. ()

a. Instructor examinations will be held in conjunction with the board meeting in Boise on the Tuesday following the first (1st) Monday of February, June and October. ()

- b. The dates and places of examination are subject to change. ()
03. Termination. All application records in the bureau of applicants who have not qualified for reexamination within five (5) years of notification of failure in any examination under the Cosmetology Law will be terminated and destroyed. ()
04. Scope and Requirement of Examination for License. ()
- a. Examination will consist of both a practical and written examination. The written examination will be in two parts: a national theory examination and an Idaho jurisprudence examination. ()
- b. Mannequin shall be used in lieu of model. ()
- c. Examinee would be required to demonstrate to the board ability to teach cosmetology services. One subject to be assigned when accepted for examination and a subject to be drawn at the time of the examination. ()
- d. Supplies required for the instructor's examination. Bring sufficient materials and supplies to demonstrate in assigned category. ()
05. Instructor Reexamination. To be eligible, an applicant must obtain two hundred (200) hours additional training in a school of cosmetology as a student instructor. ()
06. Requirements for Student Instructor. ()
- a. A student instructor shall file an application on forms provided by the board before beginning training and shall at all times be under the direct supervision of a licensed instructor. ()
- b. The time spent as a student instructor to meet instructor licensure requirements will not be credited to the years experience required for an instructor license. ()
- c. One (1) year experience may be obtained within a school upon completion of instructor training. ()
- d. Six (6) months is considered to be one thousand (1,000) hours of training. Three (3) months is considered to be five hundred (500) hours of training. ()
07. Student Registration. Schools are required to register all students with the board prior to providing any instruction. Student registration fee must be submitted at time of registration. ()
08. Record of Training. The number of required operations on a monthly Record Form and Student Record of Instruction Form are as follows: (The first numbers are required operations for six (6) months/one thousand (1,000) hours of training; the second numbers are required operations for three (3) months/five hundred (500) hours of training.) ()
- a. Lesson Planning - 25/10. ()
- b. Audio Visual Aid Preparation - 25/10. ()
- c. Theory Class. Teach 25 classes/Teach 10 classes. ()
- d. Practical Demonstrations - 25/10. ()
- e. Testing & Evaluation Theory. - 15 theory/5 theory. ()
- f. Testing & Evaluation. - 15 practical/5 practical. ()

- g. Clinic Floor Supervision - 700/300. ()
- h. Related Subjects - 150/55. ()
- i. Counseling. ()
- ii. Record Keeping. ()
- iii. Business & Reception. ()

601. -- 699. (RESERVED).

700. COSMETOLOGY - ELECTROLOGY/ESTHETIC APPRENTICE TRAINING (Rule 700).
Section 54-805(6)(c) and 54-807, Idaho Code, provide for the practice of apprentices. ()

01. Cosmetology Apprentices. There must be at least one (1) licensed cosmetology instructor and one (1) licensed registered cosmetologist in any cosmetological establishment at all times for each apprentice who is being trained therein. ()

02. Electrology/Esthetic Apprentices. Apprentice training must be done under the direct personal supervision of an electrologist/esthetician instructor. ()

- a. An electrologist/esthetician instructor may train no more than one (1) apprentice at a time. ()

03. Filing Application. Application for license as an apprentice must be made on forms furnished by the board. ()

04. Application for Cosmetology Apprentice Must Show Name of Registered Cosmetologist. The application for a cosmetology apprentice must show the name of the licensed registered cosmetologist employed in the establishment in which an apprentice will serve apprenticeship, must be shown on the application for apprentice license. ()

05. Prior to Beginning Training. Prior to beginning of training, the instructor must submit and have board approval of a curriculum for the entire apprenticeship training. ()

06. Application Must Be Accompanied by Proof of Meeting Educational Requirements. Applications must be accompanied by proof of having satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education. If applicant is a high school graduate, a photostatic copy of the high school diploma may be submitted. A letter written on high school stationery, signed by an officer of the high school, may be forwarded with the application. Such letter shall indicate that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade. Do not send original high school diploma to the board. ()

07. Submit Proof of Birth. Apprentices must furnish a copy of their birth certificate or other acceptable proof of birth with application. ()

08. Apprentice License. An apprentice license must be obtained from the board before training as an apprentice begins. ()

- a. An original cosmetology apprentice license shall be dated and valid until such time as said apprentice is no longer enrolled as an apprentice in said establishment. ()

- b. An original electrology/esthetic apprentice license shall be dated and valid until such time as said apprentice is no longer enrolled as an apprentice in said establishment. ()

09. Records Required. Establishments training apprentices must maintain records as set forth: ()

- a. For cosmetology apprentice in Subsection 500.05.a,b,c, and d. ()
- b. For electrology/esthetic apprentice in Subsection 550.06.a.i, and ii. ()
10. Record of Training. The operations to be recorded on the monthly record form and the Student Record of Instruction form performed by apprentices are as set forth: ()
- a. For cosmetology apprentice in Subsection 500.06. ()
- b. For electrology/esthetic apprentice in Subsection 550.07. ()
11. Discontinuance of A Course. When an apprentice discontinues a course of study, the salon is to complete a Record of Instruction Form with the credited hours completed by the apprentice. This form is to be submitted to the board. If an apprentice discontinues a course of training and does not transfer to another salon within sixty (60) days, the apprentice license is automatically canceled and is to be submitted to the board along with the Record of Instruction. ()
12. Before Resuming Training. Before resuming training, after having discontinued a course, an apprentice must file a new application and pay an additional fee. The apprentice must receive a license before resuming training. ()
13. Discontinuance of Establishment Training Apprentices. If a licensed establishment where apprentices are being trained discontinues to operate as a salon, records of instruction covering all apprentices obtaining training at the time of discontinuance or prior thereto, must be filed in the office of the board. ()
14. Out of State Apprenticeship. Prior to commencing a course of study in an Idaho approved establishment, an apprentice applicant is required to file with the board a copy of the record of instruction from the out of state apprenticeship. For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of training, and which is to be verified by the licensing agency or instructor(s) in the state in which the training was obtained. ()

701. -- 799. (RESERVED).

800. INSPECTION AND SANITARY RULES. (Rule 800).

Each cosmetological establishment and school of cosmetology and barber shop and school of barbering is subject to inspection by the board or its designated agents in accordance with the following rules (reference Section 54-824, and 54-524, Idaho Code). Maximum possible score is indicated by number. ()

01. Premises. All shops and schools shall be open to inspection during business hours to authorized agents of the Cosmetology/Barber boards. Shops and schools must be separated from living areas by substantial walls and/or closable doors. All shops and schools must be maintained in an orderly manner and shall be heated, lighted, and ventilated so as to be safe and comfortable to the operators and patrons. Score five (5) ()
02. Floors, Walls and Ceilings. Floors, walls, ceilings, furniture, and all other fixtures shall be kept clean and in good repair at all times. Score five (5) ()
03. Instrument Cleaning. All instruments used by operators shall be thoroughly cleaned after each use and prior to storage and/or sanitation. Score fifteen (15) ()
04. Instrument Sanitation. All instruments used by operators shall be sanitized after cleaning and prior to use on each patron, with a sanitizing agent registered by the Environmental Protection Agency as Hospital Grade or better. Every precaution shall be taken to prevent the transfer of disease-causing pathogens from person to person. Score fifteen (15) ()
05. Towels. Clean towels shall be used for each patron. A clean paper or cloth neckband shall be used to provide a sanitary barrier which shall be maintained between each patron's neck and all multi-use capes. Paper towels and paper neckstrips shall be disposed of after one (1) use. Score five (5) ()

06. Storage of Equipment. All instruments, towels, and linens shall be stored in clean, closed cabinets, drawers, and/or containers after they are cleaned and sanitized. Score five (5) ()

07. Dispensers. All solutions and/or compounds shall be maintained and dispensed in a sanitary manner. All single-use applicators shall be disposed of after one (1) use. Paraffins, waxes and all other solutions and/or compounds shall be maintained free of any foreign contaminants. Score five (5) ()

08. Uniforms. All clothing worn by operators shall be clean and washable. Score five (5) ()

09. Water Supply. Water supplies shall be from an approved source. Sufficient basins with hot and cold running water, approved drainage systems, soap and single-use towels shall be conveniently located within the work area. Every operator and/or student shall wash their hands prior to providing service to any patron. Score ten (10) ()

10. Toilet Facilities. Clean, adequate and convenient toilet facilities, located and accessible from within the building where the shop or school is located, shall be available for use by operators and patrons. A basin with hot and cold running water, approved drainage systems, soap and single-use towels shall be provided within said facilities. Score ten (10) ()

11. Safety. Each shop and school shall have a clearly identifiable first-aid kit readily accessible on the premises. No animals are allowed in shops or schools except those animals trained to provide service to the physically impaired. Score five (5) ()

12. Licenses and Certificates. All shops and schools must be licensed prior to their operation and must be under the direct supervision of a licensed operator. A current shop and/or school license, valid operator license(s) or permit(s), a copy of these rules, and a valid classification card shall be conspicuously displayed in the work area of each shop and/or school for the information of operators, board agents, and the public in general. Score fifteen (15) ()

13. Classification of Shops and Schools. Following an inspection, each shop and school will receive classification as follows: 100% - 90% = "A"; 89% - 80% = "B"; 79% and below = "C". The "C" classification denotes an unacceptable rating and improvements are required within thirty (30) days for continued operation. ()

801. -- 825. (RESERVED).

826. RULE MAKING HISTORY PRIOR TO JULY 1, 1993. (Rule 826).

RULES AS ADOPTED April 21, 1992,
EFFECTIVE May 11, 1992
REISSUED July 1, 1993.

827. -- 999. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.05.01 - RULES GOVERNING THE BOARD OF ENVIRONMENTAL
HEALTH SPECIALIST EXAMINERS

DOCKET NO. 24-0501-9601

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 54-2403 and 54-2405, 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 a statement in nontechnical language of the substance of the proposed rules: The proposed changes will change the written examination entity to The National Environmental Health Association; establish the passing score shall be that established by the testing entity; establish the examination/reexamination fee will equal that charged by the national examining entity together with an additional \$25.00 administrative fee; and increase the annual renewal fee to \$60.00.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, 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 September 25, 1996.

DATED this 12th day of July, 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. 24-0501-9601

200. EXAMINATIONS (Rule 200).

01. Location and Time. Examinations for license of an Environmental Health Specialist and Environmental Health Specialist Trainee in the State of Idaho shall be held annually at the Bureau of Occupational Licenses, Boise, Idaho, and such other dates and places as may be required and designated by the Board of Examiners. (7-1-93)

02. Deadline. Applications for examination must be received by the Bureau of Occupational Licenses sixty (60) days prior to examination. (7-1-93)

03. Content of Exam. No applicant will be considered in substantial conformance with the basic policies and principles set forth in the Environmental Health Specialist Act until he has successfully passed the prescribed examination. The examination shall consist of a The National Environmental Health Association written

examination as prepared by the Professional Examination Services, 475 Riverside Drive, New York, NY 10115, and/or such other written or oral examination as may be determined by the Board. There will be no refund if the examination is failed. (7-1-93)(____)

04. Passing Score. The passing score in the examination shall be a ~~seventy (70%) percent score as reported by the Professional Examination Services~~ that established by the testing entity. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

400. FEES (Rule 400).

01. Fee to Accompany Application. Every application must be accompanied by the application fee together with the examination fee or reciprocity fee whichever is appropriate. (7-1-93)

02. Reexam Fee. The application fee is not required when applying for reexamination unless the prior existing application has been terminated by board action and the applicant is required to submit another complete application as in the case of one applying for the first time. (7-1-93)

03. Fee Schedule. As required by law, the Board has established the following fees: (7-1-93)

a. Annual renewal fee - ~~Fifty-Sixty~~ dollars (\$~~560~~). (7-1-93)(____)

b. Application fee - Twenty-five dollars (\$25). (7-1-93)

c. Examination/Reexamination fee - ~~Seventy-five dollars (\$75). The examination/reexamination fee will equal that charged by the national examining entity together with an additional twenty-five (\$25.00) administration fee.~~ (7-1-93)(____)

d. Reexamination fee - ~~Seventy-five dollars (\$75).~~ (7-1-93)(____)

e. Reciprocity fee - Seventy-five dollars (\$75) (7-1-93)

f. Certificate fee - Five dollars (\$5). (7-1-93)

04. Certificate Fee. The certificate fee is required when changing to Environmental Health Specialist from trainee status. (7-1-93)

05. Fees are not Refundable. Fees are not refundable. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.06.01 - RULES GOVERNING THE BOARD OF HEARING AID DEALERS AND FITTERS
DOCKET NO. 24-0601-9501
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules are effective upon approval of the Idaho Legislature at its next session.

ACTION: The action, under Docket No. 24-0601-9501, concerns the pending adoption of rules governing the Idaho Board of Hearing Aid Dealers and Fitters, IDAPA 24, TITLE 06, Chapter 01, Rules Governing Hearing Aid Dealers and Fitters.

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 54-2914, Idaho Code.

DESCRIPTIVE SUMMARY: There are no substantive changes from the proposed rule text that published in the November 1, 1995 Administrative Bulletin, Volume 95-11, pages 131 and 132.

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

DATED this 12th day of July, 1996.

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

IDAPA 24
TITLE 06
Chapter 01

RULES GOVERNING THE BOARD OF HEARING AID DEALERS AND FITTERS

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 95-11, November 1, 1995
Pages 131 through 132.**

**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
24.10.01 - RULES GOVERNING THE IDAHO STATE BOARD OF OPTOMETRY
DOCKET NO. 24-1001-9601
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 54-1509, 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 a statement in nontechnical language of the substance of the proposed rules: The proposed changes define "low vision" as within the definition of "correcting defects", a term contained within Section 54-1501(5), Idaho Code, and defines those individuals providing vision therapy, except those individuals acting under the supervision and management of a licensed optometrist, as engaging in the practice of optometry; reorganize the districts for nominations of board members; clarify and add to the definitions of gross incompetence; and delete obsolete language in reference to diagnostic pharmaceutical agents.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, 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 September 25, 1996.

DATED this 22nd day of July, 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. 24-1001-9601

010. DEFINITIONS (Rule 010).

01. Board. The State Board of Optometry as prescribed in Section 54-1503, Idaho Code. (7-1-93)
02. Low Vision. Refer to Section 54-1501(5), Idaho Code, correcting defects may include low vision but is not limited to low vision rehabilitation. ()
03. Vision Therapy. Any person who assesses, diagnoses, treats, or prescribes treatment for conditions of the visual system or manages a patient with vision therapy, visual training, visual rehabilitation, orthoptics or eye exercises or who hold him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry. ()

(BREAK IN CONTINUITY OF SECTIONS)

100. NOMINATIONS OF BOARD MEMBERS (Rule 100).

01. Districts. In order to establish the districts from which a vacancy in the membership of the Board of Optometry shall be filled, the state is divided into the following three districts by counties as follows: (7-1-93)

a. North District.	
Lemhi	Latah
Boundary	Clearwater
Bonner	Nez Perce
Kootenai	Valley
Shoshone	Idaho
Benewah	Adams
Lewis	<u>Custer</u>
<u>Washington</u>	<u>Butte</u>
<u>Payette</u>	<u>Jefferson</u>
<u>Boise</u>	<u>Madison</u>
<u>Teton</u>	<u>Clark</u>
<u>Blaine</u>	<u>Fremont</u>

(7-1-93)()

b. Southwest District.	
Ada	Gem
Boise	Canyon
Elmore	Owhyee
Payette	Washington
Gooding	Blaine
Jerome	

(7-1-93)()

c. Southeast District.	
Bear Lake	Clark
Caribou	Fremont
Bannock	Teton
Franklin	Madison
Oneida	Jefferson
Power	Bonneville
Cassia	Camas
Minidoka	Lincoln
Bingham	Custer
Butte	Twin Falls

(7-1-93)()

02. Nomination Ballot. Upon the occurrence of a vacancy to be filled as provided by law, a nominating ballot is to be forwarded to each licensed optometrist residing in the state of Idaho pursuant to section 54-1504, Idaho Code, and shall read as follows: (7-1-93)

**NOMINATING BALLOT FOR MEMBERS OF THE
IDAHO STATE BOARD OF OPTOMETRY**

List below any number of names between one and six of persons you wish to nominate for appointment by the Governor to the Idaho State Board of Optometry. In order to be appointed by the Governor, a nominee must be a licensed optometrist in the State of Idaho and shall have been a resident of and lawfully practicing optometry within the State of Idaho for a period of at least five years next preceding his appointment as required by section 54-1505, Idaho Code. At least one person appointed by the Governor must reside in each of the three districts which are set as follows:

North District - Counties of Lemhi, Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Idaho, Valley, Adams, ~~and Lewis, Washington, Jefferson, Payette, Madison, Boise, Teton, Custer, Blaine, Butte, Clark and Fremont.~~

Southwest District - Counties of Ada, ~~Boise,~~ Elmore, ~~Payette, Gooding,~~ Gem, Canyon, ~~and~~ Owyhee, ~~Washington, Blaine and Jerome.~~

Southeast District - Counties of Bear Lake, Caribou, Bannock, Franklin, Oneida, Power, Cassia, Minidoka, ~~Clark, Fremont, Teton, Madison, Jefferson, Bonneville, Camas, Lincoln, Bingham, Butte, Custer~~ and Twin Falls.

MY NOMINATIONS ARE:

READ CAREFULLY

Instructions for return of the nominating ballot.

Do not sign or otherwise identify yourself on the foregoing ballot itself.

Do place the completed ballot in the envelope marked "Ballot," seal the ballot envelope, and sign and print your name on the outside of the envelope.

Do place the ballot envelope in an envelope addressed to Chief of the Occupational License Bureau, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702 on or before _____.

Ballot envelopes will first be verified to determine if the person returning the ballot is eligible to vote, the ballot envelope will be opened and the ballots themselves will be counted and the results tabulated and sent to the Governor as required by law. Ballot envelopes which cannot be verified will be set aside and the names listed therein not recorded. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

425. RULES DEFINING GROSS INCOMPETENCE (Rule 425).

In order to protect the public, the Board of Optometry defines as "gross incompetence" any behavior or practice on the part of the licensed optometrist which demonstrates a lack of competence with respect to discharging professional obligations or duties which might result in injury or damage to a patient whether such injury or damage actually occurs or not and in particular, the Board defines as "gross incompetence" any of the following: (11-6-93)

01. Failure to Meet Prevailing Standards. ~~A failure to meet prevailing standards, of examination or treatment for any eye condition or willful rendering of substandard care, either individually or as part of a third party reimbursement agreement or by other agreement.~~ (11-6-93)()

02. Failure to Meet Prevailing Standards in the Referral of Any Patient Who Is Suffering from Any Apparent or Suspected Pathological Condition. A failure to meet prevailing standards in the referral of any patient who is suffering from any apparent or suspected pathological condition to a person competent and licensed to properly treat or diagnose the condition. (7-1-93)

03. Employment of Techniques or Methods of Practice. Employment of techniques or methods of practice in treating or prescribing for a patient when he does not have proper training in the technique or methods of practice. (7-1-93)

04. Failure to Advise Patient of Possible Danger When a Lens Not Meeting Impact Resistance Standards of F.D.A. Failure to advise his patient of possible danger when a lens not meeting impact resistance standards of F.D.A. Regulation, Sec. 3.84,21 CFR., is provided for the patient. (7-1-93)

05. Failure to Provide Follow-Up Care. Failure to provide follow-up care according to prevailing standards. (11-6-93)

06. Displaying Gross Ignorance or Demonstrating Gross Inefficiency. Displaying gross ignorance or demonstrating gross inefficiency in the care of a patient. (7-1-93)

07. Failure to Verify the Specifications of All Lenses. Failure to verify the specifications of all lenses provided by him. (11-6-93)

08. Failing to Perform Tests and Record Findings. In the course of an examination of a patient, failure to perform tests and record findings in a manner consistent with prevailing standards of optometric care. (11-6-93)

09. Using Pharmaceutical Agents. Using pharmaceutical agents in the practice of optometry without having attended sufficient training programs or schools and acquiring the knowledge necessary to use the drugs in a competent manner. (11-6-93)

10. Illegal Prescription Sale, Administration, Distribution, or Use of Drugs. Prescribing, selling, administering, distributing, giving, or using drugs legally classified as a controlled substance or as an addictive or dangerous drug for other than

accepted diagnostic or therapeutic purposes. ()

11. Disciplinary Action or Sanctions. Disciplinary action or sanctions taken by another state, jurisdiction, peer review body or a professional association or society against an optometrist for acts or conduct similar to acts or conduct which would constitute grounds for action as defined under "Rules of the Idaho Board of Optometry". ()

12. Sanitary Office. Has failed to maintain sanitary office conditions, equipment, and use appropriate techniques and procedures. ()

13. Failure to Release Prescription. Failure to release spectacle prescription as required by Federal law. ()

(BREAK IN CONTINUITY OF SECTIONS)

575. FEES (Rule 575).

01. Annual Renewal Fee. Annual renewal fee for license, ~~forty dollars (\$40)~~ seventy-five dollars (\$75).
(7-1-93)()

02. Annual Optometry Fund Fee. Annual optometry fund fee, ~~thirty dollars (\$30)~~ seventy-five dollars (\$75).
(7-1-93)()

03. License Application Fee. License application fee, one hundred dollars (\$100). (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

600. BOARD CERTIFICATION OF OPTOMETRIST AUTHORIZED TO OBTAIN AND USE TOPICALLY APPLIED PHARMACEUTICAL AGENTS (Rule 600).

01. The Right to Obtain and Use Topically Applied Diagnostic Pharmaceutical Agents. The right to obtain and use topically applied diagnostic pharmaceutical agents for use in diagnosis of another in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: (7-1-93)

a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to obtain and use topically applied diagnostic pharmaceutical agents shall obtain, from pharmacists licensed by the state of Idaho, or from any other source, and use only those agents listed below: (7-1-93)

i. Anesthetics (7-1-93)

(a) Proparacaine 0.5% (7-1-93)

(b) Tetracaine 0.5%. (7-1-93)

(c) Benoxinate 0.4% c fluorescein. (7-1-93)

ii. Cycloplegics. (7-1-93)

(a) Tropicamide 0.5%. (7-1-93)

(b) Cyclopentolate 0.5%. (7-1-93)

(c) Atropine 0.5%. (7-1-93)

- iii. Mydriasis Reversal Agents. (7-1-93)
- (a) Dapiprazole HCl 0.5%. (7-1-93)
- b. The Board of Optometry shall issue a certificate to obtain and use the diagnostic drugs specifically identified and listed in this rule to any optometrist licensed to practice in Idaho who complies with both the minimum educational requirements in the subject of general and ocular pharmacology and the minimum continuing educational requirements set out below: (7-1-93)
- i. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall have completed courses totaling 55 hours of actual classroom instruction in general and ocular pharmacology and emergency medical care given by an institution approved by the Council on Post Secondary Accreditation of the U.S. Department of Education or an instructor accredited and employed by such institution and which have been approved by the Board of Optometry. (7-1-93)
- ii. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall also have completed a refresher course in cardiopulmonary resuscitation (CPR), emergency medical care provided by the Emergency Medical Services Bureau, or equivalent program either approved or provided by the Board of Optometry, within a two-year period preceding issuance of the certificate by the Board of Optometry. (7-1-93)
- iii. In order to maintain the certificate issued by the Board, each certified optometrist must complete a refresher course in emergency medical care described in Subsection 600.01.b.ii. above once during each two-year period following certification and shall list and describe the course attended and the dates of attendance upon a license renewal application form filed pursuant to Section 300. (7-1-93)
- ~~iv. Prior to July 1, 1982, the Board may issue temporary certificates to those optometrists who have completed the 1976 Pacific University Pharmacology course previously sponsored by the Board of Optometry and who certify that they are obtaining the additional equivalent hours of instruction in general and ocular pharmacology and emergency medical care approved by the Board of Optometry. (7-1-93)~~
- c. In order to implement this rule, the Board of Optometry may designate and approve courses of instruction given by those institutions or instructors described in Subsection 600.01.b.i. above which may be necessary to provide practicing optometrists who have received less than fifty-five (55) hours of actual classroom instruction in general and ocular pharmacology in optometry school with the opportunity to meet the requirements of this rule. (7-1-93)
02. The Right To Prescribe, Administer And Dispense Therapeutic Pharmaceutical Agents. The right to prescribe, administer and dispense therapeutic pharmaceutical agents in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: (11-6-93)
- a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to prescribe, administer and dispense therapeutic pharmaceutical agents shall obtain, from pharmacists licensed by the State of Idaho, or from any other source, and use only those agents listed below: (11-6-93)
- i. All topical ophthalmic products having documented optometric use in the human eye or eye lid. All oral medications having documented use in the treatment of the human eye and/or eye lid excluding Schedule I and II narcotics. (8-24-94)
- ii. All over-the-counter agents. (11-6-93)
- iii. Such other therapeutic pharmaceutical agents as may be approved by the Board of Optometry. (11-6-93)
- b. The Board of Optometry shall issue a certificate to prescribe, administer and dispense the therapeutic medications specifically identified and listed in Subsection 600.02.a. to any optometrist licensed to practice in Idaho who complies with Section 600.01 and both the minimum educational and clinical experience requirements in the subject of ocular pharmacology and therapeutics and the minimum continuing educational

requirements set out below: (7-1-93)

i. Completion of a minimum of one hundred hours of actual classroom and clinical instruction in ocular pharmacology and therapeutics courses given by an institution or organization approved by the Council on Post-Secondary Accreditation of the U.S. Department of Education, or an Instructor employed by such institution, which have been approved by the Board of Optometry. (7-1-93)

ii. Successful passage of the "Treatment and Management of Ocular Diseases" section of the optometrist examination approved by the International Association of Boards of Examiners in Optometry, Inc. (IAB). (11-6-93)

iii. Such other therapeutic pharmaceutical agents as may be approved by the Board of Optometry. (11-6-93)

b. The Board of Optometry shall issue a certificate to prescribe, administer and dispense the therapeutic medications to any optometrist licensed to practice in Idaho who complies with Subsection 600.01 and both the minimum educational and clinical experience requirements in the subject of ocular pharmacology and therapeutics and the minimum continuing educational requirements set out below: (11-1-95)T

i. Completion of a minimum of one hundred (100) hours of actual classroom and clinical instruction in ocular pharmacology and therapeutics courses given by an institution or organization approved by the Council on Post-Secondary Accreditation of the U.S. Department of Education, or an Instructor employed by such institution, which have been approved by the Board of Optometry. (7-1-93)

ii. Successful passage of the "Treatment and Management of Ocular Diseases" section of the optometrist examination approved by the International Association of Boards of Examiners in Optometry, Inc. (IAB). (11-6-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.11.01 - RULES GOVERNING THE STATE BOARD OF PODIATRY
DOCKET NO. 24-1101-9601
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 54-605 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 a statement in nontechnical language of the substance of the proposed rules: The proposed changes will: remove reference in rules regarding requirements for podiatric residency; update language on certified copy of national board results; update language on photograph requirement; increase application and licensure without written examination fee; establish that examination of applicants shall be conducted by the whole board or its designated agents or representatives; establish that the board will interview applicants to certify their eligibility for licensure during January of each year; clarify examination dates will be the written national examination dates; establish the original application will be considered null and void after two years from date of original application if no license has been issued.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, 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 September 25, 1996.

DATED this 22nd day of July, 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. 24-1101-9601

~~152. PODIATRIC RESIDENCY.~~

~~An applicant shall possess evidence of completion of one (1) year podiatric residency. (9-28-94)~~

~~153. -- 199. (RESERVED).~~

200. CREDENTIALS TO BE FILED BY ALL APPLICANTS (Rule 200).

01. Application. An application shall be completed by all applicants for licensure upon a form prescribed by the state board of podiatry which must be submitted ~~thirty (30)~~ ninety (90) days before the date of examination, and is not returnable. (7-1-93)()

02. Certified Copy of National Board Results. ~~A Certified~~ copy of the applicable National Board results

which has been certified as true and correct by the examining entity. (7-1-93)()

03. Photograph Requirement. All applications shall be accompanied by an unmounted passport type photograph, ~~size three inches by three inches (3" x 3") (head and shoulders) only~~, taken not more than one (1) year prior to the date of application, which fact shall be attested to by the applicant's signature across the bottom of the picture and attested to before a public officer authorized to administer oaths. Informal pictures or snapshots are NOT acceptable. (7-1-93)()

04. Educational Certificate Requirement. Each applicant may be required to furnish a certificate executed by proper authority proving that he or she graduated from a four (4) year high school, or school of equivalent standing, and a certificate proving the extent of his collegiate education to be not less than two (2) years in an accredited college or university giving instruction in letters and sciences. (7-1-93)

05. Diploma. Certified photostatic copy of diploma granted by any college of podiatry and copy of official transcripts indicating graduation from the program. (9-28-94)()

~~06. Residence Certification Requirement. All applications shall include certification of one (1) year podiatric residency. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

300. FEES (Rule 300).

01. Application Fee. A fee shall accompany all applications. The fee shall be ~~four~~ two hundred dollars (\$~~4200~~). ~~for licensure by written examination. If an applicant fails the written examination, he shall not be entitled to rewrite the examination without payment of another fee of four hundred dollars (\$400).~~ (7-1-93)()

02. Original License Fee. The original license fee shall be one hundred dollars (\$100). ()

~~023. Fee For Licensure Without Written Exam Fee. Licensure without written examination pursuant to Section G 401 of these rules shall be two hundred dollars (\$200). The fee for examination shall be that charged by the national examining entity, together with an additional twenty-five (\$25) dollar administrative fee. (7-1-93)()~~

~~034. Annual Renewal Fee. Fee for annual renewal of licenses, one hundred dollars (\$100) on or before the first day of July of each year. (7-1-93)~~

05. Re-Exam Fee. For candidates re-examining for the written and oral/practical examinations or written examination only, the fee for re-examination will be four hundred dollars (\$400). For candidates re-examining for the oral/practical only, the fee shall be two hundred dollars (\$200). ()

046. Fee Non-Refundable. No fee shall be returnable. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

400. LICENSURE BY WRITTEN EXAMINATION (Rule 400).

01. Examination of Applicants. Examination of applicants shall be conducted by the whole board or a ~~quorum of the whole board. A quorum shall consist of three (3) members of the board~~ by its designated agents or representatives. (7-1-93)()

02. Exam Required For Licensure. Except as provided in Section 401., of these rules, no person shall be licensed to practice podiatry unless he or she shall have passed a written examination given by the board. (7-1-93)

03. Interview of Applicants by Board. The Board will personally interview all applicants ~~applying to~~

~~write the examination and certify that they are eligible to certify their eligibility for licensure during January of each year.~~ (7-1-93)(____)

04. Exam Dates. Written National Examinations shall be held at Boise, Idaho, the second Tuesday of June and optional December examination of each year and at such other times as the board shall direct. (7-1-93)(____)

05. Passing Grade. No applicant shall be granted a license unless he attains a passing grade as determined by the board in all subjects examined and a general average of seventy-five (75%) percent as established in Section 54-606, Idaho Code. (9-28-94)

06. Failure of Exam. An applicant failing in the examination shall be entitled within six (6) months to a reexamination upon the payment of an additional fee as established in Section 300. (9-28-94)

07. Failure of Reexam. An applicant who fails the examination on two (2) such reexaminations shall exhaust his privilege under his original application. (9-28-94)

08. Original Application. The original application will be considered null and void after a period of two (2) years from date of original application if no license has been issued. (____)

401. LICENSURE WITHOUT WRITTEN EXAMINATION (Rule 401).

01. Practical and/or Oral Examination. The board ~~may~~will require a practical and/or oral examination if it deems it necessary to determine the qualifications of an applicant. The practical and/or oral examination shall be conducted by the board at a time and place convenient to the board and shall cover subjects relating to podiatry which the board feels necessary. (9-28-94)(____)

02. Special Qualifications. Applicants for licensure under this section shall file all the credentials as provided in Section 200. and in addition shall provide a certified copy of the subjects and the grades obtained by written examination in some other state or territory or through the national board of podiatry examiners. Such examination must have been taken and passed within the preceding five (5) years from date of this application. Proof must be submitted that he or she meets the requirements of this section. Applicants must appear in person before the whole board or a quorum of the whole board and shall accompany their application with a fee of two hundred dollars (\$200), which fee shall be not returned if for any reason license is not granted. (9-28-94)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.15.01 - RULES OF THE IDAHO COUNSELOR LICENSING BOARD

DOCKET NO. 24-1501-9501

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules are effective upon approval of the Idaho Legislature at it's next session.

ACTION: The action, under Docket No. 24-1501-9501, concerns the pending adoption of rules governing the Idaho Counselor Licensing Board, IDAPA 24, TITLE 15, Chapter 01, Rules of the Idaho Counselor Licensing Board.

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 54-2914, Idaho Code.

DESCRIPTIVE SUMMARY: There are no substantive changes from the proposed rule text that published in the November 1, 1995 Administrative Bulletin, Volume 95-11, pages 133 through 139, and the March 6, 1996 Administrative Bulletin, Volume 96-3 page 9.

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

DATED this 12th day of July, 1996.

Dee Ann Randall
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IDAPA 24
TITLE 15
Chapter 01

RULES GOVERNING THE IDAHO COUNSELOR LICENSING BOARD

There are no substantive changes
from the proposed rule text.

The original text was published in the Idaho
Administrative Bulletin, Volume 95-11 ,
November 1, 1995, page 133 through 139
and Administrative Bulletin Volume 93-6,
March 6, 1996, page 9.

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
24.18.01 - RULES GOVERNING THE IDAHO REAL ESTATE APPRAISER BOARD
DOCKET NO. 24-1801-9601
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 54-4106, 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 a statement in nontechnical language of the substance of the proposed rules: The proposed change will clarify that only the preceding five (5) years work experience will be eligible for evaluation by the Board.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, 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 September 25, 1996.

DATED this 22nd day of July, 1996.

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
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(208) 334-3233
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TEXT OF DOCKET NO. 24-1801-9601

299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (Rule 299).

All applicants for licensure/certification in any real estate appraiser classification must meet the following requirements in addition to those requirements set forth in Sections 300, 350 and 400 below. (10-23-95)T

01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of The Appraisal Foundation. (10-23-95)T
02. Education. (10-23-95)T
 - a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to the educational offering. (10-23-95)T
 - b. Credit for the classroom hour requirement may be obtained from the following: (10-23-95)T
 - i. Colleges or Universities. (10-23-95)T

- ii. Community or Junior Colleges. (10-23-95)T
 - iii. Any member of the Appraisal Foundation. (10-23-95)T
 - iv. State or Federal Agencies or Commissions. (10-23-95)T
 - v. Other providers approved by the Board. (10-23-95)T
- c. Only those courses completed within the ten (10) years immediately preceding the date of application will be accepted for meeting educational requirements, except for the Uniform Standards of Professional Appraisal Practice, and Code of Ethics as noted in Sections 300.02.a.; 350.02.a.; 400.02.a. (10-23-95)T
- d. The Board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided the Board is satisfied with the quality of the challenge examination that was administered by the course provider. (10-23-95)T
- e. Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (10-23-95)T
- i. Influences on Real Estate Value. (10-23-95)T
 - ii. Legal Considerations in Appraisal. (10-23-95)T
 - iii. Types of Value. (10-23-95)T
 - iv. Economic Principles. (10-23-95)T
 - v. Real Estate Markets and Analysis. (10-23-95)T
 - vi. Valuation Process. (10-23-95)T
 - vii. Property Description. (10-23-95)T
 - viii. Highest and Best Use Analysis. (10-23-95)T
 - ix. Appraisal Statistical Concepts. (10-23-95)T
 - x. Sales Comparison Approach. (10-23-95)T
 - xii. Site Value. (10-23-95)T
 - xiii. Cost Approach. (10-23-95)T
 - xiv. Income Approach. (10-23-95)T
 - xv. Valuation of Partial Interests. (10-23-95)T
 - xvi. Appraisal Standards and Ethics. (10-23-95)T
- f. Advanced courses will be those courses for which an introductory or basic course is required. Typically classes titled "Introductory", "Basic", or "Principles" will not be accepted for advanced requirements. (10-23-95)T
- 03. Experience. (10-23-95)T

a. The work product claimed for experience credit must be in conformity with the Uniform Standards of Professional Appraisal Practice or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (10-23-95)T

b. A year of experience is equal to a minimum of one thousand (1,000) hours worked during a consecutive twelve (12) month period. Regardless of the number of experience hours submitted or obtained during any twelve (12) month period, no more than one thousand (1,000) of those hours may be credited to meet this requirement. Hours obtained in excess of one thousand (1,000) hours during any consecutive twelve (12) month period may not be credited or carried over into the next twelve (12) month period. (10-23-95)T

c. Only experience gained during the five (5) years preceding application will be considered for evaluation. ()

d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, feasibility analysis/study and teaching of appraisal courses. (10-23-95)T

e. An appraiser applying for certification/licensure must verify his completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (10-23-95)T

i. To demonstrate experience the Board requires submission of a log which details hours claimed for experience credit. (10-23-95)T

ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (10-23-95)T

iii. The Board may request submission of written reports or file memoranda which substantiate an applicant's claim for experience credit. (10-23-95)T

ef. Ad valorem tax appraisers who demonstrate that they use techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience will receive experience credit. (10-23-95)T

IDAPA 29 - IDAHO POTATO COMMISSION
29.01.02 - RULES OF THE IDAHO POTATO COMMISSION
DOCKET NO. 29-0102-9601

NOTICE OF PENDING AND TEMPORARY RULE

EFFECTIVE DATE: The temporary rules are effective January 3, 1996. 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 Sections 67-5224 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending/temporary rule. The action is authorized by Sections 22-1207 and 22-1213, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement for the reasons for adopting the pending/temporary rule and a statement of any change between the text of the proposed rule and the text of the pending/temporary rule with an explanation of the reasons for any change.

This rule sets forth the technical requirements for labeling potato containers to provide consumers with better information as to the variety of potato being purchased. The rule has a transition period so that existing container supplies can be exhausted before compliance is required. The agency has acted in the interest of the public health, safety, and welfare so as to avoid the economic hardship that could result if large quantities of unused containers were wasted. The temporary rule did not go into effect until publication, industry-wide meetings explaining the rule have occurred, and the trade organizations representing the three segments of the potato industry (growers, shippers and processors) all supported the proposed change.

While no request was made for a public hearing, the Commission did accept public comment on the temporary rule at its monthly meeting on February 15, 1996. All persons commenting on the temporary rule were supportive of the proposed change.

The Commission heard testimony regarding trends in the produce industry. It was pointed out that several commodities, such as apples, pears, mushrooms and peaches have found variety labeling to be important to the continued success of their programs. The Commission also found that the proposed change to the rule was consistent with its statutory obligation to consumers of Idaho potatoes.

There were no substantive changes to the text of the proposed rule as temporarily adopted, and as adopted by the Commission at its February 15, 1996 meeting.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule is reasonably necessary to protect the public welfare.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact:

Patrick J. Kole, Moffatt, Thomas, Barrett, Rock & Fields, Chartered, Attorneys for Idaho Potato Commission, Post Office Box 829, Boise, Idaho 83701, (208) 345-2000.

Dated this 15th day of February, 1996.

Patrick J. Kole
Moffatt, Thomas, Barrett, Rock & Fields, Chartered
Attorneys for Idaho Potato Commission

IDAPA 29
TITLE 01
Chapter 02

RULES GOVERNING IDAHO POTATO COMMISSION

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-1, January 3, 1996
Pages 365 through 368.**

**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 35 - IDAHO STATE TAX COMMISSION

35.01.02 - SALES AND USE TAX RULES

DOCKET NO. 35-0102-9601

NOTICE OF PROPOSED RULE

ACTION: The action, under 35-0102-9601, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA. 35, Title 01, Chapter 02, Rules Governing Sales Tax.

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 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: A 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 026. Rule 026 discusses the sales tax treatment of certain leases formerly described in the Internal Revenue Code Section 168(f)(8). This section of the Internal Revenue Code was repealed some time ago. Therefore, the rule is obsolete and needs to be repealed.

RULE 031. Rule 031 currently requires the amount charged for telecommunications services to be separately stated from amounts charged for sales or rentals of communications equipment. This language is obsolete after the Legislature enacted H.B. 834, the exemption for sales and purchases of cellular telephones and other communications equipment. Also, some nonsubstantive, grammatical and stylistic changes are required.

RULE 043. Rule 043 contains statements about the imposition of sales tax on delivery and handling charges which are incorrect since the Legislature enacted H.B. 528. Also, some nonsubstantive, grammatical and stylistic changes are required.

RULE 054. Rule 054 contains some statements in subsections 04.d and 04.e which the Idaho Supreme Court indicated may be unconstitutional in *K Mart v. State Tax Commission*. (727 P.2d 1147, 111 Idaho 719). These two subsections are being struck from the rule.

RULE 061. Rule 061 contains statements about the imposition of sales tax on delivery and handling charges which are incorrect since the Legislature enacted H.B. 528. Also, some nonsubstantive, grammatical and stylistic changes are required.

RULE 077. Rule 077 is being amended to add a subsection allowing the Tax Commission to enter into agreements with INEL contractors whereby the contractor could accrue use tax using the assumption that all purchases coded to certain accounts, such as "indirect costs", are taxable, while all purchases coded to other accounts are exempt. Since the accounting procedures required by the Department of Energy are so rigorous, this should result in a lessening of the administrative burden on both the contractors and the Tax Commission while ensuring that the contractors will accrue substantially all of the sale or use tax due. Also, nonsubstantive grammatical corrections are being made.

RULE 099. Rule 099 must be amended after the enactment of H.B. 614. This bill extended the exemption for sales between related parties to leases and rentals of capital assets.

RULE 101. Rule 101 contains a subsection on short term rentals of trucks qualifying for the I.R.P. exemption found in Idaho Code § 63-3622R. This subsection is not required by the statute and is being struck from the rule.

RULE 107. Rule 107 contains an incorrect statement about the weight requirement for the exemption for motor

vehicles sold to non-residents. This statement is being struck from the rule. Also being struck is some obsolete language about prior legislative changes.

RULE 109. Rule 109 contains a statement about the transferability of amusement device permits which was changed by the enactment of H.B. 528 in 1996. The amendment corrects this statement.

RULE 112. Rule 112 is being amended to clarify that direct pay authorization holders are required to pay the sales tax on purchases even if use tax is not due. This is not a change to the existing rule. Also, the rule is being amended to provide a procedure for revocation of direct pay authorizations and to provide for automatic expiration if the holder does not renew the authorization.

RULE 122. Rule 122 contains a cross-reference to the Former Income Tax Rule 132. Since the rule is being renumbered and retitled, the sales tax rule must be corrected as well.

RULE 123. Rule 123 contains repetitious language about the incorporation of the penalty sections of the Income Tax Act and Rules. This language is being deleted.

RULE 124. Rule 124 is being amended to reflect the creation of the Idaho Tax Commission Administration and Enforcement Rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact James Husted 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 September 26, 1996.

Dated this 24th day of July, 1996.

James Husted
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, Id 83722
(208) 334-7530

TEXT OF DOCKET NO. 35-0102-9601

026. ~~SAFE HARBOR LEASES. (RESERVED).~~

~~01. Safe Harbor Lease. Section 168(f)(8), Internal Revenue Code, creates a safe harbor for certain nominal lease transactions which otherwise may not be treated as true leases. The provisions of Section 168(f)(8), Internal Revenue Code, guarantee that a nominal lease transaction meeting the qualifications in that section will be treated, for purposes of allowing federal investment credits and capital cost recovery allowances on federal income tax returns only, as if it were a true lease. These federal statutory provisions do not apply for Idaho sales tax purposes. (7-1-93)~~

~~02. Sales Tax on a Sale or Lease-back. For sales tax purposes, a lease transaction or a sale and lease-back transaction which qualifies for treatment as a lease for federal income tax purposes only as a result of the provisions of Section 168(f)(8), Internal Revenue Code, is deemed to be a sale of intangible property, i.e., the federal tax benefits transferred between the parties, and not as a sale or lease of tangible personal property. (7-1-93)~~

~~03. Transfer of Intangible Property. For purposes of this rule, a lease transaction or a sale and lease-back transaction is considered to be a transfer of intangible property if the transaction qualifies for treatment as a lease under Section 168(f)(8), Internal Revenue Code, and meets most or all of the following criteria: (7-1-93)~~

- a. ~~There is no transfer of beneficial use.~~ (7-1-93)
- b. ~~There is no transfer of possession.~~ (7-1-93)
- e. ~~There is no transfer of title.~~ (7-1-93)
- d. ~~There is no transfer of residual value.~~ (7-1-93)
- e. ~~There is no transfer of insurability.~~ (7-1-93)
- f. ~~There is no transfer of risk.~~ (7-1-93)
- g. ~~The transaction is entered into solely for income tax purposes.~~ (7-1-93)
- 04. ~~State Income Tax Treatment of Safe Harbor Leases. See Idaho income tax rules for treatment of safe harbor leases for state income tax purposes.~~ (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

031. RADIO AND TELECOMMUNICATIONS EQUIPMENT AND LAND MOBILE RADIO SERVICE OF SYSTEMS.

- 01. General Rule and Scope. ~~Sales and purchases of communication~~ ~~Communication~~ equipment and land mobile radio systems are subject to sales and use tax. This rule describes sales and use tax treatment of telephone terminal equipment or services and land mobile radio systems or service. (7-1-93)(____)
- 02. Telephone Terminal Equipment and Services. (7-1-93)
 - a. Telephone terminal equipment includes, but is not limited to, desk sets, PBX systems, automated answering equipment, cellular telephones and mobile radio telephones ~~and decorator style phones~~. All lessors, or sellers, or both, of this type of equipment are required to obtain seller's permits, and must collect and remit sales tax on the retail sales price or lease price. (7-1-93)(____)
 - b. ~~Separately stated fees~~ Fees for access charges, toll charges, call waiting, call forward, message recording, and similar charges to customers are not subject to the sales tax. (7-1-93)(____)
- 03. Land Mobile Radio Systems or Services. (7-1-93)
 - a. Generally, land mobile radio systems or services are defined by 47 Code of Federal Regulations, Section 90.7. (7-1-93)
 - b. ~~For purposes of this rule, providing~~ Sales of terminal equipment or customer premises equipment are taxable. ~~shall constitute a taxable sale or lease.~~ (7-1-93)
 - e. Terminal and customer premises equipment shall include handsets, mobile telephones, antennae, and like or similar property. (7-1-93)(____)
 - d. ~~If the purchase or lease amount is stated on a monthly or periodic billing, sales tax shall be imposed and collected on such amount. Statement of such amount must be separated from statement of amount of access charge or like or similar charge.~~ (7-1-93)
 - ec. Separately stated fees for labor rendered to install or apply terminal or customer premises equipment on premises or in facilities under the dominion and control of the consumer are not subject to sales tax. (7-1-93)

~~fd.~~ ~~Separately stated fees~~ Fees for access charges, toll charges, and similar charges are not subject to the sales tax. (7-1-93)(____)

04. Provider Equipment. Equipment or tangible personal property used in receiving or transmitting, other than terminal or customer premises equipment, shall be deemed purchased for use by the owner or provider of the telephone or land mobile radio system or service, and subject to sales or use tax on his purchase cost. The owner or provider of telephone or land mobile radio systems or services will be deemed the consumer of other tangible personal property which he purchases and which is used for other purposes including, but not limited to, office supplies, repair equipment, accounting or customer billing equipment, and equipment or devices or other property used to maintain or repair land mobile radio systems or services. (7-1-93)

05. Drop-in Equipment and Inside Wiring. (7-1-93)

a. Drop-in equipment and inside wiring shall include wires, plugs, sockets, receptacles, connectors and similar items which are or become improvements or accessions to real estate, and which are useful or necessary to bring telephonic or radio communication transmissions from a source outside the premises of the user, for example, telephone pole or transmitter, to terminal equipment within the user's premises. (7-1-93)

b. ~~Sales and purchases of Drop-in~~ drop-in equipment and inside wiring shall be subject to sales or use tax as tangible personal property consumed by a contractor improving real estate, and persons installing drop-in equipment and inside wiring shall be considered contractors for the purposes of such installations. See ISTC-Idaho Sales Tax Administrative Rule 12 for tax treatment of contractors. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

043. SALES PRICE OR PURCHASE PRICE DEFINED.

01. Sales Price and Purchase Price. The term sales price and purchase price may be used interchangeably. Both mean the price paid by the customer or user to the seller including: (7-1-93)

a. The cost of ~~transportation prior to sale~~ transporting goods to the seller. See ISTC-Idaho Sales Tax Administrative Rule 61. (7-1-93)(____)

b. Manufacturer's or importer's excise tax. See ISTC-Idaho Sales Tax Administrative Rule 60. (7-1-93)(____)

c. Services agreed to be rendered as part of the sale, ~~such as handling charges and other separately states expenses~~. (7-1-93)(____)

d. Separately stated labor charges to produce or fabricate made to order goods. See ISTC-Idaho Sales Tax Administrative Rule 29. (7-1-93)(____)

02. Charges Not Included. Sales price does not include charges for interest, carrying charges, amounts charged for insurance on the property sold, or any financing charge. These various charges may be deducted from the total sales price if they are separately stated in the contract. In the absence of a separate statement, it will be presumed that the amount charged is part of the total sales price. (7-1-93)

03. Gratuities. A gratuity is defined as something given voluntarily or beyond obligation. Gratuities may sometimes be referred to as tips. (7-1-93)

a. When a gratuity is given directly to employees by the purchaser in the form of cash or the PURCHASER adds a nonsolicited gratuity to his bill, charge card voucher form, or house account form, no sales tax applies to the gratuity. (7-1-93)

b. When an amount is added to a customer's bill by the retailer and the customer is advised IN WRITING on the face of the bill that he may decline to pay all or part of the amount, that amount is a gratuity. Sales tax will not apply to the gratuity. (7-1-93)

c. When an amount is added to a customer's bill by the retailer, and the customer is not advised IN WRITING on the face of the bill that he may decline to pay all or part of the amount, it is not a gratuity and the fee so added is subject to the sales tax. (7-1-93)

d. When a gratuity is negotiated BEFORE THE SALE, such as in the case of a banquet, tax must be charged on the entire fee so negotiated. Because of the negotiation, the fee loses its identity as a gratuity and becomes a service charge and part of the purchase price of the meal. See subsection 04 of this rule. (7-1-93)

04. Service Charges. Amounts designated as service charges, added to the price of meals or drinks, are a part of the selling price of the meals or drinks and accordingly, must be included in the purchase price subject to tax, even though such service charges are made in lieu of tips and paid over by the retailer to his employees. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

054. PERSONS ENGAGED IN PRINTING.

01. Private Printing Plants. Persons operating private printing plants in conjunction with their principal business must pay sales or use tax on the purchase of equipment and supplies used to produce display signs, advertising brochures, and other materials for their own consumption. (7-1-93)(____)

02. Printing Upon Special Order. Persons primarily engaged in the printing of tangible personal property upon special order for a consideration may purchase equipment and supplies directly used to produce such property exempt from sales or use tax. (7-1-93)

a. The sale of typography, art work, photoengraving, electros, mats, stereotypes, hand or machine composition, lithographic plates or negatives, electrotypes, etc., to a person primarily engaged in the printing of tangible personal property for a consideration, and to be used directly by such person shall be deemed essentially sales of service or exempt materials and not taxable. (7-1-93)

b. When purchasing goods exempt from tax, the printer must provide the seller with a properly completed exemption certificate. See ~~ISTC~~ Idaho Sales Tax Administrative Rule 75. (7-1-93)(____)

03. Sales by Persons Engaged in Printing. ~~The receipts derived from sales~~ Fees charged to ultimate consumers for printing of tangible personal property upon special order are taxable. (7-1-93)(____)

a. Printing of tangible personal property shall include imprinting and all processes or operations connected with the preparation of paper or paper like substances, the reproduction thereon of characters or designs and the alteration or modification of such substances by finishing and binding. (7-1-93)

b. Upon such final sales, charges for materials, labor and production of fabrication or typography, author's alterations, art work, photoengravings, electros, mats, stereotypes, hand or machine composition, lithographic plates or negatives, electrotypes, etc., and binding and finishing services shall be included in the selling price and the tax shall be computed upon such selling price whether the various charges are separately stated or not. (7-1-93)

c. The following charges, if separately stated, shall not be included in the selling price: charges for furnishing government postage as part of the printed item, and charges for addressing, stamping, sealing, inserting or wrapping in connection with the operation of a direct mail advertising in which items of tangible personal property and service are supplied. (7-1-93)

04. Advertising Inserts. As used in this rule, advertising inserts means printed advertising distributed

concurrently with, but printed separately from, a newspaper, magazine, or other publication. (7-1-93)

a. The sale of advertising inserts by a printer or other supplier to an advertiser for use by the advertiser in the promotion of its business or products, and not for resale by the advertiser, is a retail sale of tangible personal property subject to sales tax. If, for any reason, the seller of the advertising inserts fails to collect sales tax on the sale of the advertising inserts to the advertiser, the advertiser is subject to use tax on its use of advertising inserts in Idaho. (7-1-93)

b. When an advertiser contracts for the distribution of advertising inserts to locations within this state, a taxable use by the advertiser occurs. The contracted distribution constitutes an exercise of right or power over the advertising inserts by the advertiser. The person performing the distribution services may be a publisher, printer, distributor of a newspaper, magazines, or other publication, or any other person performing distribution services. (7-1-93)

c. A contract between an advertiser and a publisher of a newspaper, magazine, or other publication, whereby the publisher sells advertising space in its publication is not a sale subject to sales or use tax. (7-1-93)

~~d. A contract between an advertiser and a publisher of a newspaper, magazine or other publication, whereby the publisher prints advertising inserts for distribution with the publisher's publication is not a sale of tangible personal property subject to sales or use tax if no title or right to possession or control of the advertising inserts is conveyed from the printer or publisher to the advertiser. (7-1-93)~~

~~e. For purposes of subsection 04.d. of this rule, the term publisher's publication means any newspaper, magazine, or other publication printed by the same person, as defined in Section 63-3607, Idaho Code, who prints the advertising inserts. (7-1-93)~~

05. Labels and Other Printed Matter Sold to Manufacturers. Sales of labels or name plates, and the printing thereon, to manufacturers, producers, or wholesale merchants where the purpose of the purchaser is to affix the label or name plate to his own product, or the container thereof will not be taxable. (7-1-93)

a. Sale of package inserts, individual folding boxes and setup boxes, and the printing thereon to manufacturers, or producers, to accompany their own manufactured products, and to pass to the ultimate consumer upon final sales of the manufactured product contained or described therein, shall be deemed made for the purpose of resale. (7-1-93)

b. Sale of direction sheets, instruction books, or manuals to a manufacturer, producer, wholesale or retail merchant, to be supplied with his product at no separate charge, are not taxable. If a separate charge is made for such sheets, books, manuals, or pamphlets, the manufacturer, etc., shall collect the tax from the consumer. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

061. TRANSPORTATION, ~~AND~~ FREIGHT, AND HANDLING CHARGES.

01. In General. Whether or not transportation and handling charges are separately stated, the sales price includes any charges made for ~~transporting the commodity prior to the time of sale to the buyer~~ delivery of goods to the seller. Charges for transportation and handling of goods to the consumer subsequent to the sale and occurring at a time when the goods sold lie completely within the control of the buyer are not included as a part of the sales price regardless of when title passes. (7-1-93)()

02. Time of Sale. For the purpose of determining the time of sale, the sale will be deemed to have occurred at the time title to the property passes from the seller to the buyer. For the purposes of determining when title passes from the seller to the buyer, the rules of the Uniform Commercial Code, Sections 28-2-401 or 28-2-327, Idaho Code, shall apply. (7-1-93)

03. Delivery by Seller. However, notwithstanding any of the above, if transportation of the commodity

is by the seller to the final purchaser as a separately contracted service to the final purchaser, then these transportation charges are not subject to the sales tax, if separately identified, regardless of when title passes. (7-1-96)

~~0402.~~ Charges Not Separately Stated. Regardless of other provisions of this rule, transportation and handling charges which are not separately stated are included ~~Idaho Sales Tax Administrative Rules 061.04. -09.~~ in the sales price subject to tax. (7-1-93)()

~~0503.~~ Example 1: Delivery by Retailer. A purchaser places an order with a retailer for building materials. The retailer delivers the goods to the purchaser by means of the retailer's delivery van. A separately stated charge for transportation of the goods is billed to the purchaser. As the seller provided the transportation of the goods to the final purchaser, the charge for the transportation is not subject to the sales tax as provided by subsection 03 of this rule, regardless of where or when title passes. Charges for Delivery to the Seller. A customer orders goods from a retailer. The goods are shipped to a catalog store where the customer picks them up. A charge to the customer for delivery to the store is a charge for delivery to the seller and is included in the sales price subject to sales tax. (7-1-93)()

~~0604.~~ Example 2: F.O.B. Destination. A purchaser places an order with a retailer for building materials to be shipped from the retailer's store to the purchaser by means of a common carrier. The terms of shipment are freight on board, f.o.b. destination, title to the goods passes to the purchaser at destination. The transportation is not provided by the seller, it is instead provided by common carrier. Therefore, the provisions of subsection 03 of this rule do not apply. As title passes to the purchaser at destination, the transportation has occurred prior to the sale. The seller must charge sales tax on the entire sales price including the transportation charges. Freight- In Taxable. A seller of construction equipment orders a part for a customer. The seller separately states on the invoice charges for freight-in to the seller and freight-out to the consumer. The charges for freight-in are part of the sales price subject to sales tax. The charges for freight-out are not subject to sales tax. (7-1-93)()

~~0705.~~ Example 3: F.O.B. Origin. Using the circumstances of subsection 06., Example 2, with the exception that the terms of shipment are f.o.b. origin, title passes to the purchaser at origin. The retailer separately states the freight charges on the billing to the purchaser. The charge for the transportation is not subject to the sales tax as the transportation occurred after the sale at a time when the goods were in the control of the buyer. Delivery by Retailer. A consumer orders building materials from a retailer. The retailer delivers the goods to the purchaser by means of the retailer's delivery van. The retailer separately states the charge for transportation and handling of the building materials. Since the charge is for delivery to the consumer, it is not subject to sales tax. (7-1-93)()

~~0806.~~ Example 4: Charges for Transportation Between the Manufacturer and the Retailer. A purchaser orders a machine part from a retailer. The retailer does not have the part in inventory and orders the part from the manufacturer who ships the part to the retailer by common carrier. The purchaser picks up the part at the retailer's location. The retailer separately bills the transportation charge to the purchaser. The retailer must charge sales tax on the entire sales price including the transportation charge. The Uniform Commercial Code provides that title to goods cannot pass under a contract for sale prior to their identification to the contract, and that unless otherwise explicitly agreed, title passes to the buyer at the time and place at which the seller completes his performance with reference to physical delivery of the goods. In this example, the goods must be ordered from the manufacturer and therefore, have not been identified to the contract. Title cannot be deemed to have passed until the seller delivers the goods to the customer. The transportation has occurred prior to the sale and must be included in the measure of the taxable sale to the purchaser. Use of Transportation Charges as a means of Avoiding Sales Tax. Seller offers to give away merchandise worth approximately twenty dollars (\$20) if the purchaser pays shipping of nineteen dollars and ninety five cents (\$19.95). The entire price of nineteen dollars and ninety five cents (\$19.95) is subject to sales or use tax. (7-1-93)()

~~09.~~ Example 5: Manufacturer Shipping to the Purchaser. Using the same circumstances as in subsection 08, Example 4, with the exception that the manufacturer ships the goods by common carrier directly to the purchaser and bills the seller. If the goods are shipped F.O.B. origin, the freight charges will not be included in the amount subject to sales tax when billed by the seller to the purchaser. (7-1-96)

077. EXEMPTION FOR RESEARCH AND DEVELOPMENT AT INEL.

01. In General. An exemption is provided from sales and use taxes for The purchase of certain tangible

personal property ~~purchase~~ used in connection with certain activities at the Idaho National Engineering Laboratory is exempt from sales and use tax. To qualify for this exemption, the property must be tangible personal property primarily or directly used or consumed in research, development, experimental and testing activities, exclusively financed by the United States Government. (7-1-93)()

02. Qualifying Activity. Research, development, experimental, and testing activity means any activity of an original investigation, for the advancement of scientific knowledge in a field of laboratory science, engineering or technology and does not have an actual commercial application. (7-1-93)

03. Real Property. The exemption does not apply to real property or to tangible personal property which will become improvements or fixtures to real property. See ~~ISTC~~ Idaho Sales Tax Administrative Rules 12 and 67. (7-1-93)()

04. Incidental Use of Property. This exemption does not extend to the incidental use of any tangible personal property ~~of an incidental nature~~ which fails to meet the test of primarily primary or directly direct used use or consumed consumption. (7-1-93)()

a. Areas of support which are considered incidental include: communications equipment; office equipment and supplies; janitorial equipment and supplies; training equipment and supplies; dosimetry or radiation monitoring equipment which lacks the capability of giving an immediate indication and would not result in an immediate evacuation of personnel or shutdown of equipment; subscriptions or technical manuals which provide technology not primarily used or directly connected to the research activity; and hot and cold laundry operations. (7-1-93)

b. Materials of common support which are considered incidental include: clothing for weather protection or of a reusable nature; hand tools which are not subject to contamination at the time of initial use; protective coverings which are protection from other than radiation or are of a reusable nature; and all safety equipment and supplies which do not protect from direct radiation exposure. (7-1-93)

05. Property Directly Used or Consumed. Tangible personal property primarily or directly used or consumed in a research and development activity to perform quality assurance on research equipment is tax exempt. Items of a general support nature, such as coveralls, are taxable. (7-1-93)

06. Parts for Equipment. ~~The use of Tangible~~ tangible personal property which becomes a component part of research equipment being calibrated within a calibration lab is tax exempt; whereas, the use of parts for and equipment ~~used for in~~ calibrating or parts for the repair of other maintenance equipment is taxable. (7-1-93)()

07. Radioactive Waste. The initial containment or storage of radioactive waste is an exempt from taxes use. Any further processing or transporting of such waste not relating to a research and development activity is a taxable use. (7-1-93)()

08. Motor Vehicles. The purchase of any ~~any~~ motor vehicle licensed or required to be licensed by the laws of this state is taxable. (7-1-93)()

09. Agreements with Contractors. The Tax Commission may enter into agreements with contractors engaged in research at the INEL prescribing methods by which the contractor or contractors may accrue use tax based on the accounting procedures required by the U.S. Department of Energy. ()

(BREAK IN CONTINUITY OF SECTIONS)

099. OCCASIONAL SALES.

01. Occasional Seller. Sales of tangible ~~Tangible~~ personal property ~~sold~~ by an occasional seller ~~is~~ are exempt from sales and use tax. In order to qualify as an occasional sale, the seller must not make more than two sales of tangible personal property in a twelve (12) month period, nor hold himself out as engaged in the business of selling

tangible personal property. (7-1-93)()

a. If the sale does not qualify as an occasional sale, the seller become a retailer, is required to register for an Idaho seller's permit, and must collect and remit sales tax. See Section 63-3610, Idaho Code. (7-1-93)

b. Proof of occasional sale. An occasional seller of tangible personal property must provide a written statement to the purchaser if requested. An occasional seller of a transport trailer or office trailer may use Form ST-108BT to document his occasional sale claim. For occasional sales of other tangible personal property, the purchaser must obtain a written statement from the seller verifying that the seller is not a retailer and has made no more than one other sale of tangible personal property within the last twelve (12) months. The seller's name and address, the date, and the seller's signature must appear on the statement. The purchaser must retain the occasional sale statement provided by the seller as evidence that the purchase of the tangible personal property is not subject to use tax. (7-1-93)

c. Sales arranged by a third party are taxable. If any sales agent, licensed or unlicensed, participates in the sale of tangible personal property, the sale is taxable. See ~~ISTC~~ Idaho Sales Tax Administrative Rule 20. (7-1-93)()

02. Change in the Form of Doing Business. A change in the form of doing business qualifies for an occasional sale exemption when the ultimate ownership of the property is substantially unchanged. Example: The incorporation of a partnership qualifies for an occasional sale exemption when substantially all of the property owned by the partnership is transferred to the corporation, and the stockholders of the corporation own substantially the same proportion of the corporation's stock as they owned in the partnership interest as partners. (7-1-93)

03. Bulk Sale - Sale of an On-going Business. The sale of substantially all of the operating assets of a business or of a separate division, branch, or identifiable segment of a business qualifies for the occasional sale exemption if: (7-1-93)

a. The purchaser continues the same type of business operation; and (7-1-93)

b. Prior to the sale the income and expenses attributable to the separate division, branch, or identifiable segment can be determined from the accounting records and books. (7-1-93)

c. Example: Corporation X sells its entire wood products division to Corporation Y, which continues to operate it in substantially the same form. The transaction qualifies for an occasional sale exemption. (7-1-93)

04. Sale of a Motor Vehicle Between Family Members. Sales of motor vehicles between family members related within the second degree of consanguinity, blood relationship, qualify for the occasional sale exemption but only if the seller paid a sales or use tax when the motor vehicle was acquired. (7-1-93)

a. Example 1: A brother sells his automobile to his sister. The brother purchased the car from an Idaho dealer and paid Idaho sales tax on the original purchase. No tax applies to the sale of the vehicle to the sister. (7-1-93)

b. Example 2: A mother sells her automobile to her son for five thousand dollars (\$5,000). The mother is an Oregon resident and did not pay a sales or use tax when she purchased the automobile. The son, who is a resident of Idaho, must pay Idaho use tax on the five thousand dollar (\$5,000) purchase price of the automobile. (7-1-93)

05. Transfers Between Related Parties. Effective July 1, 1990, the transfer of capital assets between related parties qualifies for an occasional sale exemption, but only if the person transferring the asset has paid a sales or use tax when the asset was acquired. Exempt transfers between related parties include: capital assets transferred in and out of businesses by owners, partners, shareholders stockholders, when the transfer is made ONLY in exchange for equity in the business, and capital assets transferred between a parent corporation and its subsidiary, if the parent owns at least eighty percent (80%) of the subsidiary, and transfers between subsidiary corporations with a common parent, if the parent owns at least eighty percent (80%) of both, and if the transfers are made ONLY in exchange for stock or securities. (7-1-93)

a. Example: Two individuals ~~from form~~ a partnership. Each contributes a car in exchange for a percentage of ownership in the business. If each partner paid sales tax when he purchased his vehicle, no sales tax applies to the transfer of the vehicle into the partnership. (7-1-93)(____)

b. Example: Three individuals are equal partners in a construction business. They dissolve the partnership, and each person takes one-third (1/3) of the capital assets as his share of the equity in the business. If tax was paid on the assets when they were purchased by the partnership, sales tax does not apply to the transfer of the assets from the partnership to the co-owners. (7-1-93)

c. Example: A corporation-owned car is given to a shareholder as a bonus for special accomplishments. There is no change in the recipient's shareholdings. The shareholder must pay tax on the bonus based on the value of the car, regardless of whether the corporation paid tax when the car was purchased. The exemption does not apply because the transfer of the car did not change the shareholder's equity. (7-1-93)

06. ~~Sales and Rentals to Related Parties. Effective July 1, 1990, the~~ The sale of a capital asset to a related party qualifies for the occasional sale exemption, but only if the seller has paid sales or use tax when the asset was acquired or if the seller acquired the asset from a related party who paid sales tax on acquisition of the asset. Effective January 1, 1996, rentals and leases of capital assets between related parties will also qualify for the occasional sale exemption, but only if the initial related party paid sales tax upon acquisition of the asset. If the initial purchaser does not pay sales or use tax upon the purchase of a capital asset and then leases the asset to a related party, the lessor must collect and remit sales tax on the lease payments. The lease payments must also represent a reasonable rental value for the asset. Only SALES qualify for the exemption. A lease or rental of a capital asset to a related party does not qualify for the exemption. Exempt sales transactions between related parties include sales, rentals, and leases of capital assets other than aircraft, boats and vessels, snowmobiles, off-highway motorbikes, and recreational vehicles, as defined by Section ~~63-3622H, 63-3622HH, Idaho Code, to~~ such as the following: (7-1-93)(____)

a. ~~Sales to Family~~ members, but only if ALL parties to the sale are related within the second degree of consanguinity, relationship by blood, or affinity, relationship by marriage, i.e., spouses, children, parents, brothers, sisters, or ~~and~~ grandparents. Example: A father and son are the stockholders of Corporation A. This corporation sells a business asset to Proprietorship B, which is owned by the son's grandfather. This sale is exempt ~~under the new law,~~ as long as Corporation A paid sales tax when the asset was acquired. (7-1-93)(____)

b. ~~Identical ownership when~~ Sales in which the new owners are identical to the prior owners. Example: Corporation B owns one hundred percent (100%) of Corporation A. If ~~either~~ the initial purchaser paid tax when it acquired an asset, it may sell the asset to the other without tax. Example: John Doe owns one hundred percent (100%) of a corporation. He buys a truck and pays sales tax. He later sells the truck to his corporation. No tax applies to the sale of the truck to the corporation. Example: A and B each own fifty percent (50%) of a partnership. The partnership buys a capital asset and pays sales tax to the vendor. The partnership immediately leases the asset to Corporation C. A owns ten percent (10%) of Corporation C and B owns ninety percent (90%) of Corporation C. Since the percentages of ownership of the partnership and the corporation are not identical, the lease transaction does not qualify for the occasional sale exemption. The partnership must seek a refund of the sales tax paid on acquisition of the asset and collect and remit sales tax on the lease payments. Instead of selling his truck to the corporation, as in the example above, John Doe decides to lease the vehicle to his company. Since the exemption does not apply to lease, he must collect sales tax on this transaction. (7-1-93)(____)

07. Motor Vehicles. Sales of licensed motor vehicles are not considered occasional sales and are taxable, except under the provisions of subsections 099.02 through 06 of this rule. If a motor vehicle transfer qualifies for an exemption under Subsections 099.02 through 06 of this rule, written clearance must be obtained from the Commission prior to applying for an Idaho motor vehicle title. See ~~ISTC~~ Idaho Sales Tax Administrative Rule 107 regarding sales of licensed motor vehicles that do not qualify as occasional sales. (7-1-93)(____)

08. Sales of Business Assets. Also excluded from the category of occasional sales, other than as provided by subsection 06 of this rule, are sales of assets or other items of tangible personal property used in an activity requiring a seller's permit. Even though the item sold is not of the type normally sold by the seller in his regular course of business, the sale is subject to the tax. Example: A construction equipment dealership sells its office computer. Even though the seller does not normally sell computers, it must collect sales tax on the sale of the

computer as the computer is used in a business requiring a seller's permit. (7-1-93)

09. Taxable Sales of Aircraft, Boats, and Recreation-~~related~~Related Vehicles. ~~Effective July 1, 1988, the~~The occasional sale exemptions defined in Subsections 099.01 and 06 of this rule, ~~and effective July 1, 1990, the occasional sale exemption defined in subsection 06 of this rule, does~~ do not apply to the sale or purchase of the following: (7-1-93)()

a. Snowmobiles, including those required to be numbered as provided by Section ~~49-2604~~ 67-7102, Idaho Code. (7-1-93)()

b. Off-highway motorbikes and dual purpose motorcycles. A dual purpose motorcycle is designed for use off developed roadways and highways, but is also equipped to be legally operated on public roadways and highways. (7-1-93)

c. All-terrain vehicles, ATV's, but not including tractors. A tractor is a motorized vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other farm implements. (7-1-93)

d. Portable truck campers designed for temporary living quarters, but not including pickup shells or canopies that do not have a floor. (7-1-93)

e. Camping, park, travel, and fifth-wheel travel-type trailers which are designed to provide temporary living quarters. (7-1-93)

f. Motor homes. (7-1-93)

g. Buses and van-type vehicles when converted to recreational use as temporary living quarters and providing at least four of the following facilities: cooking; refrigeration or icebox; self-contained toilet; heating or air conditioning; a portable water supply system including a faucet and sink; and separate one hundred ten to one hundred twenty-five (110-125) volt electrical power supply or LP gas supply. (7-1-93)

h. Aircraft, meaning any device which is designed or used for navigation of or flight in the air, except a parachute or other device designed for such navigation but used primarily as safety equipment. See ~~ISTC~~ Idaho Sales Tax Administrative Rule 37 regarding other exemption provided for aircraft. (7-1-93)()

i. Boats or vessels, meaning every description of watercraft used or capable of being used as a means of transportation on water. Example: A nonretailer sells a boat and boat trailer to an Idaho resident. The sale of the boat does not qualify for the occasional sale exemption and is subject to the tax. The sale of the boat trailer may qualify for the occasional sale exemption if the sales price of the boat trailer is separately stated on the bill of sale and an occasional sale affidavit is provided by the seller. (7-1-93)

10. Exempt Sales of Aircraft, Boats, and Recreation-Related Vehicles. Sales of aircraft, boats, or recreation-related vehicles under the provisions of Subsections 010.02 or 010.03 of this rule are exempted from the tax. Transfers of aircraft, boats, or recreation-related vehicles under the provision of Subsection 010.05 of this rule are exempted from the tax. The provisions of Subsection 010.04 of this rule apply to the sale of motorized, on-highway recreation-related vehicles. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

101. MOTOR VEHICLES AND TRAILERS USED IN INTERSTATE COMMERCE.

01. In General. An exemption is provided from the sales and use tax for motor vehicles and trailers sold or leased to commercial or private carriers to be substantially used in interstate commerce. The exemption is effective beginning April 1, 1989. Commercial or private carriers shall include the business of transportation of persons or commodities owned by the carrier or another, but shall not include farm vehicles or noncommercial vehicles as defined by Section 49-123, Idaho Code. (7-1-93)

02. Motor Vehicles. An exemption is provided from the sales and use tax for motor vehicles sold or leased to a purchaser who will: (7-1-93)

a. Immediately register the vehicle with a maximum gross weight of over twenty-six thousand (26,000) pounds; and (7-1-93)

b. Register the vehicle under the International Registration Plan, IRP, or other similar proportional or pro rata registration plan; and (7-1-93)

c. Operate the vehicle in a fleet of vehicles with a minimum of ten percent (10%) of the fleet miles operated outside the state of Idaho in any calendar year. (7-1-93)

03. Trailers. An exemption is provided from the sales or use tax for trailers when the purchaser will: (7-1-93)

a. Immediately place the trailer in a fleet of vehicles registered under the International Registration Plan, IRP, or other similar proportional or pro rata registration plan; and (7-1-93)

b. The trailer will be part of a fleet of vehicles with a minimum of ten percent (10%) of the fleet miles operated outside the state of Idaho in any calendar year. (7-1-93)

04. Title or Base Plate. The exemption applies whether the motor vehicles and trailers are titled or base plated in Idaho or another state or nation. (7-1-93)

05. Documentation. Purchasers claiming this exemption must provide the seller or lessor with a properly completed Form ST-104-MV, Sales Tax Exemption Certificate-Vehicle. When a vehicle qualifying for this exemption is purchased from a retailer who is not registered to collect Idaho sales tax, the Form ST-104-MV must be completed by the purchaser and provided to the county assessor or Department of Transportation when titling or registering the vehicle in Idaho. (7-1-93)

~~06. Short-term Rentals or Leases. The exemption does not apply to a short-term lease or rental of a motor vehicle or trailer where the title and registration of the vehicle remains in the name of the lessor, even if the purchaser intends to operate the vehicle ten percent (10%) of the miles or more outside the state of Idaho during the term of the lease or rental. Sales tax must be charged on these short-term rentals or leases. The exemption may only be claimed by the purchaser if the vehicle is registered or titled in the name of the purchaser to whom the exemption applies. (7-1-93)~~

~~0706.~~ Repair Parts and Supplies. The exemption does not apply to parts, glider kits as defined by Section 49-123, Idaho Code, supplies, or other tangible personal property purchased by persons engaged in interstate commerce. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

107. MOTOR VEHICLES - GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO INDIANS, AND OTHER EXEMPTIONS.

01. In General. This rule discusses specific topics relating to motor vehicles including gifts, military personnel, and exemptions. Refer to Idaho Sales Tax Administrative Rule 106 for general information on purchases, sales, rentals, and leases of motor vehicles. (6-23-94)

02. Gifts of Motor Vehicles. When the following facts clearly establish that a motor vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (7-1-93)

a. No money, services, or other consideration is exchanged between the donor and recipient at any

time. (7-1-93)

b. The recipient assumes no indebtedness. (7-1-93)

c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)

d. The donor and recipient both complete a Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, have it notarized, and submit it to the county assessor or Idaho Transportation Department along with the title to the vehicle being transferred. (7-1-93)

03. Nonresidents. A nonresident does not owe use tax on a motor vehicle which is registered or licensed under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months, and is not required to be registered or licensed under Idaho law. For purposes of this subsection, a motor vehicle is considered to have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. (6-23-94)

04. New Residents. A new resident of Idaho does not owe tax on a private automobile if he acquired it while he resided in another state and used it primarily outside Idaho. If the vehicle owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that the vehicle was primarily for use outside Idaho. (6-23-94)

a. If the vehicle was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. (7-1-93)

b. This exclusion from the tax does not apply to motor vehicles owned by a business. A private automobile is one which is owned by, and titled to, a private individual or individuals. (7-1-93)

05. Military Personnel. Military personnel receive no special exemption from the Idaho sales and use tax regarding motor vehicles or other tangible personal property. The exemptions discussed in this rule apply equally to military and nonmilitary personnel. A military person with a home of record other than Idaho is considered to be a nonresident. A military person whose home of record is Idaho is considered to be a resident of this state. Example: A military officer with a home of record in Oregon brings a vehicle purchased in Germany to Idaho upon being stationed at Mountain Home Air Force Base. During his first year at Mountain Home, the vehicle is present in Idaho for more than ninety (90) days. The exemption provided to nonresidents, as discussed in subsection 03 of this rule, does not apply. Use tax applies to the fair market value of the vehicle. (7-1-93)

06. Tax Paid to Another State. When sales tax has been properly imposed by another state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. (7-1-93)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner must provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A Wyoming resident buys a vehicle there for ten thousand dollars (\$10,000) two (2) months before moving to Idaho. He presents his Wyoming title to an Idaho county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to Wyoming was three hundred dollars (\$300) when the vehicle was purchased. Credit for this amount is allowed against the five hundred dollars (\$500) tax due Idaho. The assessor will collect two hundred dollars (\$200) tax. (7-1-93)

c. Example: A vehicle was purchased by a Colorado resident two (2) months before moving to Idaho. The applicant paid three percent (3%) Colorado state sales tax, six one-hundredths of one percent (.06%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total Colorado general sales tax paid was five and two tenths percent (5.2%). Since the Idaho tax rate is five percent (5%), no tax is due Idaho because the amount of tax paid to Colorado exceeds the amount owed Idaho. (7-1-93)

d. A registration certificate or title issued by another taxing state is proof that tax was paid to the other

taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the motor vehicle from tax. (7-1-93)

e. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax must be paid on the fair market value of the vehicle when it is titled in Idaho. (7-1-93)

f. Taxes paid to another nation cannot be offset against the taxes owed to Idaho. (7-1-93)

07. Sales to Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and buyer must complete Form ST-133 and have their sworn statements notarized. The affidavit is then given to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. (7-1-93)

b. This exemption does not apply if the seller did not pay tax when he acquired the vehicle. (7-1-93)

c. Example: An Oregon resident buys a vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the vehicle for ten thousand dollars (\$10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay a sales or use tax when he acquired the vehicle. The son is required to pay Idaho use tax on the ten thousand dollars (\$10,000) purchase price of the vehicle. (7-1-93)

08. Sales to Indians. An enrolled Indian tribal member may buy a motor vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian Reservation. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and the purchaser must complete Form ST-133 and have their sworn statements notarized. The affidavit is then given to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. (7-1-93)

09. Bulk Sale Transfers. A transfer or sale of a motor vehicle as part of a bulk sale of assets or property, as defined by Idaho Sales Tax Administrative Rule 99, is exempt from tax. The buyer must obtain written clearance from the Tax Commission to present to the Idaho Transportation Department or county assessor when applying for transfer of title. The buyer must present written evidence to the Tax Commission to support the exemption. (6-23-94)

10. Vehicles Purchased in Idaho for Use Outside Idaho. (7-1-93)

a. The sale of an on-road trailer or the sale of a motor vehicle ~~with a maximum gross registration weight of twenty-six thousand (26,000) pounds or less may be~~ is exempt from tax if the buyer can claim that immediately upon delivery the vehicle will be taken directly to another state or nation and titled and licensed there; the vehicle will not be required to be titled by the laws of Idaho; and no more than twenty-five percent (25%) of the vehicle's mileage will be accumulated in Idaho during any calendar year. (7-1-93)()

b. The buyer must make these claims on Form ST-104-MV, Sales Tax Exemption Certificate-Vehicle, and give the form to the dealer. The motor vehicle must then be taken out of Idaho and titled in another state or nation. (7-1-93)

c. This exemption does not apply to off-highway vehicles such as ATV's, snowmobiles, boats, and off-road bikes. (7-1-93)

11. Motor Vehicles and Trailers Used in Interstate Commerce. ~~Effective April 1, 1989, The sale of~~ motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of vehicles registered under the

International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. See Idaho Sales Tax Administrative-ISTC Rule 101. (6-23-94)()

12. Related Party Transfers and Sales. ~~Effective July 1, 1990, certain~~ Certain transfers and sales of motor vehicles between businesses defined as related parties are exempt from tax. Refer to Idaho Sales Tax Administrative Rule 99. The new owner must obtain written clearance from the Tax Commission to present to the Idaho Transportation Department or county assessor when applying for title transfer. Also, the new owner must present written evidence to the Tax Commission to support the exemption claimed, including proof that the prior owner paid sales or use tax on the vehicle, and proof of the related party relationship between the transferor and transferee. (6-23-94)()

(BREAK IN CONTINUITY OF SECTIONS)

109. AMUSEMENT DEVICES.

01. Currency Operated Amusement Devices. "Amusement device" means all currency or token operated machines and devices used for amusement or entertainment. This definition includes, but is not limited to, game machines; pool tables; jukeboxes- electronic games; video or cinematic viewing devices; crane, rotary, and pusher machines; and similar devices. It does not include vending machines that are used to sell tangible personal property or noncurrency operated machines or games described in subsection 03 of this rule. (6-30-95)

02. Requirement to Obtain Permit. The owner or operator of amusement devices is required to obtain a seller's permit if he is making retail sales other than the use of currency or token operated amusement devices. If the owner or operator is not making such other retail sales, he need not obtain a seller's permit, but must obtain an amusement device permit for each device in service. (6-30-95)

a. On or after July 1, 1995, owners or operators of amusement devices are required to pay a fee of thirty five dollars (\$35) per machine in service or use. Upon receiving payment, the Tax Commission will issue to the owner or operator of one or more amusement devices, a permit for each such device in service. A separate permit on each device in service is required. The permit shall be affixed near the currency slot of the machine in such a manner that it is easily visible. Permits are not transferable from one person to another, except as part of certain occasional sales as described in Idaho Code 63-3623 B. Permits may be transferred from a machine that is no longer in service to another machine owned or operated by the same person. An amusement device permit is not valid unless the name and business address of the owner or operator is typed or printed in black ink on the face of the permit. (6-30-95)()

b. Video amusement devices may have more than one monitor and be designed to be operated independently by more than one person. In such cases a separate permit is required for each monitor. (6-30-95)

c. Amusement device permits must be renewed annually. Annual permits are valid from July 1 through June 30. Permits must be renewed on or before July 1 by the owner or operator of the amusement devices. Amusement devices acquired after July 1 or placed in service before the next July 1 will require a full-year, thirty five dollar (\$35) permit. (6-30-95)()

03. Noncoin Operated Amusement Machines or Games. Charges for the use of amusement machines or games which are not currency or token operated are subject to tax at the prevailing rate times one hundred percent (100%) of the gross proceeds received for the use of the device. This applies regardless of the method the owner or operator uses to determine the charge, such as by the hour or by the game. The owner or operator of noncurrency or nontoken operated amusement machines or games is required to obtain a seller's permit if he is charging for the use of such machines. (6-30-95)

04. Cross-reference. See Idaho Sales Tax Administrative Rule 95 regarding purchases of Money-Operated Dispensing Equipment. (6-23-94)

(BREAK IN CONTINUITY OF SECTIONS)

112. DIRECT PAY AUTHORITY.

01. In General. Direct Pay Authorization is issued to certain taxpayers where it is to the mutual convenience of the Tax Commission, the taxpayer, and the taxpayer's vendors to have the sales and use tax liability upon the taxpayer's purchases determined by the taxpayer and reported directly to the state in the form of a use tax. This allows vendors to sell all items of tangible personal property to the particular taxpayer without charging any sales tax. The only effect of this arrangement is to shift the reporting responsibility to the taxpayer holding the direct pay authority. (7-1-93)

02. Purchases Subject to Tax. If the particular transaction would have been one subject to the sales tax without the direct pay authorization, then the direct pay authorization holder must pay the sales tax to the state even if the use of the item is not subject to use tax. For example, if a direct pay authority holder purchases goods in Idaho from a retailer holding an Idaho seller's permit, then the purchaser must pay sales tax on the transaction even if the goods are intended for use solely outside the state, that is a sale by a vendor subject to the Commission's jurisdiction, then the sales tax laws and rules will also apply to the direct pay authority holder's purchase and reporting of the tax. (7-1-93)()

03. Documentation. To make a purchase without paying sales tax to the vendor, the taxpayer holding the direct pay authorization must furnish to each of his vendors a copy of the letter from the Commission granting the direct pay authority. (7-1-93)

04. Holder's Responsibilities. The direct pay authorization is granted only to those taxpayers who have demonstrated, to the Commission's satisfaction, the accounting and technical capability to comply with the Sales Tax Act. Direct pay authority holders must make all purchases of tangible personal property tax exempt and all taxes due as required by the Idaho Sales Tax Act will be remitted directly to the Commission by the direct pay authority holder. Vendors will be allowed to sell all items of tangible personal property to the direct pay authority holder without charging sales tax provided they obtain and keep on file a copy of the letter granting the direct pay authority. (7-1-93)

05. Revocation. The Commission may revoke a direct pay authorization if it determines that the direct pay authority holder is not complying with this rule or if the holder is allowing contractors or other third parties to make exempt purchases under the holder's authority. Notice of revocation shall be given in the manner provided for deficiencies in taxes in section 63-3629, Idaho Code, and shall be subject to review as provided in section 63-3631, Idaho Code. Should the Commission revoke a taxpayer's direct pay authority ~~for any reason~~, it shall be the taxpayer's responsibility to notify his vendors of the revocation. (7-1-93)()

06. Tax Imposed by Hotel/Motel Room Sales Tax. Taxpayers granted direct pay authority may not use this authority for taxes imposed on hotel/motel room or campground space accommodations. State sales tax, Travel and Convention tax, and Greater Boise Auditorium District tax, when applicable, must be charged by and paid to the retailer by the direct pay permittee. (7-1-93)

07. Valid Only on Purchases of Tangible Personal Property. The direct pay authority is valid only on purchases of tangible personal property. The holder may not use their direct pay authority when engaging contractors involved in improving real property. Special rules apply to contractors. Refer to ~~ISTC~~ Sales Tax Administrative Rules 12 through 15, and 66. (7-1-93)()

08. Expiration. Direct pay authorizations are granted for a period of not more than two years. If the authorization is not renewed at the end of the expiration period, the authorization will expire automatically. ()

(BREAK IN CONTINUITY OF SECTIONS)

122. INTEREST ON DEFICIENCIES, REFUNDS AND ESTIMATED RETURNS.

01. Interest Rate. From July 1, 1981, to December 31, 1993, the rate of interest on deficiencies or

refunds of tax was twelve percent per annum. As of January 1, 1994, the rate of interest on deficiencies or refunds of tax is determined annually as provided in section 63-3045, Idaho Code and Idaho ~~Income Tax Commission~~ Administrative Administration and Enforcement Rule 132310. All interest on sales or use tax deficiencies is simple interest. Interest applies only to tax and not to penalties. (6-23-94)(____)

02. Interest Accruing During a Period Subject to Audit. Interest on deficiencies accrues from the due date of the return to which the deficiency relates. On refunds, the interest accrues from the due date of the return or date of payment, whichever is later. However, when a refund is claimed or a deficiency is asserted for a period of time which includes several reporting periods, in lieu of calculating interest for each reporting period, interest may be averaged over the interest rate period if no substantial distortion results from the averaging technique. When averaging interest, sales or purchases of extraordinary amounts outside the usual course of business which would substantially distort the result should be excluded from the averaging calculation and interest calculated separately on such transactions. Average interest, accruing during an interest rate period, may be calculated according to the following formula: (6-23-94)

FORMULAS: $\frac{(N \times R) - R}{2}$

N = Number of reporting periods in interest rate period.

R = Interest rate per reporting period, e.g., one percent (1%) for monthly filers, three percent (3%) for quarterly filers, at a 12% annual interest rate, etc. (6-23-94)

03. Alternate Formulas. Alternatively, interest may be calculated according to such other formula as the taxpayer and the Tax Commission's sales tax audit staff may agree to apply. (7-1-93)

04. Estimated Returns. Interest on estimated returns accrues at an annual rate as provided in section 63-3045, Idaho Code and Idaho ~~Income Tax Commission~~ Administrative Administration and Enforcement Rule 132310. (6-23-94)(____)

05. Failure to Register. Taxpayers who failed to have a tax number in a period where a deficiency exists will be, for interest computation purposes, considered to be monthly filers. (7-1-93)

06. Judgments. Nothing in this rule is intended to effect interest rates on judgments pursuant to Section 28-22-104(2), Idaho Code. (7-1-93)

123. ADDITIONS AND PENALTIES.

All additions and penalties provided by Sections 63-3046, 63-3075, 63-3076 and 63-3077, Idaho Code, are incorporated in the Sales Tax Act. (7-1-93)

~~01. Incorporated Income Tax Rules. All Income Tax Rules promulgated by the State Tax Commission for the administration or enforcement of Sections 63-3046, 63-3075, 63-3076 and 63-3077, Idaho Code, are incorporated herein by this reference. (7-1-93)~~

~~0201.~~ Substantial Underpayment. For purposes of enforcing the substantial underpayment penalty provided by Section 63-3046(d), Idaho Code, the term taxable year shall, for purposes of the Sales Tax Act, mean the twelve (12) month calendar period for which an annual reconciliation is required. The return, for purposes of such taxable year, shall be the returns required to be filed under ~~ISTC~~ Idaho Sales Tax Administrative Rule 105. The taxpayer's entire calendar year or fiscal tax year shall be any fraction of a twelve (12) month period occurring prior to filing a final report. (7-1-93)(____)

~~0302.~~ Repeated or Intentional Invalid Exemption Claims. A purchaser who repeatedly or intentionally claims exemption from tax on purchases that are not exempt and has not reported and paid use tax on the purchases, shall owe the tax plus the interest prescribed in ~~ISTC~~ Idaho Sales Tax Administrative Rule 122 and may also be assessed a penalty of five percent (5%) of the purchase price of the goods or services, or two hundred dollars (\$200), whichever is greater. (7-1-93)(____)

124. COLLECTION AND ENFORCEMENT.

01. ~~Incorporation of Income Tax Rules. All Income Tax~~ The rules promulgated by the State Tax Commission entitled "Idaho Tax Commission Administration and Enforcement Rules" apply to the administration and enforcement of the Idaho Sales Tax Act. for collection, enforcement and administration of the code sections incorporated by reference in Section 63-3635, Idaho Code, are incorporated herein by this reference. (7-1-93)(_____)

02. ~~Construction of Terms. References to income tax in the Income Tax Rules incorporated in this rule shall be described as reference to sales or use tax for purposes of these Sales Tax Rules. (7-1-93)~~

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - RULES GOVERNING AD VALOREM PROPERTY TAXATION
DOCKET NO. 35-0103-9608
NOTICE OF PROPOSED RULES

ACTION: The action, under Docket No 35-0103-9608, 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: In House Bill 649, it changes the way the limitation on property budget increased the measurement of values on a "new construction roll", and the contents of this roll is defined. The amendment will delete obsolete language, establish a report to show new construction value by taxing district; Clarifies and defines value increases resulting from change in land use.

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 September 26, 1996.

DATED this day the 24th day of July 26, 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. 35-0105-9604

562. LIMITATION ON BUDGET REQUESTS, ~~FOR PURPOSES OF~~ SECTION 63-2220A, IDAHO CODE.

01. Budget ~~Requests~~Requested Documents. Each Board of County Commissioners shall submit a budget request for each taxing district in the county that certifies a budget request to finance the ad valorem portion of its annual budget to the Tax Commission and shall not submit other documents unless requested to do so by the Tax Commission. Documents not to be submitted to the Tax Commission unless requested include newspaper advertisements, school district budget books, entire budget documents, other than the budget request, and similar documents. (6-30-95)(____)

~~02. Property Values. The value of property subject to the occupancy tax pursuant to Chapter 39, Title 63, Idaho Code, shall be the non-prorated value. The value shall not include any portion of the value of improvements subject to property tax. If the exemption provided by Section 63-105DD, Idaho Code, has been granted, the value of improvements not subject to property tax must be reduced by the value of said exemption. (6-30-95)~~

~~03. Building Permits for Preceding Year. "Building permit for the preceding year" means a building permit, issued in the calendar year preceding submission of the formula, for installing new manufactured housing or for constructing improvements. Building permit shall not include any building permit issued for additions or alterations to existing residential improvements. Building permit shall not include any plumbing, electrical, or mechanical permit. Building permit shall not include any building permit refunded or cancelled by the issuing authority in the calendar year preceding submission of the formula. (6-30-95)~~

~~04. Use of Quantitative Formula. Any taxing district electing to use a quantitative formula based on the value of building permits for the preceding year must submit such formula and a building permit report to the State Tax Commission. The formula must be submitted no later than June 1 of the current tax year for any taxing district with a fiscal year beginning July 1 and no later than August 1 of the current tax year for all other taxing districts. (6-30-95)~~

~~05. Formula Use Limitations. The formula shall sum the values stated on the building permits and shall exclude building permits for properties known to be fully exempt from property tax. (6-30-95)~~

~~06. Approval of Formula by Commission. Upon receipt of the formula, the State Tax Commission must approve or disapprove said formula and must notify the taxing district and the county clerk of each county in which the district is located of the approved formula within twenty-eight (28) days. Upon disapproval of a formula, a district may submit a different formula within the time limits provided in Subsection 562.04 of this rule. (6-30-95)~~

~~07. Building Permit Report Requirements. The building permit report required in Subsection 562.04 of this section must be a list of the following: (6-30-95)~~

~~a. Each building permit number, building address, or parcel number; (6-30-95)~~

~~b. A description of the improvement authorized by each building permit; (6-30-95)~~

~~c. The tax code area of the improvement authorized by each building permit; and (6-30-95)~~

~~d. The value stated on each building permit. (6-30-95)~~

~~02. Classification of Land Use Change. "Change of land use classification" shall mean any change in land use resulting in a category change and in an increase in taxable land value to be reflected on the current assessment roll. Beginning with the assessment roll prepared to reflect value as of January 1, 1997, the increase in taxable land value due to change of land use classification shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. ()~~

~~03. New Construction Roll Listing. "Listing" shall mean a summary report of the net taxable value of property listed on the new construction roll. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. ()~~

~~04. Corrected New Construction Roll. The values shown on the listing required in Section 562.03 shall be subject to the adjustment if net taxable value for any property included on the new construction roll is changed by the county board of equalization meeting pursuant to section 63-501, Idaho Code. The corrected values must be reported to the state tax commission and to each taxing district prior to the fourth Monday of July on the notification required pursuant to Section 63-510(1), Idaho Code. ()~~

~~05. Manufactured Housing. "Installation" of new or used manufactured housing shall mean capturing the net taxable market value of the improvement(s) that did not previously exist within the county. ()~~

06. Partial New Construction Values. The net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Any increase in a parcel's taxable value, due to new construction, shall be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. ()

IDAPA 35 - STATE TAX COMMISSION
35.01.05 - RULES GOVERNING MOTOR FUEL TAXATION
DOCKET NO. 35-0105-9604
NOTICE OF PROPOSED RULES

ACTION: The action, under Docket No 35-0105-9604, 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 004: The correction of a cite to an income tax rule is currently in error.

RULES 003, 240, 330, & 510: Rules 003, 240, 330, & 510 are being amended to reflect the creation of the Idaho Tax Commission Administration and Enforcement Rules.

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 September 26, 1996.

DATED this day the 24th day of July, 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. 35-0105-9604

003. ADMINISTRATIVE APPEALS (Rule 003.)

This chapter does allow administrative relief in the provisions outlined under Sections 63-2434, 41-4908, and 63-3045 through 63-3049, Idaho Code and pursuant to Rules promulgated by the Commission found in the Commission's administrative administration and enforcement rules relating to income taxation, IDAPA 35, Title 042, Chapter 01. (6-23-94)()

004. PUBLIC RECORDS (Rule 004.)

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 43, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-2434, 41-4908, 63-

3076, 63-3077 or 9-340, Idaho Code. Non-confidential records are available for public inspection and copying at the main office of the State Tax Commission. (6-23-94)(____)

(BREAK IN CONTINUITY OF SECTIONS)

240. REFUNDS TO LICENSED SPECIAL FUELS DEALERS (Rule 240.)

01. Refund Claim. Any licensed special fuels dealer believing that he has paid special fuels taxes in any amount more than that properly imposed may file a written claim with the Commission for a refund of such excess taxes. The claim for refund must conform with the requirements of this rule. (6-23-94)

02. Refund Claim Documentation. No particular form for claiming a refund is prescribed, but the claim must be in writing. The claim must include the full name and address of the claimant and his special fuels dealer's license number. The claim must include a detailed statement of the reason the claimant believes a refund is due. The statement should include a description of the transactions, if any, to which the tax relates and must state the date on which the claimed excess taxes were paid. The claim for refund must include a statement that the amount refunded to the special fuels dealer has been or will be refunded by the dealer to the purchaser, or that such taxes have never been collected from the purchaser. (6-23-94)

03. Refund as a Credit. A claimant may claim a refund as a credit against special fuels taxes due. The credit may be claimed on a special fuels tax return but the return must be accompanied by a claim for refund substantially in the manner required by subsection 02 of this rule. (6-23-94)

04. Statute of Limitation. No claim for refund will be allowed by the Commission if it is filed more than three (3) years from the time the payment of the claimed excess taxes was made. The time the payment was made is the date upon which the special fuels tax return relating to the payment was filed or was required to be filed, whichever occurred first. (6-23-94)

05. Appeal Procedures. No claim for refund may be filed relating to any special fuels taxes that have been asserted by a Notice of Deficiency Determination. A taxpayer contending that taxes have been erroneously or illegally collected by the Commission pursuant to a Notice of Deficiency Determination must seek a redetermination by using the appeal procedures required by law. (6-23-94)

06. Notice of Denial. All claims for refund or credit will be reviewed by the Commission's staff. In the event that the staff concludes that all or any part of the claim should not be allowed to the claimant, notice of denial of the claim shall be mailed to the claimant by certified mail. The notice shall include a statement of the reasons for the denial. For seeking an appeal or redetermination of a denial of a claimed refund or credit, the notice of denial shall be the equivalent of a Notice of Deficiency Determination. If the taxpayer wishes to seek a redetermination of the denial notice, he must do so by filing a petition for redetermination in the manner prescribed in Idaho ~~Income Tax Administrative Administration and Enforcement Rule 408300~~, as incorporated herein by Rule 330 of these rules. Such a petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to or served upon the claimant. (6-23-94)(____)

(BREAK IN CONTINUITY OF SECTIONS)

330. INCORPORATION BY REFERENCE OF RELEVANT INCOME TAX RULES (Rule 330.)

Section 63-2434, Idaho Code, incorporates by reference various provisions of the Idaho Income Tax Act to apply to administering and enforcing the taxes on motor fuels. For applying and construing those sections as they apply to taxes on motor fuels, the ~~income administration and enforcement tax~~ rules previously promulgated or to be promulgated or amended by the Commission are hereby adopted as part of these rules as if set out in full. In addition, ~~Income Tax Administrative Administration and Enforcement Rule 431110 (IDAPA 35.01.131) (IDAPA 35.02.01.110)~~ is hereby adopted as part of these rules as if set out in full. (6-23-94)(____)

(BREAK IN CONTINUITY OF SECTIONS)

510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (Rule 510.)

01. Application. (6-23-94)
- a. The Petroleum Transfer Fee applies to the act of delivering or storing any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product delivered or stored. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid for the same petroleum or petroleum product. (6-23-94)
- b. The legal incident of the fee is on the distributor required to report it to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. (6-23-94)
02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products shall be determined according to Rule 110 of these rules. (6-23-94)
03. Exemption to Application of the Transfer Fee. The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)
- a. Returned to the refinery or pipeline terminal. (6-23-94)
- b. Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 150 of these rules. (6-23-94)
- c. Transferred by a railroad or railroad corporation or any employee of them. Petroleum products sold by a licensed distributor, other than a licensed distributor that is a railroad or railroad company, to a railroad or railroad company or any employee of them is not subject to the Petroleum Transfer Fee. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad company. (6-23-94)
- d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)
04. Casualty Loss and Shrinkage Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. The deductions allowed to gasoline distributors for fuel lost by fire or similar casualty, see Section 63-2407(3), Idaho Code; and the two percent (2%) discount for cost of collection and loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code; are not deductions applicable to the Petroleum Transfer Fee. (6-23-94)
05. Petroleum and Petroleum Products. The products subject to the Petroleum Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven-tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as gasohol, including the alcohol content of blended fuel, diesel fuel, heating oil, aviation fuel, motor oil, brake fluid, and transmission fluids. (6-23-94)
06. Licensed Distributors and Limited Licenses. Any person holding a gasoline distributor's license issued by the Tax Commission under Section ~~63-2409~~63-2427A, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who first receives any petroleum or petroleum product in this state, the delivery or storage of which is subject to the fee, but who is not a licensed distributor nor required to obtain a license under Section ~~63-2409~~63-2427A, Idaho Code, shall apply to the Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under

Chapter 24, Title 63, Idaho Code.

~~(6-23-94)~~()

07. Reporting Requirements. (6-23-94)

a. Distributors licensed under Section 63-2409, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the gasoline tax imposed by Section 63-2405, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the gasoline tax on the same fuel. (6-23-94)

b. Persons holding a limited license shall file a monthly report with the Tax Commission on forms prescribed by the Commission on or before the last day of the month following the month to which the report relates. (6-23-94)

c. The provisions of Rule 140 of these rules, apply to reports of the Petroleum Transfer Fee. (6-23-94)

08. Payment. (6-23-94)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

09. Incorporation of Other Relevant Rules. Section 41-4908, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the ~~Income Tax Administration and Enforcement~~ Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, ~~Income Tax Administrative Administration and Enforcement~~ Rule ~~134110, (IDAPA 35.01.01.110.) (IDAPA 35.02.01.110)~~ relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. ~~(6-23-94)~~()

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.07 - KILLOWATT HOUR TAXES

DOCKET NO. 35-0107-9601

NOTICE OF PROPOSED RULE

ACTION: The action, under 35-0107-9601, concerns repealing in its entirety rules governing the State Tax Commission, IDAPA 35, Title 01, Chapter 07, Rules Governing Kilowatt Hour 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 63-105 and 63-2701, Idaho Code.

DESCRIPTIVE SUMMARY:

The State Tax Commission proposes to repeal the entirety of the existing Chapter 01, Title 07, IDAPA 35, which contains its rules relating to the implementation of Idaho Kilowatt Hour Taxes.

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

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 26, 1996.

Dated this 24th day of July, 1996.

Janice Boyd,
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, Id 83722
(208) 334-7530

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

**It is being replaced by Docket No. 35-0107-9602
as published in this Bulletin immediately following this notice.**

IDAPA 35 - IDAHO STATE TAX COMMISSION
35.01.07 - KILLOWATT HOUR TAXES
DOCKET NO. 35-0107-9602
NOTICE OF PROPOSED RULE

ACTION: The action, under 35-0107-9602, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA. 35, Title 01, Chapter 07, Rules Governing Kilowatt Hour 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 63-105 and 63-2701, Idaho Code.

PUBLIC HEARING SCHEDULE: A 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:

The State Tax Commission proposes to promulgate an entirely new chapter, IDAPA 35.01.07. The new chapter restates and clarifies existing policies relating to Idaho kilowatt hour taxes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Janice Boyd 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 September 26, 1996.

Dated this 24th day of July, 1996.

Janice Boyd,
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, Id 83722
(208) 334-7530

TEXT OF DOCKET NO. 35-0107-9602

IDAPA 35
TITLE 01
CHAPTER 07

35.01.07 - KILLOWATT HOUR TAXES

000. LEGAL AUTHORITY (Rule 000).

In accordance with Sections 63-105 and 63-2701, Idaho Code, the Tax Commission shall promulgate rules implementing the provisions of the Idaho Kilowatt Hour Tax Act. The rules relating to the administration and enforcement of kilowatt hour taxes, as well as other taxes, are promulgated as IDAPA 35.02.01. ()

001. TITLE AND SCOPE (Rule 001).

These rules shall be cited as IDAPA 35.01.07.000, et seq., Idaho State Tax Commission Rules IDAPA 35, Title 01, Chapter 07, "Kilowatt Hour Tax Administrative Rules." They shall be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on producers of electricity from hydroelectric generation. ()

002. WRITTEN INTERPRETATIONS (Rule 002).

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, the Tax Commission has written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. To the extent that these documents are not confidential pursuant to Section 63-3076 or 9-340, Idaho Code, they are available for public inspection and copying at the main office of the Tax Commission. ()

003. (RESERVED).

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code, to the extent these documents are not confidential pursuant to Section 63-3076 or 9-340, Idaho Code. ()

005. -- 009. (RESERVED).

010. DEFINITIONS (Rule 010).

01. Idaho Customer. Idaho customer means a customer who has a point of delivery for the transfer of power and energy that is located in Idaho. This includes wholesale power transactions with customers or wheeling agents that have a delivery point located in Idaho. ()

02. Point of Delivery. Point of delivery means the point at which a change in ownership of electrical facilities occurs between the filing party and the wholesale customers or wheeling agents for the transfer of power and energy. ()

03. These Rules. The term these rules refers to IDAPA 35.01.07, relating to Idaho kilowatt hour tax. ()

04. Wheeling Agent. Wheeling agent means an entity that receives kilowatt hours from a source or sources of supply and makes power or energy available at another point on its system for a delivering entity or a third party. ()

011. -- 019. (RESERVED).

020. ELECTRICAL PRODUCERS SUBJECT TO TAX (Rule 020).

01. In General. Title 63, Chapter 27, Idaho Code, and these rules apply to all producers of electricity who generate electricity from hydroelectric sources in Idaho, except as provided in Subsection 020.02. Producers of electricity from hydroelectric generation who sell all the power they produce for sale to another producer, for example, cogeneration, are required to file returns and remit the kilowatt hour tax. ()

02. Municipal Corporations. The tax does not apply to power generated by facilities owned and operated by a municipal corporation organized pursuant to the laws of Idaho. Municipal corporations are not required to file kilowatt hour tax returns or to pay tax. As used in these rules, the term municipal corporation does not include a producer, as defined in Section 63-2701, Idaho Code, who produces electricity pursuant to a contract with a governmental entity. ()

021. -- 029. (RESERVED).

030. KILOWATT HOUR TAX RETURNS (Rule 030).

01. In General. The statement required by Section 63-2701, Idaho Code, and by these rules shall be made on the kilowatt hour tax return, Form 48, 48C, or 48CM, provided by the Tax Commission. All information

requested on the return must be provided and the return must be signed. ()

02. Monthly Returns. All producers whose previous year's annual tax liability was greater than fifteen thousand dollars (\$15,000) must file a monthly return with the Tax Commission no later than the last day of the month following the month to which the return relates. ()

03. Quarterly Returns. All producers whose previous year's annual tax liability was equal to or less than fifteen thousand dollars (\$15,000) must file a quarterly return with the Tax Commission no later than the last day of the month following the end of the calendar quarter to which the return relates. ()

04. Previous Year's Annual Tax Liability. If the previous year's annual tax liability is not available, the estimated current year's liability may be used. ()

031. -- 039. (RESERVED).

040. COMPUTATION OF KILOWATT HOURS SUBJECT TO TAX AND CALCULATION OF TAX (Rule 040).

01. Kilowatt Hours Subject to Tax Before Exemptions. To compute kilowatt hours subject to tax before exemptions, the taxpayer shall begin with gross hydroelectric generation in Idaho. The number of kilowatt hours generated shall be measured at the point of production. From kilowatt hours generated, deduct the amounts in Subsections 040.01.a. and 040.01.b.: ()

a. Kilowatt hours used by the facility and kilowatt hours lost by the transformer during the hydroelectric generating period. These net kilowatt hours are known as the Idaho hydroelectric generated hours to system. ()

b. Idaho hydroelectric kilowatt hours consumed or lost in transmission and distribution services, including substations, during the generating period. To determine the transmission and distribution losses, the Idaho hydroelectric generated kilowatt hours to system shall be adjusted as follows: ()

i. Divide the total of the kilowatt hours bartered, sold, or exchanged out by the total of the kilowatt hours the taxpayer generated, purchased, or exchanged in; and ()

ii. Multiply the percentage derived by Subsection 040.01.b.i., by the Idaho hydroelectric generated kilowatt hours to system. ()

02. Kilowatt Hours Subject to Tax. Kilowatt hours subject to tax is computed by subtracting the exemption amount as computed in Rule 045.02 of these rules from the kilowatt hours calculated in Subsection 040.01. ()

03. Calculation of Kilowatt Hour Tax. The kilowatt hours subject to tax are multiplied by one-half mill (\$0.0005) to calculate the total tax due for that period. ()

041. -- 044. (RESERVED).

045. EXEMPTIONS (Rule 045).

01. In General. An exemption shall be allowed from the kilowatt hours calculated in Subsection 040.01. of these rules for that portion of kilowatt hours used by the taxpayer or sold to Idaho customers for use in: ()

a. Manufacturing, mining, milling, smelting, refining, and processing; or ()

b. Pumping water for irrigation or pumping water for drainage on or from lands in Idaho. ()

02. Computing the Exemption. The amount of the exemption shall be determined by multiplying the

exempt sales in Subsection 045.01, by the percentage of Idaho customer sales from Idaho hydroelectric generation. This percentage is derived by dividing the Idaho hydroelectric kilowatt hours as computed in Subsection 040.01. of these rules by the total kilowatt hours sold to Idaho customers. ()

03. Wheeled Energy. ()

a. If the taxpayer is a wheeling agent for another entity, the wheeled energy may not be included in the calculation of the exemptions. ()

b. Example. Assume that Company A sells kilowatt hours to Company B and delivers this energy to Company C for wheeling and delivery to Company B at an Idaho delivery point. Company C, as a wheeling agent, would not include these kilowatt hours in the denominator of the percentage to be applied to the exempt sales. Company A would include these kilowatt hours in the denominator of the percentage to be applied to the exempt sales if the transfer between Companies A and C was at a delivery point in Idaho. ()

046. -- 049. (RESERVED).

050. PAYMENT OF TAX (Rule 050).

The full amount of tax shall be due and payable on the due date of the return and shall accompany the return when it is filed. Delinquent taxes shall be subject to interest at the rate applicable to delinquent taxes as provided in Rule 310 of the Administration and Enforcement Rules. ()

051. -- 059. (RESERVED).

060. NOTICE OF DEFICIENCY -- ENFORCEMENT (Rule 060).

If the Tax Commission or its authorized agents or employees finds that a taxpayer has failed to file the returns required by these rules or to pay any kilowatt hour tax due, the Tax Commission shall issue a notice in substantially the same form as required for a notice of deficiency determination pursuant to Section 63-3045, Idaho Code, and related rules. The taxpayer may protest the notice of deficiency within the time and in the manner provided by Section 63-3045, Idaho Code, and related rules. If the taxpayer fails to file a protest or the Tax Commission rules against the protest, in whole or in part, and the tax is not paid, the Tax Commission shall direct its legal representative to commence the action authorized in Section 63-2708, Idaho Code. ()

061. -- 999. (RESERVED).

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.08 - MINE LICENSE TAXES

DOCKET NO. 35-0108-9601

NOTICE OF PROPOSED RULE

ACTION: The action under 35-0108-9601, concerns repealing in its entirety rules governing the State Tax Commission, IDAPA. 35, Title 01, Chapter 08, Rules Governing Mine License 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 Section 63-105, Idaho Code.

DESCRIPTIVE SUMMARY:

The State Tax Commission proposes to repeal the entirety of the existing IDAPA 35, Chapter 01, Title 08, which contains its rules relating to the implementation of Idaho Mine License Taxes.

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

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 26, 1996.

Dated this 24th day of July, 1996.

Janice Boyd,
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, Id 83722
(208) 334-7530

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

**It is being replaced by Docket No. 35-0108-9602
as published in this Bulletin immediately following this notice.**

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.08 - MINE LICENSE TAXES

DOCKET NO. 35-0108-9602

NOTICE OF PROPOSED RULE

ACTION: The action under 35-0108-9602, concerns the proposed adoption of rules governing the State Tax Commission, IDAPA. 35, Title 01, Chapter 08, Rules Governing Mine License 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 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: A 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:

The State Tax Commission proposes to promulgate an entirely new chapter, IDAPA 35.01.08. The new chapter restates and clarifies existing policies relating to Idaho mine license taxes. The new chapter, also, reflects 1996 legislative changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Janice Boyd 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 September 26, 1996.

Dated this 24th day of July, 1996.

Janice Boyd,
State Tax Commission
800 Park, Plaza IV
P.O. Box 36
Boise, Id 83722
(208) 334-7530

TEXT OF DOCKET NO. 35-0108-9602

**IDAPA 35
TITLE 01
Chapter 08**

35.01.08 - MINE LICENSE TAXES

000. LEGAL AUTHORITY (Rule 000).

In accordance with Section 63-105, Idaho Code, the Tax Commission shall promulgate rules implementing the provisions of the Idaho Mine License Tax Act. The rules relating to the administration and enforcement of mine license taxes, as well as other taxes, are promulgated as IDAPA 35.02.01. ()

001. TITLE AND SCOPE (Rule 001).

These rules shall be cited as IDAPA 35.01.08.000, et seq., Idaho State Tax Commission Rules IDAPA 35, Title 01, Chapter 08, "Mine License Tax Administrative Rules." They shall be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a license tax to be measured by two percent (2%) of the net value of ores mined. ()

002. WRITTEN INTERPRETATIONS (Rule 002.)

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, the Tax Commission has written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. To the extent that these documents are not confidential pursuant to Section 63-3076 or 9-340, Idaho Code, they are available for public inspection and copying at the main office of the Tax Commission. ()

003. ADMINISTRATIVE APPEALS (Rule 003).

This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code. ()

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code, to the extent these documents are not confidential pursuant to Section 63-3076 or 9-340, Idaho Code. ()

005. -- 009. (RESERVED).

010. DEFINITIONS (Rule 010).

The term these rules refers to IDAPA 35.01.08, relating to Idaho mine license tax. ()

011. -- 014. (RESERVED).

015. REFERENCE TO INCOME TAX RULES (Rule 015).

All income tax rules promulgated by the Tax Commission that relate to sections of the Idaho Code incorporated by reference in the Mine License Tax Act apply to the mine license tax. ()

016. -- 019. (RESERVED).

020. ADVANCE ROYALTIES (Rule 020).

Section 47-1201, Idaho Code. Payments received from mining properties in Idaho from which no minerals or ores were extracted, sold, or used during the taxable year shall not be subject to the mine license tax. Provided, however, the tax arising from payments of advance royalties shall be deferred until the year during which the ore to which the advance royalty relates is actually extracted. ()

021. -- 029. (RESERVED).

030. NET VALUE OF ORE TO BE USED AS MEASURE OF TAX - HOW DETERMINED (Rule 030).

Section 47-1202, Idaho Code. ()

01. Election. The taxpayer may elect to use one of the methods prescribed in Section 47-1202, Idaho Code, for the measurement of the mine license tax. This election must be made in writing and attached to the first mine license tax return filed. If no timely written election is made, the taxpayer shall be presumed to have elected to compute the mine license tax in accordance with the method described in Section 47-1202(a), Idaho Code. Once an election is made, the taxpayer may not change the method of computing his tax unless he receives written permission from the Tax Commission prior to the due date of the return. ()

a. This election is not available to taxpayers whose only taxable mining activity is receiving royalties.

Such taxpayers must determine their mine license tax liability by use of the method described in Section 47-1202(a), Idaho Code. ()

b. Taxpayers whose mining activity includes both the receiving of royalties and the extracting of ores must separately determine that portion of their mine license tax liability arising from the royalty received by using the method described in Section 47-1202(a), Idaho Code. However, the taxpayer may elect to determine that portion of their mine license tax liability arising from their extraction of ores by use of either method for which a proper election has been made. The separate determination may not be netted together or offset against each other. ()

02. Method Under Section 47-1202(a). For each taxpayer using the method described in Section 47-1202(a), Idaho Code, the net value of ores mined shall be the amount of taxable income from the property as defined by Section 613, Internal Revenue Code, and Treasury Regulation 1.613-5 less the deduction for depletion expense on the property that was allowed in the taxpayer's federal income tax return. For taxpayers receiving royalties, gross royalties shall be reduced by the deduction for depletion expense on the royalty that was allowed in the taxpayer's federal income tax return. ()

03. Method Under Section 47-1202(b). For each taxpayer using the method described in Section 47-1202(b), Idaho Code, the net value of ores mined shall be the result of the computations in Subsections 030.03.a. through 030.03.c. ()

a. Gross value of the ores shall be equal to that determined by the U.S. Department of Interior during the same taxable year for purposes of identifying the amount of mineral royalties to be paid for the privilege of mining public lands. This value shall apply regardless of whether the ore is extracted from public, tribal, or private land. If the taxpayer is mining properties for which a royalty must be paid, the taxpayer must attach to the mine license tax return a copy of the value determination made by the U.S. Department of the Interior. ()

b. From the gross value determined in Subsection 030.03.a., the taxpayer shall deduct direct mining costs attributable to the Idaho production of the ores and Idaho transportation costs to the point at which they are valued by the U.S. Department of the Interior. ()

c. From the amount in Subsection 030.03.b., the taxpayer shall also deduct a portion of the depletion expense attributable to the property that was allowed as a deduction in the taxpayer's federal income tax return for the same taxable year. The deductible portion shall be determined by multiplying the depletion expense allowed on the federal income tax return by the ratio of the gross value of ores for mine license tax purposes to the gross value of ores for federal percentage depletion purposes. For purposes of this computation, all references to gross value and depletion expense shall be limited to those arising from mining conducted in Idaho. ()

031. -- 039. (RESERVED).

040. MINE LICENSE TAX RETURNS (Rule 040).

Section 47-1203, Idaho Code. In addition to the requirements of a valid return provided in Rule 815, Administration and Enforcement Rules, a mine license tax return shall include a schedule listing the name, address, and employer identification number or social security number, of each recipient of royalties paid by the taxpayer filing the return. The royalties shall be separately stated for each mining operation. Each mine license tax return shall also include a copy of the depletion expense computation applicable to Idaho mining properties that was included in the taxpayer's federal income tax return. ()

041. -- 999. (RESERVED).

IDAPA 46 - IDAHO STATE BOARD OF VETERINARY MEDICINE
46.01.01 - RULES GOVERNING THE IDAHO STATE BOARD OF VETERINARY MEDICINE
DOCKET NO. 46-0101-9601
NOTICE OF PROPOSED RULES

ACTION: This action, under Docket No. 46-0101-9601, concerns the proposed amendment of rules governing the Idaho State Board of Veterinary Medicine, IDAPA 46.01.01.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-2105(5)(n), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking 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 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 call the undersigned at (208) 332-8588.

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

IDAPA 46.01.01 was originally published in full as a proposed rule in Volume 95-10, the October 4, 1995 issue of the Idaho Administrative Bulletin on Pages 272 through 343. Following a public hearing on December 14, 1995, information offered during the public comment period and the hearing officer's recommendations were incorporated into the proposed rules and IDAPA 46.01.01 was adopted and published as a pending rule in Volume 96-6, the June 5, 1996 issue of the Idaho Administrative Bulletin on Pages 281 through 310. Based on further comments received, IDAPA 46.01.01, Sections 46.01.01.100 and 46.01.01.201 through 46.01.01.206, are being amended again to allow therapeutic options or alternate therapies to be performed by qualified lay individuals under the indirect supervision of a veterinarian, but only after an examination of the animal and referral by a veterinarian; and to allow access to restraint drugs by law enforcement agencies who are licensed as certified euthanasia agencies and law enforcement personnel who are employed by a certified euthanasia agency and licensed as a certified euthanasia technician.

Notice is also given that IDAPA 46.01.01, Section 46.01.01.155, pertaining to therapeutic options or alternate therapies, published in full in Volume 96-6 of the Idaho Administrative Bulletin on Pages 296 through 300, has been deleted in order to allow for the performance of therapeutic options or alternate therapies by qualified lay individuals.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Sheila Jensen at (208) 332-8588. 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 September 25, 1996.

DATED this 23rd of July, 1996.

Leonard E. Eldridge, President
Idaho Board of Veterinary Medicine
2270 Old Penitentiary Road
P. O. Box 7249
Boise, Idaho 83707
(208) 332-8588
FAX: (208) 334-2170

TEXT OF DOCKET NO. 46-0101-9601

1500. RESPONSIBILITIES OF SUPERVISING VETERINARIANS.

01. Statement of Purpose. Veterinarians licensed under the provisions of Idaho Code, Title 54, Chapter 21, shall be responsible for temporary licensees, certified euthanasia technicians, veterinary technicians and veterinary assistants and shall be available to supervise and direct their activities as follows: (7-1-93)(___)

a. No veterinarian shall: (7-1-93)

i. Permit any veterinary technician to perform any animal health care services not authorized by Subsection 1500.02. (7-1-93)(___)

ii. Permit any assistant to perform any animal health care services not authorized by Subsection 1500.02. (7-1-93)(___)

b. For purposes of the rules applicable to health care tasks for veterinary technicians and assistants, the supervising veterinarian of a veterinary technician or assistant shall: (7-1-93)

i. Have legal responsibility for the health, safety and welfare of the animal patient which the veterinary technician or assistant serves. (7-1-93)

ii. Not delegate an animal health care task to a veterinary technician or assistant who is unqualified to perform the particular task. (7-1-93)

iii. Not use a level of supervision which is lower than that designated for a specific animal health task as set forth in Subsection 1500.02. (7-1-93)(___)

iv. Make all decisions relating to the diagnosis, treatment, management and future disposition of an animal patient. (7-1-93)

c. A supervising veterinarian shall have examined the animal patient prior to the delegation of any animal health care task to either a veterinary technician or assistant. The examination of the animal patient shall be conducted at such times as acceptable veterinary medicine practice dictates, consistent with the particular delegated animal health care task. (7-1-93)

d. Pursuant to Subsection 1500.03.c. a veterinary technician is authorized to provide supervision for an assistant performing a specified health care task. The veterinary technician shall be under the same degree of supervision by the veterinarian as if the veterinary technician were performing the task. (7-1-93)(___)

e. Unless specifically so provided by law or rule, a veterinarian shall not authorize a veterinary technician or an assistant to perform the following functions: (7-1-93)(___)

i. Surgery; (7-1-93)

ii. Diagnosis and prognosis of animal disease; (7-1-93)

iii. Prescribing drugs, medicines and appliances. (7-1-93)

02. Animal Health Care Tasks - Veterinary Technicians. (7-1-93)

a. Definition. A veterinary technician means a person who has graduated from a veterinary technology program accredited by the American Veterinary Medical Association or a person who has received equivalent training as recognized by the Idaho Board of Veterinary Medicine. The board shall prescribe the application format for veterinary technician status and shall review each application for compliance with the certification requirements. (___)

- ab.** Immediate supervision. The following tasks may be performed only under the immediate supervision of a veterinarian: (7-1-93)
- i. Assist veterinarian in surgery with tissue handling; (7-1-93)
 - ii. Assist veterinarian in surgery with instrument handling. (7-1-93)
- bc.** Direct supervision. The following tasks may only be performed under the direct supervision of a veterinarian: (7-1-93)
- i. Endotracheal intubation; (7-1-93)
 - ii. Blood administration; (7-1-93)
 - iii. Fluid aspiration; (7-1-93)
 - iv. Intraperitoneal injections; (7-1-93)
 - v. Monitoring of vital signs of anesthetized patient; (7-1-93)
 - vi. Application of splints; (7-1-93)
 - vii. Inducement of anesthesia by intravenous, intramuscular, or subcutaneous injection or by inhalation; (7-1-93)
 - viii. When the animal is anesthetized, those tasks listed under Subsection e100.02.d. of this section; (~~7-1-93~~)(___)
 - ix. Administration of immunological agents. (7-1-93)
- ed.** Indirect supervision. The following tasks may only be performed under the indirect supervision of a veterinarian; provided, that if the animal is anesthetized, the following tasks require the direct supervision of a veterinarian: (7-1-93)
- i. Teeth cleaning; (7-1-93)
 - ii. Enema; (7-1-93)
 - iii. Electrocardiography; (7-1-93)
 - iv. Application of bandages; (7-1-93)
 - v. Catheterization of the unobstructed bladder; (7-1-93)
 - vi. Gavage; (7-1-93)
 - vii. Ear flush; (7-1-93)
 - viii. Radiology; (7-1-93)
 - (1) Patient positioning; (7-1-93)
 - (2) Operation of X ray machines; (7-1-93)
 - (3) Oral and rectal administration of radiopaque materials. (7-1-93)
 - ix. Injections of medications not otherwise prohibited; (7-1-93)

- (1) Intramuscular; (7-1-93)
- (2) Subcutaneous; (7-1-93)
- (3) Intravenous, including catheterization. (7-1-93)
- x. Oral medications; (7-1-93)
- xi. Topical medications; (7-1-93)
- xii. Specimen collection; (7-1-93)
 - (1) Collection of tissue during or after a veterinarian has performed necropsy; (7-1-93)
 - (2) Urine (except cystocentesis); (7-1-93)
 - (3) Hematology; (7-1-93)
 - (4) Parasitology; (7-1-93)
 - (5) Exfoliative cytology; (7-1-93)
 - (6) Microbiology. (7-1-93)
- xiii. Administer preanesthetic drugs; (7-1-93)
- xiv. Oxygen therapy; (7-1-93)
- xv. Removal of partially exposed ~~fox tails~~ foreign bodies from skin and feet; (~~7-1-93~~)(____)
- xvi. Removal of sutures. (7-1-93)
- xvii. Implanting of microchips in animals for identification purposes. (____)
- xviii. Non-invasive therapeutic options or alternate therapies as defined by Idaho Code Section 54-2103(26) may be performed by veterinary technicians under the indirect supervision of a licensed veterinarian; provided, that chiropractic care and ultrasound therapy may only be performed by an allied health professional in the disciplines of chiropractics or ultrasound as provided by law. Before any therapeutic option or alternative therapy is performed on an animal by a veterinary technician or an allied health professional, a veterinarian must first perform a diagnostic evaluation of the patient to rule out the use of conventional forms of veterinary medicine as provided by law. In the event the patient's owner desires to use therapeutic options or alternative therapies on the patient, the veterinarian must first inform the patient's owner of the availability of any conventional treatments. (____)
- 03. Animal Health Care Tasks - Assistants. (7-1-93)
 - a. Immediate Supervision. The following tasks may only be performed under the immediate supervision of a veterinarian: (7-1-93)
 - i. Assist veterinarian in surgery with tissue handling; (7-1-93)
 - ii. Assist veterinarian in surgery with instrument handling; (7-1-93)
 - iii. Endotracheal intubation; (7-1-93)
 - iv. Fluid aspiration; (7-1-93)

- v. Intraperitoneal injections; (7-1-93)
- vi. Blood administration; (7-1-93)
- vii. Catheterization of unobstructed bladder; (7-1-93)
- viii. Gavage; (7-1-93)
- ix. Radiology; (7-1-93)
 - (1) Patient positioning; (7-1-93)
 - (2) Film exposure; (7-1-93)
 - (3) Rectal and oral administration of radiopaque materials. (7-1-93)
- x. Intravenous injections of medications not otherwise prohibited; (7-1-93)
- xi. Specimen collection; (7-1-93)
 - (1) Hematology; (7-1-93)
 - (2) Exfoliative cytology; (7-1-93)
 - (3) Microbiology; (7-1-93)
 - (4) Electrocardiography. (7-1-93)
- b. Direct Supervision - Veterinarian. The following tasks may only be performed under the direct supervision of a veterinarian: ~~(7-1-93)~~()
 - i. Monitor vital signs of anesthetized patient; (7-1-93)
 - ii. When the animal is anesthetized, perform those tasks listed under Subsection 100.02.d. ~~(7-1-93)~~() "indirect supervision".
 - iii. Specimen collection; Collection of tissues during or after a veterinarian has performed necropsy. (7-1-93)
 - iv. Removal of sutures; (7-1-93)
- c. Direct Supervision - Veterinarian/Veterinary Technician. The following tasks may only be performed under supervision of either a veterinarian or a veterinary technician: ~~(7-1-93)~~()
 - i. Application of bandages; (7-1-93)
 - ii. Ear flush; (7-1-93)
 - iii. Enema. (7-1-93)
- d. Indirect Supervision. The following tasks may only be performed under the indirect supervision of a veterinarian; provided, that if the animal is anesthetized, the following tasks require the direct supervision of a veterinarian: (7-1-93)
 - i. Teeth cleaning; (7-1-93)
 - ii. Injections of medications not otherwise prohibited; (7-1-93)

- (1) Intramuscular; (7-1-93)
 - (2) Subcutaneous. (7-1-93)
 - iii. Oral medications; (7-1-93)
 - iv. Topical medications; (7-1-93)
 - v. Administer medication through an established intravenous catheter; (7-1-93)
 - vi. Specimen collection; (7-1-93)
 - (1) Collecting of voided urine and fecal material; (7-1-93)
 - (2) Parasitology (except skin scraping). (7-1-93)
 - vii. Oxygen therapy; (7-1-93)
 - viii. Removal of partially exposed ~~fox tail~~ foreign bodies; (~~7-1-93~~)(___)
 - ix. Establish open airways including intubation appliances but excluding surgery; (7-1-93)
 - x. External cardiac resuscitation; (7-1-93)
 - xi. Application of temporary splints or bandages to prevent further injury to bones or soft tissues; (7-1-93)
 - xii. Application of appropriate wound dressings and external supportive treatment in severe burn cases; (7-1-93)
 - xiii. External supportive treatment in heat prostration cases; (7-1-93)
 - xiv. Implanting of microchips in animals for identification purposes. (___)
 - xv. Non-invasive therapeutic options or alternate therapies as defined by Idaho Code Section 54-2103(26) may be performed by assistants under the indirect supervision of a licensed veterinarian; provided, that chiropractic care and ultrasound therapy may only be performed by an allied health professional in the disciplines of chiropractics or ultrasound as provided by law. Before any therapeutic option or alternative therapy is performed on an animal by an assistant or an allied health professional, a veterinarian must first perform a diagnostic evaluation of the patient to rule out the use of conventional forms of veterinary medicine as provided by law. In the event the patient's owner desires to use therapeutic options or alternative therapies on the patient, the veterinarian must first inform the patient's owner of the availability of any conventional treatments. (___)
- e. Under conditions of an emergency, an assistant may render the following life saving aid to an animal: (7-1-93)
- i. Application of tourniquets and/or pressure bandages to control hemorrhage; (7-1-93)
 - ii. Resuscitative oxygen procedures; (7-1-93)
 - iii. Establish open airways including the usual intubation appliances but excluding surgery. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

EDITOR'S NOTE: Section 46.01.01.155 was published in Docket No. 46-0101-9501 as a pending rule in Volume 96-6, pages 280 through 284 of the Administrative Bulletin. This Section has been deleted from this Docket and is now reserved as shown below.

1545. -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

2031. METHODS OF EUTHANASIA.

Methods of euthanasia approved by the CETF and used for the purpose of humanely euthanizing injured, sick, homeless or unwanted pets and animals: (7-1-93)(___)

01. Approved Drugs. (___)

a. Euthanasia drugs are Pentobarbital; or any other Schedule II non-narcotic or Schedule III non-narcotic euthanasia drug covered by the Controlled Substances Act which has first been approved in writing for use by the Idaho Board of Pharmacy, the CETF and the board and filed at the board office; (7-1-93)()

b. Restraint drugs are those approved drugs that are any Schedule III or Schedule IV narcotic or non-narcotic controlled substance as defined by the Controlled Substances Act, or other legend drugs which are approved for use only by licensed CEAs or CETs who are classified as law enforcement agencies or law enforcement personnel. Such restraint drugs shall be limited to those approved in writing by the Idaho Board of Pharmacy, the CETF and the board and filed at the board office. (___)

02. Carbon Monoxide. (7-1-93)

2042. PROCUREMENT AND ADMINISTRATION OF EUTHANASIA APPROVED DRUGS—BY CERTIFIED EUTHANASIA AGENCIES.

In order for a licensed, certified euthanasia agency to obtain sodium pentobarbital approved drugs for the euthanasia/euthanizing of animals; and a licensed, certified euthanasia technician to administer such drugs, the following procedure shall be followed: (7-1-93)(___)

01. DEA Registration. ~~A~~ licensed, certified euthanasia agency (CEA) shall appoint a person who will be responsible for ordering the approved drugs and who shall submit an application for the agency's registration as a Euthanasia Agency Practitioner-A₂S₂ to the Drug Enforcement Agency (DEA). ~~The CEA shall also and~~ designate a licensed, certified euthanasia technician (C-E-T) who will be responsible for the procurement and security of the agency's sodium pentobarbital approved drugs. (7-1-93)(___)

02. Controlled Substance License. ~~The~~ designated C-E-T shall apply for a controlled substance license from the Idaho State Board of Pharmacy for the agency under the designee's name and using the CEA's DEA registration number. (7-1-93)(___)

03. Purchase of Approved Drugs. After the licensed, certified euthanasia agency has received a DEA registration number and the designated C-E-T has received an Idaho Board of Pharmacy controlled substance license, the ~~designated C-E-TA~~ may order and purchase sodium pentobarbital any approved drugs and the licensed CET may administer these drugs for the agency. (7-1-93)(___)

04. Administration of Approved Drugs. ~~All~~ Licensed, certified euthanasia technicians employed by licensed, certified euthanasia agencies and registered with the Idaho Board of Pharmacy may perform euthanasia by the administration of sodium pentobarbital approved drugs. (10-5-94)(___)

2063. FEES.

Certification fees for CET(s) and agencies are as follows: (7-1-93)(—)

01. ~~Agency Fee. Annual agency fee is \$100.00.~~ (7-1-93)
02. ~~Training and Examination. Initial CET training and examination fee is \$75.00.~~ (7-1-93)
03. ~~CET Recertification. Annual CET recertification is \$25.00.~~ (7-1-93)
04. ~~Payment. All fees shall be paid prior to training, and examination, and recertification licensure, and renewal.~~ (7-1-93)()
05. ~~Refunds. Fees are non-refundable.~~ (7-1-93)

2094. CERTIFIED EUTHANASIA AGENCY.

An approved, certified euthanasia agency is a law enforcement agency, an animal control agency or a society for the prevention of cruelty to animals who has been inspected and licensed by the board. In order to be certified, licensed to purchase and possess approved drugs, certified euthanasia agencies shall be inspected by the CETF and shall meet the following criteria: (7-1-93)()

01. ~~Sodium Pentobarbital~~ Approved Drugs. Sodium pentobarbital Approved drugs shall be kept in a securely locked cabinet. (7-1-93)()
- a. Each agency shall maintain a written current list of designated CET(s). (7-1-93)
- b. Access to the drug storage cabinet shall be limited to licensed veterinary supervisors and ~~designated assigned~~ CET(s). Such persons shall be responsible for the security of the approved drugs and shall allow withdrawal of the approved drugs only to a person licensed by the board and registered with the Idaho Board of Pharmacy to administer such drugs. (7-1-93)()
- c. All ~~sodium pentobarbital~~ approved drugs shall be prepared according to the manufacturer's instructions. (7-1-93)()
- d. ~~Needles. Three~~ Two (2) different needle sizes are required: eighteen (18); and twenty (20) ~~and twenty two (22)~~ gauge. An agency may have other needle sizes according to its needs. Needles shall be of medical quality, and shall not be used if they are dirty, clogged, barbed, or might otherwise cause unnecessary discomfort for the animal. Needles shall not be used more than five (5) times. (7-1-93)()
- e. ~~Syringes. Three~~ (3) different syringe sizes are required: three (3), six (6), and twelve (12) cc's. An agency may have other syringe sizes according to its needs. Syringes shall be of medical quality. They may be reused if they are properly cleaned. (7-1-93)()
- f. Used needles and syringes that are to be reused shall be kept in the same secure or temporary storage as the ~~sodium pentobarbital~~ approved drugs. (7-1-93)()
- g. Spent needles and syringes shall be disposed of in a manner that makes their re-use impossible. (7-1-93)
- h. ~~Chemical restraints. Acepromazine, Rompun, Ketamine and other chemical restraints shall be used in accordance with their label instructions and by direction of an Idaho licensed veterinarian. All chemical restraints shall be stored and recorded under the same restrictions applying to sodium pentobarbital as outlined in Subsection 204.02. below.~~ (7-1-93)
02. Proper Storage. When no CET is on duty, Proper storage of sodium pentobarbital for approved drugs. When no CET is on duty, sodium pentobarbital shall be kept is in a secure locked storage cabinet. (7-1-93)()
- a. The cabinet shall be of such material and construction that it will withstand strong attempts to break into it. A metal safe is preferred. (7-1-93)

- b. The cabinet shall be securely attached to the building in which it is housed. (7-1-93)
- c. The temperature and environment in the storage cabinet shall be adequate to assure the proper keeping of the drug. (7-1-93)
- ~~03.~~ Proper Labeling. Proper labeling of approved drugs shall include: ()
- a. Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number. Upon removal from the shipment carton, each ~~Each~~ individual container of the ~~sodium pentobarbital~~ approved drug shall be labeled with the drug name and strength, the date the drug was ~~received or~~ prepared, a drug hazard warning label and the name and address of the agency owning the drug. (7-1-93)()
- b. Administration records showing the date an approved drug was administered, weight, species of animal and dosage administered for euthanasia, identification of the person who dispensed the approved drug and if applicable identification of the veterinarian or CET who supervised the dispensing shall be maintained. ()
- c. Records of wastage shall be maintained and signed by the person administering the approved drug and the designated CET or person responsible for security. ()
- d. A weekly record of verification of the stock on hand, minus the amounts withdrawn for administration, signed by the designated CET or person responsible for security. ()
- e. Disposal records of any expired or unwanted approved drugs shall be maintained. Disposal shall be in conformance with the Idaho Board of Pharmacy law and rules. ()
- ~~034.~~ Temporary Storage. When a CET is on duty and when animals are being euthanized throughout the work day, ~~sodium pentobarbital~~ approved drugs may be kept in a temporary storage cabinet. ~~The cabinet~~ shall be constructed of any strong material and shall be securely locked. The key to this cabinet shall be available only to the licensed veterinary supervisor and designated CET(s). (7-1-93)()
- ~~045.~~ Record-~~k~~keeping. Proper record-keeping; (7-1-93)()
- a. All records shall be filed in chronological order in a binder that is labeled with the name of the agency. (7-1-93)
- b. All records shall be kept for a period of three (3) years from the calendar date on the record. (7-1-93)
- ~~056.~~ Proper Sanitation. The area shall be clean and regularly disinfected. (7-1-93)
- ~~067.~~ Other Site Conditions. Other site conditions relevant to the proper euthanasia environment. (7-1-93)
- a. Each agency shall have a specific area designated for euthanasia. The area shall be: (7-1-93)
- i. A separate room; or (7-1-93)
- ii. An area that is physically separated from the rest of the agency by a wall, barrier or other divider; or (7-1-93)
- iii. An area that is not used for any other purpose while animals are being euthanized. (7-1-93)
- b. The euthanasia area shall meet the following minimum standards: (7-1-93)
- i. Lighting shall be bright and even; (7-1-93)

- ii. The air temperature shall be within a reasonable comfort range for both the personnel and animals. A minimum sixty (60) degrees F. and maximum ninety (90) degrees F. is recommended; (7-1-93)
- iii. The area shall have adequate ventilation that prevents the accumulation of odors. At least one (1) exhaust fan vented directly to the outside is recommended; and (7-1-93)
- iv. The floor of the area shall provide dry, non-slip footing to prevent accidents. (7-1-93)
- c. The euthanasia area shall have the following equipment: (7-1-93)
 - i. A table or other work area where animals can be handled while being euthanized. (7-1-93)
 - ii. A cabinet, table or work bench where the drugs, needles, syringes and clippers can be placed. (7-1-93)
- d. The following materials shall be kept in the euthanasia area or shall be brought to the area each time an animal is euthanized: (7-1-93)
 - i. A first aid kit that meets minimum first aid supply standards; (7-1-93)
 - ii. One or more tourniquets; (7-1-93)
 - iii. Standard electric clippers with No. 40 blade; (7-1-93)
 - iv. Animal control stick for dogs and animal net for cats (if the agency handles cats); (7-1-93)
 - v. Stethoscope; (7-1-93)
 - vi. Towels, sponges, disinfectant. (7-1-93)
- e. All equipment shall be in good working order. (7-1-93)

078. Equipment Stored. All equipment shall be stored so that it does not create a safety hazard for the personnel. All drugs and other chemical agents used in the euthanasia area shall be clearly labeled as specified by Subsections 202.01 and .02. (7-1-93)()

09. License Renewal. Licenses may be renewed upon successful completion of a facility inspection by a CETF member a member of the board or other individual appointed by the CETF and payment of the annual renewal fee. ()

10. Grounds for Discipline. Discipline will be imposed for but is not limited to the following actions by a CEA: ()

- a. Allowing an unlicensed individual to administer approved drugs without the proper supervision. ()
- b. Allowing unlicensed or probationary CETs to euthanize animals without proper supervision as specified by Subsection 205.03. ()
- c. Violating any provision of the board law and rules including those contained herein and Federal regulations. ()

2045. CERTIFIED EUTHANASIA TECHNICIAN.
The term Certified Euthanasia Technician (CET) means: A person employed by a certified euthanasia agency, a law enforcement agency, an animal control agency, or of a society for the prevention of cruelty to animals, or working under the direct supervision of a licensed veterinarian, Idaho Code Section 54-2103(7)(a), who has been licensed by the board and registered with the Idaho Board of Pharmacy to possess and administer approved drugs. ~~who is~~

~~instructed in the following:~~ Licensed CETs shall have been instructed in the proper methods of humane euthanasia, security and recordkeeping as well as possess other skills as deemed necessary by the board. In addition, licensed law enforcement CETs shall have additional training in the proper use and handling of approved restraint drugs and equipment. (7-1-93)(___)

- ~~01. Euthanasia Methods. Proper methods of humanely euthanizing injured, sick, homeless or unwanted dogs and cats; (7-1-93)~~
- ~~02. Security. Proper security precautions; (7-1-93)~~
- ~~03. Record Keeping. Proper record keeping, and; (7-1-93)~~
- ~~04. Other Skills. Other skills, as deemed appropriate and necessary by the Idaho State Board of Veterinary Medicine; and who has been certified by the Idaho State Board of Veterinary Medicine and registered with the Idaho State Board of Pharmacy to possess or administer sodium pentobarbital. (7-1-93)~~

202. 01. TRAINING AND EXAMINATIONS Training and Examinations. The CETF shall develop training sessions and materials which shall include, but not be limited to, the following topics: (___)

- ~~01a. Theory and History. The theory and history of euthanasia methods. (7-1-93)(___)~~
- ~~02b. Anatomy. Animal anatomy. (7-1-93)(___)~~
- ~~03c. Handling. Proper animal handling to ease trauma and stress. (7-1-93)(___)~~
- ~~04d. Dosages. Dosages of chemical agents, recordkeeping and documentation of usage, storage, handling, and disposal of out-dates in accordance with the Uniform Control Substances law. (5-25-94)(___)~~
- ~~05e. Injection. Proper injection techniques. (7-1-93)(___)~~
- f. Proper use and handling of approved restraint drugs and equipment by law enforcement CETs. (___)

~~06g. Examination. Following the training, a written examination shall be given. Those passing the written examination will be eligible for the practical examination for certification/licensure as a CET. (7-1-93)(___)~~

208. 02. STANDARDS FOR EXAMINATION AND CERTIFICATION Licensing and Certification Standards. Applicants for CET positions shall be 18 years of age or older and demonstrate proficiency in compliance with the following standards. (7-1-93)(___)

- ~~01a. Euthanize. Euthanize animals in the presence of one or more CETF members: (7-1-93)(___)~~
- ~~a.i. The CET is fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area, including but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling. (7-1-93)~~

~~b.ii. Each animal shall be handled with the least amount of restraint necessary, but human safety shall always be the primary concern. (7-1-93)~~

~~e.iii. The CET shall be able to properly perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required, but if performed, shall meet the standards listed below. Intracardiac injections shall not be required and are restricted to the limitations listed below. (7-1-93)~~

~~d.iv. Intravenous Injections: The CET shall be able to properly and efficiently insert the needle into an animal's vein in no more than two (2) attempts on ninety (90) percent of the animals injected by this method. IV injections in the cephalic vein shall be used on all dogs over the age of three (3) months unless the animal's physical~~

condition or size makes this type of injection impossible, or the animal's behavior would make this type of injection a serious danger to the CET or handler. (7-1-93)

ev. Intraperitoneal Injections: The CET shall be able to efficiently insert the needle into the proper injection site in no more than two (2) attempts on ninety-five (95) percent of the animals injected by this method. It is recommended that animals injected by this method shall be held or otherwise restrained by the handler until the animal is unconscious. If an animal cannot be held, it shall be placed into a cage with no other animals. The front of the cage shall be covered with cloth or other material that can keep the cage isolated from the normal activities in the euthanasia area. The animal shall be checked every five (5) minutes until death occurs. (7-1-93)

evi. Intracardiac Injections: Intracardiac injection shall be performed only on an anaesthetized animal. The CET shall be able to efficiently insert the needle into the heart of an animal in no more than two (2) attempts on ninety (90) percent of the animals injected by this method. (7-1-93)()

evii. No other injection procedure is permitted in any type of animal. (7-1-93)

i(1) A minimum of two (2) persons shall be required for any IV injection. One (1) person shall be a CET and one (1) or more persons shall be a handler. The handler(s) do not have to be CET(s), but the handler(s) should be trained in human safety and animal handling techniques. (7-1-93)

ii(2) Intraperitoneal and intracardiac injections may be administered by a CET without a handler. (7-1-93)

hvi. Injections: On all injections, the CET shall aspirate the syringe to determine if the needle is in the correct site. (7-1-93)

i(1) For human safety the cap shall be kept on the needle until such time that the injection is ready to be made. (7-1-93)

ii(2) The needle shall be of the size and length appropriate for the specific animal involved. (7-1-93)

iii(3) The dosage of ~~sodium pentobarbital~~ any approved drug used shall be no less than the minimum dosage recommended by the drug's manufacturer. (7-1-93)()

ix. Oral Administration of ~~Sodium Pentobarbital~~ of approved drugs: This is permitted for any animal that cannot be captured or restrained without serious danger to human safety. (7-1-93)()

ix. Demonstrate ~~proficiency in use and an~~ understanding of gas-induced euthanasia chambers. (7-1-93)()

02b. ~~Record Keeping.~~ Demonstrate proper recordkeeping: A record of all ~~sodium pentobarbital~~ approved drugs received and used by the agency shall be kept. The record shall contain the following information: (7-1-93)()

ai. A weekly verification of the drug stock on hand, signed by the CET. (7-1-93)

bii. An entry of the date that a new bottle of ~~sodium pentobarbital~~ any approved drug is opened and the volume of the bottle, signed by the CET. (7-1-93)()

eiii. The species and approximate weight of each animal administered a drug. (7-1-93)

div. The amount of the drug that was administered. (7-1-93)

ev. The signature of the CET who administered the drug. (7-1-93)

evi. A record of any wastage of the drug, signed by the CET administering the drug. (7-1-93)

~~evii.~~ Any disposal of expired or unwanted ~~sodium pentobarbital~~approved drugs or other chemical agent(s) should be in conformance with the Idaho Board of Pharmacy law and rules. (7-1-93)()

~~03c.~~ ~~Understanding and Concern.~~ Demonstrate understanding and concern for the needs of individual animals~~needs~~; (7-1-93)()

~~ai.~~ Once they have collapsed, injected animals shall be lowered to the surface on which they were being held at the time of injection. Injected animals shall not be permitted to drop or otherwise collapse without human support. (7-1-93)

~~bii.~~ All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler(s). Handling includes all aspects of moving an animal from one area to another. (7-1-93)

~~eiii.~~ The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals. (7-1-93)

~~div.~~ Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question. Animals shall not be overcrowded in a cage or kennel. (7-1-93)

~~04d.~~ ~~Verify Death.~~ Demonstrate ability to verify death; The animal should become unconscious and show terminal signs within thirty (30) seconds after an IV or IC injection, within fifteen (15) minutes after an IP injection or within sixty (60) minutes after an oral administration. If any animal does not show any of these signs within the designated time periods, the CET shall readminister the drug. An animal that has received ~~sodium pentobarbital~~ an approved drug orally may be injected with ~~sodium pentobarbital~~ an other approved drug after it has become unconscious. Terminal signs include: no visual indications of breathing or heartbeat, lack of capillary response in the gums and/or lack of corneal or pupillary reflexes. Each animal shall be checked to verify death. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One of the following two standards for death shall be met: (7-1-93)()

~~ai.~~ Rigor mortis;or (7-1-93)

~~bii.~~ Complete lack of heartbeat (as checked with a stethoscope); and complete lack of respiration; and complete lack of corneal, palpebral, and pupillary reflexes. (7-1-93)

~~05e.~~ ~~Communication.~~ Demonstrate ability to communicate with helpers during the euthanasia process. (5-25-94)

~~207.~~ ~~03.~~ ~~CERTIFICATION OF TECHNICIANS~~ Licensing. An applicant shall not be ~~certified~~ licensed as a CET until such time as the applicant has demonstrated proficiency in the practical examination which shall be conducted following the applicant having satisfactorily passed the written exam. Training courses and written and practical examinations will be given as needed. Certification and recertification practical License and renewal examinations will be conducted ~~during March 1 through~~ prior to June 1 of each year at the applicants' place of employment or at a place selected by the CETF. (5-25-94)()

~~04a.~~ ~~Practice.~~ An applicant who has passed the written exam may serve as a euthanasia technician under the direct supervision of an Idaho licensed veterinarian or CET until such time as the next training course, practical exam and certification ~~is~~are conducted by a CETF member. (7-1-93)()

~~02b.~~ ~~Failure.~~ An applicant who has not passed the written exam ~~or the practical exam~~ may serve in a probationary capacity as a euthanasia technician only under the direct supervision of an Idaho licensed veterinarian or CET until the next regularly scheduled training session. ~~may not serve as a euthanasia technician or assistant.~~ (7-1-93)()

~~03.~~ ~~Repeat.~~ An applicant who fails the written exam may not serve on probation but may repeat the training and written exam one additional time. (7-1-93)

~~04c.~~ Probation. An applicant who passes the written exam but fails the practical exam may serve on probation until the CETF member re-examines the applicant. If the applicant fails to pass the practical exam a second time and wishes to apply again, the applicant shall attend the next regular training session and written exam.

(7-1-93)(___)

~~05d.~~ Termination. Upon termination from an agency as defined in Subsection ~~209~~ 202.01.a. of these rules, a CET shall not perform animal euthanasia until employed by another licensed, certified agency as defined by Idaho Code, Section 54-2103(7)(a).

(5-25-94)(___)

~~06e.~~ Notification. The agency shall notify in writing the ~~Veterinary Board~~ office and/or a CETF member within thirty (30) days from such time that the CET is terminated from employment from that agency.

(7-1-93)(___)

~~07f.~~ Employment. If a CET is employed again within eighteen (18) months of last ~~certification~~ licensure, the CET and/or employer may request ~~recertification~~ reinstatement and renewal of the CET's license. If ~~certification~~ licensure has expired past the eighteen (18) months maximum, the CET may euthanize animals under the direct supervision of an Idaho licensed veterinarian or currently licensed certified euthanasia technician until such time as a CETF member can administer ~~the written practical~~ examination and authorize recertification.

(7-1-93)(___)

~~08g.~~ Visiting. One (1) or more CETF members shall visit each licensed, certified agency at least annually, and require a satisfactory demonstration, either practical or written, of the CET's skills as provided for in compliance with these rules.

(7-1-93)(___)

~~09h.~~ Expiration. All ~~certifications~~ licenses expire on June 30 of each year and are effective for no longer than twelve (12) months from the date of ~~certification~~ licensure.

(7-1-93)(___)

04. License Renewal. Licenses may be renewed upon successful completion of: (___)

a. A written or practical examination to be administered by the CETF or the board and (___)

b. Payment of the annual renewal fee. (___)

~~205.~~ 05. DUTIES OF A CERTIFIED EUTHANASIA TECHNICIAN (CET) Duties. Pursuant to Idaho Code, Section 54-2103 (14) ~~†~~ The duties of a CET shall include, but are not limited to: (7-1-93)(___)

~~01a.~~ Preparing. Preparing animals for euthanasia. (7-1-93)(___)

~~02b.~~ Recording Usages. Accurately recording dosages administered and drug wasted. (7-1-93)(___)

~~03c.~~ Ordering supplies. (7-1-93)

~~04d.~~ Security. Maintaining the security of all controlled substances and drugs. (7-1-93)(___)

~~05e.~~ Supervising. Directly supervising probationary CET(s). (7-1-93)(___)

~~06f.~~ Reporting. Reporting to the ~~Idaho State Board of Veterinary Medicine~~ violations or suspicions of violation of these rules or any abuse of drugs. (7-1-93)(___)

~~07g.~~ Euthanizing. Humanely euthanizing animals. (7-1-93)(___)

~~08h.~~ Disposal. Proper and lawful disposal of euthanized animals. (7-1-93)(___)

06. Grounds for Discipline. Discipline shall be imposed for, but is not limited to the following actions by a CET: (___)

a. Failure to carry out the duties of a CET; (___)

- b. Abuse of any chemical substance by; (___)
- i. Selling or giving chemical substances away; (___)
- ii. Stealing chemical substances; (___)
- iii. Using chemical substances, or; (___)
- iv. Abetting anyone in the foregoing activities. (___)
- c. Euthanizing animals without proper supervision while on probationary status; (___)
- d. Euthanizing animals without being properly licensed to do so; or (___)
- e. Violating any provision of the board law and rules including those contained herein; the Idaho Board of Pharmacy law and rules; and the Uniform Controlled Substances Act. (___)

24006. INSPECTION DEFICIENCIES.

If there are inspection deficiencies with either ~~the~~ a CEA or CET or agency, a CETF member shall document in writing areas for correction. The ~~agency~~ CEA and/or CET shall make corrections within ten (10) days of receipt of notice of deficiency and a CETF member shall re-inspect within ninety (90) days of the date of the initial notice of deficiency. If the deficiency has not been corrected, the certification license may be revoked by the CETF and the State/Idaho Board of Pharmacy will be notified. (7-1-93)(___)

21307. -- 999. (RESERVED).

211. ~~REVOCAION OF CERTIFICATION.~~

- 01- ~~CET Certification Revoked. A CET's certification shall be revoked upon a finding that the CET has:~~ (7-1-93)
 - a- ~~Failed to carry out the duties of a CET;~~ (7-1-93)
 - b- ~~Abused any chemical substance by;~~ (7-1-93)
 - i- ~~Selling or giving chemical substances away;~~ (7-1-93)
 - ii- ~~Stealing chemical substances;~~ (7-1-93)
 - iii- ~~Using chemical substances, or;~~ (7-1-93)
 - iv- ~~Abetting anyone in the foregoing activities.~~ (7-1-93)
- 02- ~~Agency's Certification Revoked. An agency's certification shall be revoked upon a finding that the agency has violated any of these rules.~~ (7-1-93)

212. ~~DISCIPLINARY ACTIONS.~~

- 01- ~~Conditions. CET(s) and certified agencies may be subject to disciplinary actions if they:~~ (7-1-93)
 - a- ~~Euthanize animals without proper supervision while on probationary status;~~ (7-1-93)
 - b- ~~Euthanize animals without being properly certified to do so; or~~ (7-1-93)
 - e- ~~Violate provisions of the Idaho Veterinary Law and rules including those contained herein; the Idaho Board of Pharmacy Law and rules; and the Uniform Controlled Substances Law and rules.~~ (5-25-94)

- 02. ~~Disciplinary Actions. Such disciplinary actions shall include, but are not limited to:~~ (7-1-93)
- a. ~~Letters of reprimand;~~ (7-1-93)
- b. ~~Suspension or revocation of certification; or~~ (7-1-93)
- e. ~~Any of the above in combination.~~ (7-1-93)

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION
52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION
DOCKET NO. 52-0102-9601
NOTICE OF TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Idaho Lottery Commission has adopted a temporary rule addressing bingo and raffles and has proposed regular rulemaking. The Idaho Lottery Commission is authorized to engage in rulemaking with regard to bingo and raffles by Section 67-7714, Idaho Code.

PUBLIC HEARING SECEDULE: Public hearing(s) concerning this rulemaking will beheld as follows:

September 16, 1996, at 1:00 p.m.
Idaho State Lottery Commission
1199 Shoreline Drive, Boise, Idaho

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 the agency address below.

DESCRIPTIVE SUMMARY: The Gaming Rules of Idaho State Lottery Commission provide a comprehensive regulatory scheme for the legal operation of bingo and raffles by non-profit and charitable organizations as well as requirements of and proscriptions of legal bingo and raffle operations. The rules also address licensing of bingo and raffle operations and of vendors who provide gaming devises, equipment or material for bingo and raffle operations.

The bingo and raffle rules implement Chapter 77, Title 67, Idaho Code, Bingo and Raffles.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b) these temporary rules are being adopted to comply with newly enacted and amendments to governing law. In particular, the statutes now codified at Chapter 77, Title 67, were first enacted in 1993 (ch. 391), were substantially amended in 1994 (ch. 281), in 1995 (ch. 350), in 1996, (ch. 382). No rules have previously been adopted under this title and chapter, these rules are adopted to conform with the law and amendments to the law previously described.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning there temporary and proposed rules contact Pat Stewart at (208) 334-2277. Any person desiring to submit written comments regarding there temporary and proposed rules must submit them to Pat Stewart, Idaho State Lottery, 1199 Shoreline Lane, Ste. 100, Boise, ID 83702, on or before September 25, 1996.

DATED this 15th day of July, 1996

Pat Stewart
Idaho State Lottery
1199 Shoreline Lane, Ste.100
Boise, Id. 83702
Phone: (208) 334-2277
Fax: (208) 334-2391

TEXT OF DOCKET NO. 52-0102-9601

IDAPA 52
TITLE 01
Chapter 02

52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION

Subchapter A--Introductory Provisions and Definitions

000. LEGAL AUTHORITY. (Rule 0).

These rules are adopted by the Idaho State Lottery Commission under the general authority of Title 67, Chapter 77, Idaho Code, and the specific authority of Section 67-7714, Idaho Code. (7-1-96)T

001. TITLE AND SCOPE. (Rule 1).

01. Title. The title of these rules is Gaming Rules of the Idaho State Lottery Commission. (7-1-96)T

02. Scope. The purpose of these rules is to set forth which bingo games and raffles are legal in the state of Idaho and to bring all legal bingo games and raffles in the state of Idaho, except those subject to compacts between the state of Idaho and Indian tribes under the Indian Gaming Regulatory Act, under the control of the Idaho State Lottery. See Sections 67-7701 and 67-7714, Idaho Code. (7-1-96)T

002. WRITTEN INTERPRETATION (Rule 2).

Field manuals and other agency guidance documents, as well as agency policy statements or interpretations not rising to the legal effect of a rule, if any, are available for inspection and copying at the office of the Idaho State Lottery during regular business hours. (7-1-96)T

003. ADMINISTRATIVE PROCEDURE AND ADMINISTRATIVE APPEAL (Rule 3).

All administrative procedures and appeals under these rules are governed by the procedures of IDAPA 52.01.01.000 et seq., Rules of the Idaho State Lottery, in particular Sections 000 through 026. (7-1-96)T

004. ADMINISTRATIVE ARM OF IDAHO STATE LOTTERY (Rule 4).

The administrative arm of the Idaho State Lottery that will be responsible for licensing, controlling and regulating bingo games and raffles under the jurisdiction of the Idaho State Lottery is the Lottery Security Division of the Idaho State Lottery. The Lottery Security Division shall provide all application forms, reporting forms and other documents necessary for submission to the Idaho State Lottery. See Section 67-7714, Idaho Code. (7-1-96)T

005. PUBLIC RECORDS ACT COMPLIANCE (Rule 5).

Documents in the possession of the Idaho State Lottery are subject to the provisions of Sections 9-337 through 9-349, Idaho Code, dealing with documents open to inspection and copying and documents exempt from disclosure. (7-1-96)T

006. CITATION (Rule 6).

The official citation of this chapter is IDAPA 52.01.02.000 et seq. For example, this section's official citation is IDAPA 52.01.02.006. In documents submitted to the Idaho State Lottery or issued by the Idaho State Lottery, these Rules may be cited as Gaming Rules or GR. For example, this rule may be cited as Gaming Rule 6 or GR 6. (7-1-96)T

007. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

As used in these rules, the following words have the following definitions: (7-1-96)T

01. Audit. The review of any or all documents pertaining to the operating of bingo or raffles, including, but not limited to ledgers, bank statements, nightly logs recording transactions, receipts, register tapes, computer records, and tax records, by representatives of the Idaho State Lottery, the Attorney General, other law enforcement agencies, or independent auditors. (7-1-96)T

02. Bingo. (see section 67-7702(1), Idaho Code): (7-1-96)T
- a. Bingo cards, regular. The traditional game of chance played for a prize determined prior to the start of the game. Bingo includes games using cards (reusable or disposable) containing five (5) rows of five (5) squares, each imprinted with randomly placed numbers, one (1) through seventy-five (75), except for the center squares, which may be a free space, and a set of designators, similarly numbered, that are contained in a selection device. The letters "B-I-N-G-O" must also be imprinted on the card in order above each of the five (5) columns. Upon approval of the Bingo Advisory Board there may be other forms of Bingo games allowed, such as Blackouts, Bonanza, and "U Pick Em" games. (7-1-96)T
- b. Play Method. Players who have paid consideration for the cards they are holding compete for prizes by covering numbers on their cards when similarly numbered designators are randomly drawn and called. The winner is the first player to cover a predetermined arrangement of numbers on the player's cards. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares a bingo on the last number called. The winning card shall be independently verified by a floorworker and another player by calling back the winning combination of numbers in the accepted pattern or by entering the serial number printed on the bingo card into an electronic verification system. (7-1-96)T
- c. Exclusions from Bingo. Bingo shall not include "instant bingo" which is a game of chance played by the selections of one (1) or more prepackaged cards, with the winner determined by the appearance of a preprinted winning designation on the card. (7-1-96)T
03. Bingo Advisory Board or Board. A board of six (6) persons chosen by the Governor to make advisory recommendations regarding bingo operations and regulation in Idaho. See Section 67-7702(2), Idaho Code. (7-1-96)T
04. Blackout. A game where all numbers are covered on a card. This game is also referred to as coverall. (7-1-96)T
05. Bonanza. A game of bingo that is played on a prefolded card. Wherein a designated number of balls are emitted from the machine in the usual manner and displayed. If there is no 'Bingo' called on these numbers the game continues until there is a winner. (7-1-96)T
06. Calcuttas or Calcutta Wagering (Also Known As Auction Pools). Wagering on the outcome of amateur or professional contests (for example cock fights, cutter horse racing, golf tournaments, or rodeo events) in which those who wager do so through a bid or auction for the right to purchase or wager upon a particular contestant or entrant in the event, and the payout of the event is decided by the total wagers comprising the pool, less a percentage takeout by the event's sponsor, and is distributed to those who purchased or wagered upon the winning contestants or entrants. (7-1-96)T
07. Casino Nights. Events that involve casino type games, gambling events, or other wheel games, including but not limited to: blackjack, craps, roulette, poker, baccarat, or keno. (7-1-96)T
08. Charitable Organization. Any organization that meets the following criteria: (See Section 67-7702(3), Idaho Code.) (7-1-96)T
- a. At least one (1) year existence. The organization has been in continuous existence in the county of operation of the charitable bingo game or raffle for at least one (1) year; (7-1-96)T
- b. Federal tax exemption. The organization is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code; and (7-1-96)T
- c. State tax exemption. The organization is exempt from income taxation under Title 63, Idaho Code, (1) as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic or veterans organization, or (2) as nonprofit volunteer fire department, or (3) as a nonprofit volunteer rescue squad, or as (4) as a nonprofit volunteer educational booster group, parent-teacher organization or association. (7-1-96)T

- d. Local chapters or branches. If the organization has local branches or chapters, the term "charitable organization" means the local branch or chapter operating the bingo game or raffle. (7-1-96)T
09. Commission. The Idaho State Lottery Commission as defined in Section 67-7404, Idaho Code. See Section 67-7702(4). (7-1-96)T
10. Concessions. Food items offered to players at bingo games. (7-1-96)T
11. Director. The director of the Idaho State Lottery. See Section 67-7407, Idaho Code. (7-1-96)T
12. Distributor. Any person who purchases or otherwise obtains a completed piece of equipment and/or supplies for use in authorized gaming activities, including but not limited to bingo or raffles, from any person or entity, and sells or otherwise furnishes such equipment and/or supplies to any person or entity. (7-1-96)T
13. Duck Race. A charitable raffle played by releasing numbered, inanimate toys (ducks or others) into a body of moving water. A person who has been assigned the same number as the first duck or other toy to cross a predetermined point in the water (the finish line) is the winner. Other prizes may be awarded on the basis of the order in which the ducks or other toys cross the finish line. With the exception of determining "net proceeds," all restrictions and requirements applicable to the conduct of charitable raffles shall also apply to the conduct of duck races. See Section 67-7704(5), Idaho Code. (7-1-96)T
14. Disposable Paper Card. A non-reusable, paper bingo card. Such cards must be manufactured with pre-printed serial numbers and may be assembled in multiple card sheet, single sheet, pad or packet form. A sequential series and serial number must be printed on each individual card. (7-1-96)T
15. Electronic Devices. Gaming or gambling devices electronically operated by inserting a coin or token and then pulling a handle or pushing a button to activate the game. Devices can generate points or payout slips for accumulated wins. (7-1-96)T
16. Gaming. Risking any money, credit, deposit or other thing of value for gain contingent in whole or part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, the operation of casino gambling including, but not limited to, blackjack, craps, roulette, poker, baccarat, or keno, but under Section 18-3801, Idaho Code, does not include: (7-1-96)T
- a. Bona fide competitions. Bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entrants. (7-1-96)T
- b. Business transactions. Bona fide business transactions that are valid under the law of contracts. (7-1-96)T
- c. Additional play. Games that award only additional play. (7-1-96)T
- d. Promotions. Merchant promotional contests and drawings conducted incidentally to bona fide nongaming business operations, if prizes are awarded without consideration being charged to participants. (7-1-96)T
- e. Miscellaneous. Other acts or transactions now or hereafter expressly authorized by law. (7-1-96)T
17. Gross Revenues. All moneys paid by players during a bingo game or session for the playing of bingo and shall not include money paid for concessions. See Section 67-7702(6), Idaho Code. Gross revenues for raffle events (or other gaming) mean the monetary value that would be due to any operator of a gaming activity for any chance taken or other fees for participation. Gross revenues are calculated before any deductions for prizes or other expenses. (7-1-96)T
18. Hard Cards. Reusable bingo cards with sliding windows to cover the numbers on the cards. Hard cards are legal in sessions with less than ten thousand dollars (\$10,000) annual gross revenue or for special occasions. (7-1-96)T

19. License. A permission issued by the director of the Idaho State Lottery to: (7-1-96)T
- a. Game Operator. A person, business, or organization that qualifies as a nonprofit or charitable organization operating bingo games or raffles, or (7-1-96)T
- b. Suppliers. Vendors, distributors or manufacturers of gaming supplies. (7-1-96)T
20. Manufacturer. Any person who fabricates or assembles, from raw materials or subparts, a completed piece of equipment or pieces of equipment, or supplies for use in authorized gaming activities, including but not limited to bingo and raffles, and who sells or otherwise furnishes the same to any distributor, operator, or retail outlet. (7-1-96)T
21. Net Proceeds of a Charitable Raffle. The receipts less the cost of prizes awarded. In the case of a duck race, net proceeds of a duck race mean receipts less the cost of prizes awarded and the rental cost of the ducks used in the race. See Section 67-7710(4), Idaho Code. Donated prizes are considered to have no cost and do not reduce amount of receipts when calculating net proceeds. (7-1-96)T
22. Nonprofit Organization. An organization incorporated under Chapter 3, Title 30, Idaho Code, or an unincorporated association recognized under Chapter 7, Title 53, Idaho Code. See Section 67-7702(7), Idaho Code. (7-1-96)T
23. Organization. A charitable organization or a nonprofit organization. See Section 67-7702(8), Idaho Code. (7-1-96)T
24. Poker Runs. Gambling events using playing cards to determine the outcome of the event in which participants pay a fee to follow a given route and collect random playing cards, with the highest poker hand winning a prize. (7-1-96)T
25. Raffle. An event in which prizes are won by random drawings of a name or number of one (1) or more persons purchasing chances. See Section 67-7702(9), Idaho Code. Duck races are forms of raffles. (7-1-96)T
26. Reusable Cards. Reusable or hard bingo cards constructed similar to the non-reusable paper cards, by utilizing sliding windows or chips to cover the numbers. (7-1-96)T
27. Separate Account. A bank account established strictly for the funds generated from bingo activities. See Section 67-7709(1), Idaho Code. (7-1-96)T
28. Slot Machines. Any device that allows money or tokens to be inserted in a slot with the payoff determined by the matching of symbols on wheels spun by a handle or button. (7-1-96)T
29. Special Committee. Persons (including officers and directors, if so designated) listed on an organization's application for a license who will be among the persons authorized to be in attendance at a bingo game or bingo session and supervise the game or session to see that the game or session is run according to the requirements of statute and of these rules. See Section 67-7711(3), Idaho Code. (7-1-96)T
30. Tracking. The documentation of sales by sequentially numbered paper in bingo games or numbered tickets in raffles. (7-1-96)T
31. U-Pick Ems. A game where players select their own numbers on a two part duplicated card. One (1) copy is retained by the player and used as a bingo card. Numbers are called until there is a winner. The winner is determined by the first player to cover their numbers. (7-1-96)T
32. Vendor. Any manufacturer or distributor as defined in these rules. (7-1-96)T

011. -- 099. (RESERVED).

Subchapter B--Declarations of Illegality and Other Declarations

100. DECLARATIONS OF ILLEGALITY (Rule 100).

The following activities are always illegal, except as provided in this Section: (7-1-96)T

01. Calcuttas and Calcutta Wagering. Calcuttas and Calcutta wagering (also known as auction pools) are illegal in the state of Idaho. (7-1-96)T

02. Casino Nights. Casino nights are illegal in the state of Idaho, except a casino night is legal only if no monetary value is placed on any aspect of the event and the event is conducted for entertainment only. (7-1-96)T

03. Slot Machines. Use or possession of slot machines is illegal; however, slot machines manufactured before 1950 may be possessed, but not in operable condition. (7-1-96)T

04. Unlicensed Bingo Games or Raffles. Bingo games or raffles conducted by persons who are not licensed to operate bingo games or raffles under these rules, except as authorized by these rules. (7-1-96)T

101. OTHER DECLARATIONS OF LAW OR POLICY (Rule 101).

Gaming issues not addressed in statute or in these rules may be addressed by the Idaho State Lottery by formal declaratory orders or informal letter correspondence or by the Attorney General through formal opinions, informal opinions, or legal guidelines of the Attorney General. (7-1-96)T

102. CONTESTS OF SKILL (Rule 102).

A contest of skill is an event in which the participants pay an entry fee to compete in a skilled event for a predetermined prize. When large market items valued in excess of five thousand dollars (\$5,000) are offered as prizes, these contest rules must be followed: (7-1-96)T

01. Independent Panel. An independent judging panel must be selected or there must be objective criteria for determining the winner; (7-1-96)T

02. Entry Criteria. Criteria for entries must be defined and publicized; (7-1-96)T

03. Contact Person. A contact person with address and phone number must be available; and (7-1-96)T

04. Consolation Prizes. No consolation prizes may be awarded in lieu of the advertised prize(s). (7-1-96)T

05. Reimbursement Clause. A reimbursement clause must exist in case the minimum amount of entries is not received for the event. (7-1-96)T

103. TRIBAL GAMING (Rule 103).

Tribal gaming under the Indian Regulatory Gaming Act is not addressed by these rules, but instead is subject to the provisions of federal law and compacts between the state and individual Indian tribes under the Indian Regulatory Gaming Act or other applicable federal and state law. These rules shall not be construed to directly regulate, prohibit or authorize tribal gaming. (7-1-96)T

104. -- 199. (RESERVED).

Subchapter C--Bingo Advisory Board

200. BINGO ADVISORY BOARD ESTABLISHED (Rule 200).

A Bingo Advisory Board has been established by Section 67-7703, Idaho Code. The Bingo Advisory Board is referred to as the Board in these rules. (7-1-96)T

201. RESPONSIBILITIES OF BOARD (Rule 201).

The Board is responsible for making recommendations for the improvement of bingo operations and regulation to the Commission, the Governor and the Legislature, including recommendations for administrative rules. See Section 67-7703, Idaho Code. (7-1-96)T

202. QUALIFICATIONS FOR AND APPOINTMENT TO BOARD (Rule 202).

The Board shall consist of six (6) members appointed by the Governor and confirmed by the Senate. Members shall be selected and appointed because of their ability and disposition to serve the State's interest and for knowledge of bingo operations. Members of the Board appointed by the Governor shall serve at the pleasure of the Governor, must be residents of their district, over twenty-five (25) years of age, and have experience administering, conducting or regulating bingo operations. Members shall represent each of the six (6) districts as designated by statute. Terms of appointed members shall expire as designated by the Governor at the time of appointment. The first six (6) members shall be appointed for staggered terms. At the end of a term, a member continues to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. A vacancy of the Board shall be filled in the same manner as regular appointments are made, and the term shall be for the unexpired portion of a regular term. No member of the Board shall have a direct or indirect pecuniary interest in any contract or agreement entered into by the Board. No more than three (3) members of the Board shall belong to the same political party. (7-1-96)T

203. ADVISORY BOARD MEETINGS, ORGANIZATION AND MINUTES (Rule 203).

A majority of the qualified membership of the Board is a quorum. The Board may not act unless at least four (4) members agree. The Board shall meet at least three (3) times per year and may meet more often as it deems necessary. Written notice of the time and place of each meeting shall be given to each Board member. The advisory Board shall select or elect one (1) of its members to be chairman, one (1) of its members to be vice-chairman, and one (1) of its members to be secretary. The secretary of the Board shall promptly send the Commission a certified copy of the minutes of each meeting of the Board. The minutes shall include a copy of the current recommendations of the Board, including recommended administrative rules. See Section 67-7710, Idaho Code. Members of the Board shall receive compensation and reimbursement for expenses as provided by law. (7-1-96)T

204. ADVISORY BOARD POWERS AND DUTIES (Rule 204).

The Board shall review the operation and regulation of bingo games in Idaho and make recommendations to the Commission as required and authorized by Sections 67-7706(1) through 67-7706(9), Idaho Code. The Board shall, at least twice a year, report to the Commission addressing the operations and activities of the Board and the major issues facing bingo operators in the state. A final annual report shall be provided to the Governor, the Commission, the President Pro Tempore of the Senate and the Speaker of the House of Representatives of the Idaho Legislature. See Section 67-7706, Idaho Code. (7-1-96)T

205. -- 299. (RESERVED).

Subchapter D--Conduct of Bingo Games

300. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS (Rule 300).

All organizations operating bingo games, whether licensed or unlicensed, must abide by these rules. It is unlawful to conduct bingo sessions or bingo games in violation of Chapter 77, Title 67, Idaho Code, or in violation of these rules, and persons doing so may be subject to administrative, civil or criminal penalties. See Section 67-7707, Idaho Code. (7-1-96)T

301. NUMBER OF SESSIONS PER WEEK (Rule 301).

Licensed operators of bingo games are limited to a maximum of three (3) bingo sessions per any calendar week (Sunday-Saturday). None of these sessions may exceed eight (8) hours in any one (1) day. A session is determined by the start and end of games offered for a predetermined period of time. See Section 67-7708, Idaho Code. For special sessions it is permissible to extend the hours past midnight, but all hours past midnight and before 2:00 a.m. on the following day will count as hours for the day during which the session started, which may not exceed a total of eight (8) hours. (7-1-96)T

302. POSTING OF LICENSE AND HOURS (Rule 302).

The organization's current Idaho State Lottery License must be displayed during bingo games and bingo sessions in plain view for all players and interested persons. Idaho Lottery Gaming Rules must be kept on site and available during all sessions. Days/hours of operation must be posted in plain view for all players and interested persons. If days or times change, it is the responsibility of the organization to provide written notice to the State Lottery. House rules pertaining to bingo must be posted in plain view for all players and interested persons. (7-1-96)T

303. MEMBERS OF SPECIAL COMMITTEE IN ATTENDANCE--TRAINING OF EMPLOYEES (Rule 303).

At least one (1) member or representative of the licensed organization must be in attendance at each session of bingo to supervise all bingo-related activities of a licensed organization. See Section 67-7711(3). All bingo game employees, volunteers, and managers of all organizations, whether licensed or unlicensed, must be trained in the proper conduct of the game and the control of funds. (7-1-96)T

304. EMPLOYEES INELIGIBLE TO PLAY (Rule 304).

All bingo game employees, volunteers, and managers are prohibited from playing in any game or in any session for which the employee, volunteer or manager takes part as employee, volunteer or manager. There should be no conflict of interest perceived by the public. (7-1-96)T

305. MINORS (Rule 305).

Persons under the age of eighteen (18) years are prohibited from playing bingo during a licensed session for a cash prize, for merchandise exceeding twenty-five dollars (\$25) in value, or in a game operated by a licensed charitable or non-profit organization. Minors may play in games operated by an unlicensed charitable or non-profit organization that offer a merchandise prize with a value under twenty-five dollars (\$25). See Section 67-7707(2), Idaho Code. Minors shall not be allowed to work in a bingo game or session. (7-1-96)T

306. TRACKING REQUIREMENTS (Rule 306).

01. Bingo Paper--For Whom Required. All licensed organizations operating bingo sessions and all non-licensed organizations with an annual gross revenue from bingo exceeding ten thousand dollars (\$10,000) must track their bingo sales per session by using sequentially numbered/colored bingo paper. The non-reusable colored paper cards must have a series and serial number on each card. (7-1-96)T

02. Tracking By Game. The tracking will vary according to games sold at each session (packets, specials, singles, six (6) ons, three (3) ons, etc.) and may be designated by game name or color of paper. (7-1-96)T

03. Tracking By Packet. If sales are completed by packet, then those packets must not be separated to be sold as singles. Individual games or packets sold must be recorded sequentially for effective tracking. The tracking records need only be retained with permanent records; tracking records are not submitted with the Annual Bingo Report form. (7-1-96)T

04. Late Players. Packets sold to late players must have the previously played games sheets removed and voided. (7-1-96)T

05. Designation of Color for Games. Each game is assigned a particular color of paper card. Other colors will not be accepted. (7-1-96)T

06. Documentation. All paper must be tracked as either sold, damaged, or omitted from the original distributor or manufacturer. Invoices from the distributor or manufacturer and other documentation of transactions involving bingo funds must be kept with the permanent records for that bingo operation. (7-1-96)T

307. DUTIES OF BINGO CALLER AND EMPLOYEES OR VOLUNTEERS (Rule 307).

01. Pre-Game Duties. Before selecting or calling the first number in any game, the bingo caller must check the machine and balls for defects. This can be accomplished by running all of the numbered balls through the machine and placing them in their assigned slots to activate the display board. The display board should blink on the last number called. The caller will draw numbers for the Bonanza, Progressive or Hot Ball games if used and verified

by a player. The Caller must announce the color of paper card assigned to each game, the pattern or arrangement of squares to be covered to win the game, and the prize amount. This information should also be posted and/or listed if a session program is used. (7-1-96)T

02. During Play. After selecting each number the bingo caller should: (7-1-96)T

a. Announcement. Clearly announce the letter and number. (7-1-96)T

b. Display and Removal. Display the ball or other designator in a receptacle so as to prevent it from being placed back into the selection pool. If electronic display boards are used the placement of the selected ball should activate the number or if not, the operator should manually activate each number on the board. (7-1-96)T

c. End of Game. After each winner has been verified the caller will ask for additional winners, if they exist. If none, the game will be declared ended and the ball machine will be cleared for the next game. (7-1-96)T

308. DETERMINING WINNERS (Rule 308).

01. Winning Cards. Winners are determined when the announced pattern of squares is covered on a player's(s') card. The winning card must contain the last number called. (7-1-96)T

02. Player's Responsibility. It is the player's responsibility to notify the game operator or caller that the player has a winning bingo combination before the next number is called or the bingo win may not be honored. The player(s) must yell "Bingo" loud enough for the caller to hear them. (7-1-96)T

03. Game Stops to Verify Winner. When a player declares a winning card, the winner verification should include stopping the game before the next number is selected. The game should be secured so that it can be continued should the "bingo" be invalid. (7-1-96)T

04. Verification of Winner. To verify a win, a game employee or volunteer must call back the winning combination of numbers in the assigned pattern and color of paper card. The caller must verify the call back. Electronic verifying devices may be used by entering the serial number of the winning card. A monitor should reveal the card and the winning pattern to verify its status as a valid bingo or an invalid bingo. If it is invalid, the game proceeds until a winner is declared. Once a winner is declared the caller must announce "one (1) good winner" or "two (2)" or more if it applies to the game. (7-1-96)T

05. Prizes for Multiple Winners. If more than one (1) winner is declared, cash prizes must be divided equally and merchandise prizes of equal value must be awarded. (7-1-96)T

309. CARDS (Rule 309).

01. Hard Cards. Charitable organizations with an annual gross bingo revenue of ten thousand dollars (\$10,000) or less may use hard cards. This rule will generally apply to small religious and other charitable organizations that usually provide bingo as entertainment to their members. A licensed organization may request a special one (1) time use of hard cards for community fundraising projects that it is sponsoring. No hard cards shall be reserved for any players, with the exception of Braille cards. (7-1-96)T

02. Braille Cards. Braille cards are allowed in any bingo game by individuals who need them. (7-1-96)T

03. Two (2) Part Disposable Cards. Two (2)part disposable cards may be used if: (7-1-96)T

a. Original and Duplicate Copies. The cards are printed on two (2) part, self-duplicating paper that provides for an original and duplicate copy; (7-1-96)T

b. Operating Controls. Players mark their numbers on each card in a distinct, clear and legible manner before separation of the duplicate and original card, and operators establish and set forth in plain view house rules setting out any conditions by which an entry may be added, deleted or changed before separation, and changes are

verified by a worker authorized by the bingo manager; and (7-1-96)T

c. Retention and Play of Duplicate Copy. The player retains and plays the duplicate copy, and all winning cards and their duplicate copies are retained by the operator as part of the operator's daily bingo records. (7-1-96)T

310. LIMITS ON PRIZE PAYOUT RATIOS AND ADMINISTRATIVE EXPENSES (Rule 310).

01. Applicability. All organizations conducting bingo games, whether licensed or unlicensed, must adhere to the required limits of this rule in dedicating their gross revenues from bingo operations. These limits and/or percentages pertain to annual gross revenues during a twelve (12) month period or license year. (7-1-96)T

02. Maximum Payout Ratio. A maximum payout ratio of sixty-five percent (65%) of annual gross revenue is allowed as prize payouts. If agreed by the board of directors of the organization, the ratio of prizes to annual gross revenue may be increased to seventy percent (70%), but any increase in payout ratios above sixty-five percent (65%) must be made up by an equal reduction from the maximum percentage of fifteen percent (15%) that can be allocated to expenses under Subsection 310.05. For example, if the board of directors of an organization decides to increase the maximum prize payout ratio by three percent (3%) from sixty-five percent (65%) to sixty-eight percent (68%), then the maximum amount of annual gross revenues that can be allocated to expenses must be reduced by three percent (3%) from fifteen percent (15%) to twelve percent (12%). Organizations may apply to the Idaho Lottery Commission for an exemption from the ratios prescribed by this Section. See Section 67-7709(1), Idaho Code. (7-1-96)T

03. Donated Merchandise. Donated merchandise offered as prizes is not included in the prize amounts paid out when calculating the prize payout ratio. The organization conducting the bingo game must document the value of the donated items, describe the donated items, and list the donated items on the daily reports as prizes. (7-1-96)T

04. Donated Cash Funds. Donated cash may not be offered as prizes in bingo games or deposited into the separate bingo account. (7-1-96)T

05. Maximum Administrative Expense. A maximum administrative expense of fifteen percent (15%) of gross revenues is allowed, except, when the board of directors of an organization conducting bingo games has increased the maximum prize payout ratio above sixty-five percent (65%) as allowed in Subsection 310.02, the maximum administrative expense must be reduced from fifteen percent (15%) as provided in Subsection 310.02. See Section 67-7709(1), Idaho Code. (7-1-96)T

311. PAYMENT OF EXPENSES, WINNINGS, AND CHARITABLE CONTRIBUTIONS (Rule 311).

All expenses should be paid by check from the separate bingo account and recorded in the bingo ledger. Expenses include the maximum amount of two hundred fifty dollars (\$250) or point zero zero one percent (.001%) of annual gross revenue for wages as per the previous year's annual bingo report, whichever is greater, allowed per session. All disbursements, including prizes, must have a name and address listed for payouts exceeding one hundred dollars (\$100). All charitable donations must be paid by check from the separate bingo account and recorded in the bingo ledger. See Section 67-7709(1), Idaho Code. (7-1-96)T

312. MINIMUM CHARITABLE OR NONPROFIT DONATION (Rule 312).

A minimum of twenty percent (20%) of annual gross revenues must be paid to a charitable or nonprofit organization. See Section 67-7709(1), Idaho Code. The recipient charitable or nonprofit can be the licensed charitable or nonprofit organization operating the bingo game if the proceeds are for charitable purposes. Organizations are permitted and encouraged to donate more than twenty percent (20%) of their gross revenues to charitable or nonprofit organizations. (7-1-96)T

313. MAXIMUM PRIZES (Rule 313).

01. Through June 30, 1997. On or before June 30, 1997, the maximum prize in cash or merchandise at fair market value that may be offered or paid in any one (1) game of bingo is one thousand five hundred dollars (\$1,500), and the maximum aggregate amount of prizes, in cash or merchandise at fair market value that may be

offered or paid at any one (1) session of bingo is ten thousand dollars (\$10,000). See Section 67-7708, Idaho Code. (7-1-96)T

02. On and After July 1, 1997. On and after July 1, 1997, the maximum prize in cash or merchandise at fair market value that may be offered or paid in any one (1) game of bingo is to be determined at that time and the maximum aggregate amount of prizes, in cash or merchandise at fair market value that may be offered or paid at any one (1) session of bingo is to be determined at that time. See Section 67-7708, Idaho Code. (7-1-96)T

314. -- 319. (RESERVED).

320. ACCOUNTING AND REPORTING REQUIRED (Rule 320).

Every organization conducting bingo games, whether licensed or unlicensed, must comply with the accounting requirements of Sections 321 through 326. (7-1-96)T

321. SEPARATE BANK ACCOUNT AND LIMITATIONS ON USE (Rule 321).

01. Establishment. All funds received in connection with a bingo game required to be licensed under Chapter 77, Title 67, Idaho Code, and by these rules must be placed in a separate bank account. See Section 67-7709(1), Idaho Code. Only bingo funds generated from bingo games may be distributed as prizes, administrative expenses, or charitable/nonprofit donations. (7-1-96)T

02. Disbursements. No funds may be disbursed from this account except as authorized by these rules. The charitable or nonprofit organization may expend proceeds for prizes, advertising, utilities, and the purchase of supplies and equipment in playing bingo, taxes and license fees related to bingo, the payment of compensation, and for other purposes set out by Section 67-7709(1), Idaho Code, and by these rules. (7-1-96)T

03. Use of Proceeds After Payment of Expenses. Any proceeds available in the separate bingo account after payment of expenses shall inure to the charitable or nonprofit organization to be used for religious, charitable, civic, scientific testing, public safety, literary or educational purpose or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for civic purposes or made available by the charitable nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals. See Section 67-7709(1), Idaho Code. (7-1-96)T

04. Restrictions on Compensation of Officers, Directors and Employees. No proceeds shall be used or expended directly or indirectly to compensate officers or directors. No employees of the charitable or nonprofit organization may be compensated from bingo proceeds, except that two hundred fifty dollars (\$250) or point zero zero one percent (.001%) of annual gross revenue as per the previous year's annual bingo report, whichever is greater, per bingo session may be paid as wages for the conduct of the bingo game. Wages shall be paid on an hourly basis and shall be directly related to the preparation, conduct of and cleaning following a bingo game. Wages associated with food concessions, are not included within the two hundred fifty dollars (\$250) or point zero zero one percent (.001%) of annual gross revenue limit per session for preparation, conduct of or cleaning following the bingo game. Wages directly related to the preparation, conduct of and cleaning following a bingo game are part of the fifteen percent (15%) of annual gross revenues that may be used for administrative expenses. See Section 67-7709(1), Idaho Code. (7-1-96)T

322. GENERAL LEDGER (Rule 322).

01. Establishment. A general ledger must be established to account separately for the bingo operation. Ledgers must track all cash and check transactions for the funds generated from bingo. (7-1-96)T

02. Documentation. The accounting of revenues from sales of bingo cards or other entry fees and all disbursements must be documented. The accounting should include, but not be limited to total prize payouts per session, and bingo related expenses per session, charitable contributions per session, wages, date and purpose or payee for each entry. (7-1-96)T

03. Annual Report. Copies of general ledgers must accompany the Annual Bingo Report filed with the

Idaho State Lottery. If all disbursements are recorded in the general ledger, no other documents need to be submitted with the Annual Bingo Report. (7-1-96)T

04. Retention of Records. An accounting of all gross revenues and disbursements required by statute and these rules must be retained in permanent records with the organization, including the date of each transaction and the name and address of each payee for all prize payments exceeding one hundred dollars (\$100). (7-1-96)T

323. ANNUAL REPORT (Rule 323).

01. When Due. Every charitable or nonprofit organization conducting bingo games shall prepare an annual report within thirty (30) days after the close of its license year and shall file the annual report with the Idaho State Lottery. See Section 67-7709(2), Idaho Code. Willfully or knowingly furnishing, supplying or giving false information in the annual report is a misdemeanor. See Section 67-7709(3), Idaho Code. The report shall be prepared on a form prescribed by the State Lottery and shall include, at a minimum, the following information: (7-1-96)T

a. Number of Bingo Sessions. The number of bingo sessions conducted or sponsored by the licensed organization; (7-1-96)T

b. Dates and Locations. The location and date at which each bingo session was conducted; (7-1-96)T

c. Gross Revenues. The annual gross revenues of each bingo session; (7-1-96)T

d. Non-cash Prizes. The fair market value of any non-monetary prize given at each bingo session; (7-1-96)T

e. Cash Prizes. The amount of cash paid in prizes at each bingo session; (7-1-96)T

f. Charitable or Nonprofit Contributions. The amounts paid to the charitable organization (or other charitable or nonprofit organizations) and the dates of payments; (7-1-96)T

g. Disbursements and Gross Revenues. All disbursements from the bingo funds and the purpose of those disbursements, including the date of each transaction, must be documented on a general ledger and submitted with the annual bingo report to the Idaho Lottery Commission. The nightly reports, receipts, winner records, and payouts must be documented and kept with the organization's permanent records for three (3) years. (7-1-96)T

h. Information Required by Forms. Any further information required by the forms prescribed by the State Lottery pursuant to statute and rule. (7-1-96)T

02. Independent Audit. Organizations that exceed one hundred fifty thousand dollars (\$150,000) in annual gross revenue from bingo games, raffle events, or bingo games and raffles combined must submit an independent audit from a public accountant or accounting firm. This independent audit must be submitted within ninety (90) days of the end of the licensed organization's license year. (7-1-96)T

324. RECORDS OF PRIZE DISBURSEMENTS (Rule 324).

Organizations conducting bingo games must record names and addresses of winners for prize disbursements exceeding one hundred dollars (\$100). Any prizes exceeding one thousand one hundred ninety nine dollars (\$1,199) must have a W2-G on file for "gaming income" for these amounts as required by the Internal Revenue Service. See 26 United States Code Section 6041 and 26 Code of Federal Regulations Sections 7.6041-1 and 35a.9999-3 (question and answer 19). (7-1-96)T

325. ACCOUNTING OF REVENUES AND EXPENSES (Rule 325).

01. Deposit of Receipts. Bingo funds received in check form must be payable to the organization conducting the bingo games and deposited into the separate bank account for bingo funds. The organization operating bingo games should deposit its bingo game receipts into its separate bank account the next banking day after each session. (7-1-96)T

02. Ledger Entries and Receipts for Expenses. All ledger entries must track disbursements of cash and checks. Expenses must be documented with receipts. The receipts should include the payee's name and address, date, and an authorized signature from the licensed organization. (7-1-96)T

03. Recording of Wages. Wages paid must be recorded on expense records as gross amounts before withholding of taxes or other withholding and net amount paid, with each item of withholding shown. Wages paid must be documented with copies of pay stubs, or other records showing gross wages and withholding. (7-1-96)T

04. Submission with Annual Report. Copies of ledgers containing the documentation of all transactions must be submitted with the Annual Bingo Report. Inventory tracking of sequentially numbered paper must be retained in permanent records and kept available for examination. Do not submit these records with the annual bingo report. All documents must be legible and compiled in an orderly manner. (7-1-96)T

326. INSPECTION OF BOOKS (Rule 326).

All financial books, papers, records and documents of an organization shall be kept as required by these rules and shall be open to inspection by the county sheriff of the county where the bingo games were held, or the chief of police of the city where the bingo games were held, or the prosecuting attorney of the county where the bingo games were held, or the attorney general or the state lottery, or any of their agents, at reasonable times and during reasonable hours. All records must be kept for three (3) years. (7-1-96)T

327. -- 399. (RESERVED).

Subchapter E--Conduct of Raffles

400. REQUIREMENTS FOR ORGANIZATIONS CONDUCTING RAFFLES (Rule 400).

All organizations conducting raffles, whether licensed or unlicensed, must abide by these rules. It is unlawful to conduct raffles in violation of Chapter 77, Title 67, Idaho Code, or in violation of these rules, and persons doing so may be subject to administrative, civil or criminal penalties. See Section 67-7710, Idaho Code. (7-1-96)T

401. LIMITATION ON ANNUAL NUMBER OF RAFFLES (Rule 401).

Charitable or non-profit organizations are limited to conducting twelve (12) raffle events per year. See Section 67-7710(2), Idaho Code. (7-1-96)T

402. MAXIMUM PRIZES (Rule 402).

The maximum cash prize that may be offered or paid for any single raffle event is one thousand dollars (\$1,000). There is no limit on the maximum value of merchandise that may be offered as a raffle prize so long as the merchandise is not redeemable for cash. See Section 67-7710(3), Idaho Code. (7-1-96)T

403. REQUIREMENTS FOR DONATION TO CHARITY--LIMITATION ON EXPENSES (Rule 403).

At least ninety percent (90%) of the net proceeds from sales of raffle tickets or chances must be donated to a charitable or nonprofit organization. (Net proceeds are defined in Subsection 010.21) The name and address of the charitable or nonprofit organizations awarded these funds must be listed on the annual raffle report submitted to the Idaho Lottery. A maximum of ten percent (10%) of net proceeds is allowed for expenses. (7-1-96)T

404. GENERAL LEDGER AND RECORDKEEPING (Rule 404).

Every organization conducting a raffle event must establish a general ledger for the raffle. The organization must keep records that show the total number of tickets or chances sold, the revenues from tickets or chances sold, the expenses of conducting the raffle, and the prizes for each raffle. (7-1-96)T

405. ANNUAL RAFFLE REPORT (Rule 405).

Every licensed organization conducting a raffle shall prepare an annual raffle report and shall file the annual raffle report with the Idaho State Lottery within thirty (30) days after the close of its license year. See Section 67-7710(5), Idaho Code. The report shall be prepared on a form prescribed by the State Lottery and shall include, at a minimum, the following information: (7-1-96)T

01. Number of Raffle Events. The number of raffle events conducted or sponsored by the organization;

- (7-1-96)T
02. Locations and Dates. The location and date at which each raffle event was conducted; (7-1-96)T
03. Gross Revenues. The gross revenues of each raffle event; (7-1-96)T
04. Prizes. The fair market value of each prize given at each raffle event; (7-1-96)T
05. Amounts Paid. The amounts paid in cash prizes at each raffle event. (7-1-96)T
06. Charitable or Nonprofit Contributions. The amounts paid to the charitable or nonprofit organizations and the dates of payments; and (7-1-96)T
07. Accounting. An accounting of all gross revenues and the disbursements required by statute and these rules; and (7-1-96)T
08. Information Required by Forms. Any further information required by the forms prescribed by the State Lottery pursuant to statute and rule. (7-1-96)T

406. (RESERVED).

407. INDEPENDENT AUDIT OF LARGE RAFFLES (Rule 407).

Every charitable or nonprofit organization whose gross annual revenues exceed one hundred fifty thousand dollars (\$150,000) from the operation of raffles shall provide the State Lottery Commission with a copy of an annual report of raffle events. The audit shall be performed by an independent public accountant and submitted within ninety (90) days after the end of the organization's license year. (7-1-96)T

408. -- 499. (RESERVED).

**Subchapter F--Licensing and License Fees for Organizations
Conducting Bingo Games and/or Raffles**

500. APPLICATION (Rule 500).

All persons required by statute and by these rules to obtain a license before operating a bingo game or conducting a raffle must pay the license fees and apply for and receive a license under the rules in this subchapter. See Section 67-7711(1), Idaho Code. (7-1-96)T

501. LICENSE FEES (Rule 501).

Each organization that applies to the State Lottery for a license under these rules shall pay annually to the State Lottery a nonrefundable license fee that shall be due upon submission of the application. An application approved by the Idaho State Lottery, complete with all required information, must be submitted along with the appropriate fee to the Idaho State Lottery Security Division. See Section 67-7712(1), Idaho Code. These non-refundable fees are based on flat initial fee for applicants without a license and a fee based on annual gross revenues from bingo sessions or raffle events for applicants with a license as follows: (7-1-96)T

\$100 fee	initial application
\$100 fee	up to \$25,000 annual gross revenues
\$200 fee	up to \$75,000 annual gross revenues
\$300 fee	over \$75,000 annual gross revenues

(7-1-96)T

502. INFORMATION TO BE PROVIDED IN APPLICATION (Rule 502).

01. Background Check of Applicants. The application for an initial license and for a renewal license will be reviewed and relevant background investigations will be conducted on all persons listed on the application as officers, directors or members of the special committee. The members of the governing board shall be considered the de facto special committee if the governing board has not designated a special committee in its application. See Section 67-7711(3), Idaho Code. The signature from the organization's representative (on the second page) gives authority to the Idaho State Lottery to conduct investigations of members of the special committee. The persons listed on the application must be officers or directors of the organization or members of the special committee applying for a license. (7-1-96)T

02. Proper Identification. The application must list the name, address, date of birth, driver's license number and social security or tax identification number of the applicant, if applicable. If the applicant is a corporation, association or similar legal entity, the application must also list the full name, current home address and phone number, date of birth, social security number, driver's license number and state of issuance, of each listed officer, director or member of the special committee in order to conduct background investigations. See Section 67-7711(2)(a) and (b), Idaho Code. (7-1-96)T

03. Charitable Organizations. The application of a charitable organization must include a copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service and the State Tax Commission that indicates that the organization is a charitable organization and stating the section of the tax code under which the exemption is granted, except that if the organization is a state or local branch, lodge, post or chapter or a national organization, a copy of the determination letter of the national organization shall satisfy this requirement. See Section 67-7711(2)(c)(i), Idaho Code. (7-1-96)T

04. Incorporated Nonprofit Organizations. The application of an incorporated nonprofit organization must include a copy of the certificate of existence issued by the Secretary of State pursuant to Chapter 3, Title 30, Idaho Code, establishing the organization's good corporate standing in the state. See Section 67-7711(2)(c)(ii), Idaho Code. (7-1-96)T

05. Unincorporated Nonprofit Associations. The application of an unincorporated nonprofit association operating pursuant to Chapter 7, Title 53, Idaho Code, must include a statement meeting the requirements of Section 53-710, Idaho Code, for appointing an agent for service of process. See Section 67-7711(2)(c)(iii), Idaho Code. (7-1-96)T

06. Locations. The application must list the location or locations at which the applicant will conduct bingo games or bingo sessions or drawings for raffles. See Section 67-7711(2)(d), Idaho Code. (7-1-96)T

07. License Year and Fiscal Year. Organizations may apply for the license to coincide with the organization's fiscal year. (7-1-96)T

08. Failure to Provide Information. Failure to provide all required information will result in a delay in granting, denial or dismissal of an application for a bingo/raffle license. See Section 67-7711(1), Idaho Code. (7-1-96)T

503. MULTIPLE CHAPTERS LICENSED TOGETHER (Rule 503).

Different chapters of an organization may apply for and share one (1) raffle license so long as the information required in Subsections 502.01 through 502.06 is provided to the State Lottery before the issuance of the license. See Section 67-7711(4), Idaho Code. When two (2) or more chapters share a license, in aggregate they are subject to the limitations of a single organization with a license, multiple chapters sharing a license are not entitled to multiples of the event or prize limits for a license. (7-1-96)T

504. COMPENSATION OF CERTAIN PERSONS AND CONTRACTS WITH CERTAIN PERSONS PROHIBITED (Rule 504).

Persons listed on the application as officers or directors and their relatives and members of their household as defined in Section 321.04 are prohibited from being compensated for their participation in the organization's bingo operation. No organization shall contract with any person not employed by, or a volunteer for, the organization for the purpose of

conducting a bingo game or raffle on the organization's behalf; provided, however, that if the Commission has entered into an agreement or contract with another state for the operation or promotion of joint bingo games, the charitable or nonprofit organization may participate in that contract or agreement. See Section 67-7711(3), Idaho Code. (7-1-96)T

505. APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR LICENSE (Rule 505).

The Idaho State Lottery has fifteen (15) days to approve, deny or dismiss an application for a license, provided that at the request of the applicant the Idaho State Lottery may defer decision for a longer time. See Section 67-7712(2)(j), Idaho Code. The application will be approved, denied or dismissed in writing. If an application is not received fifteen (15) days in advance of a proposed event, a license may not be granted and the event will not be allowed to proceed. (7-1-96)T

506. SUSPENSION OR REVOCATION OF LICENSE--CIVIL AND CRIMINAL PENALTIES (Rule 506).

Any licensed organization found in violation of statute or these bingo/raffle rules or any conditions of its license may face administrative, civil or criminal action. This includes but is not limited to suspension of operations, license revocation, penalties, and/or fines. See Section 67-7707, Idaho Code. See also Section 700 through 704. (7-1-96)T

507. EXEMPTION FROM LICENSING AND LICENSING FEES (Rule 507).

See Section 67-7713, Idaho Code. (7-1-96)T

01. Low-Stakes Bingo. A charitable or nonprofit organization conducting a bingo game does not need to obtain a license or pay a license fee where the maximum prize offered or paid for any one game of bingo does not exceed two hundred fifty dollars (\$250) cash and the maximum amount of prizes, in cash and/or merchandise, at fair market value, offered in one (1) session of bingo does not exceed one thousand dollars (\$1,000). (7-1-96)T

02. Low-Stakes Raffle. A charitable or nonprofit organization does not need to obtain a license or pay a license fee for a raffle, if the aggregate cash prize does not exceed one thousand dollars (\$1,000) and the aggregate fair market value of merchandise does not exceed five thousand dollars (\$5,000). (7-1-96)T

03. Exemption From Licensing Not Exemption From Rules. Organizations exempt from licensing under this rule must still comply with applicable requirements of statute and bingo/raffle rules. (7-1-96)T

508. RULES AND FORMS (Rule 508).

The Idaho State Lottery will provide forms and reports necessary in regulating the charitable or nonprofit bingo and raffle events. The Lottery Commission is authorized to promulgate rules consistent with and in compliance with Chapter 52, Title 67, Idaho Code. (7-1-96)T

509. -- 599. (RESERVED).

Subchapter G--Vendors and Vendors' Licenses and Fees

600. VENDOR'S LICENSE REQUIRED (Rule 600).

All businesses or persons who manufacture, sell, distribute, furnish, or supply to any person or organization any gaming devices, equipment, or materials in this state shall first obtain a vendor's license from the Idaho State Lottery. See Section 67-7715, Idaho Code. Vendors must file an application and submit all required forms for background investigations. (7-1-96)T

601. LICENSE FEES (Rule 601).

Each initial application for a vendor's license must be accompanied by a two hundred dollar (\$200) nonrefundable annual license fee that shall be due upon submission of the application. An application approved by the Idaho State Lottery, complete with all required information, must be submitted along with the appropriate fee to the Idaho State Lottery Security Division. See Section 67-7715(3)-(4), Idaho Code. (7-1-96)T

602. INFORMATION TO BE PROVIDED IN APPLICATION (Rule 602)

01. Identification of Applicants. The application for initial license and for renewal of a license shall list the name, address, date of birth, driver's license number and social security number of the applicant, and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated. (7-1-96)T

02. Locations. The locations or persons with which the applicant will provide any gaming devices, equipment or material in this state or for use in this state. (7-1-96)T

03. Financial Reports. Financial reports submitted with the license application shall be reviewed as part of the background investigation. All requested data must be included on the application to avoid any delay. The application may be dismissed if it is incomplete. (7-1-96)T

603. APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR ISSUANCE OF LICENSE (Rule 603).

The Idaho State Lottery has fifteen (15) days to approve, deny or dismiss an application for a vendor's license, provided that at the request of the applicant the Idaho State Lottery may defer decision for a longer time. The application will be approved, denied or dismissed in writing. The Idaho State Lottery will issue Vendor Licenses to businesses or persons successful applicants who manufacture, furnish or sell gaming devices, equipment, or materials designed and permitted to be used in connection with charitable or nonprofit bingo or raffles. See Section 67-7715, Idaho Code. (7-1-96)T

604. SUSPENSION OR REVOCATION OF LICENSE (Rule 604).

Any licensed vendor found in violation of statute or these vendors' rules or any conditions of its license may face suspension of the vendor's license and activities taken pursuant to the vendor's license or license revocation. See also Section 700 through 704. (7-1-96)T

605. GAMING DEVICES, EQUIPMENT OR MATERIALS (Rule 605).

Gaming devices, equipment, and materials include but are not limited to: (7-1-96)T

01. Number Selectors. Number selection machines, manual mixing drums, or computerized random selectors. (7-1-96)T

02. Bingo Cards. Numbered paper cards and hard cards designed with five (5) columns of random numbers ranging between one (1) and seventy-five (75) corresponding to the appropriate B-I-N-G-O columns. This may also include Bonanza cards and "U-Pick-Ems". (7-1-96)T

03. Miscellaneous. Daubers, raffle tickets, record keeping materials and other items used in the operation of bingo and/or raffles. (7-1-96)T

606. CARD MANUFACTURERS STANDARDS (Rule 606).

Card manufacturers should follow these recommended standards for paper cards: (7-1-96)T

01. Quality of paper. The paper should be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through a packet thereby obscuring other numbers or cards. (7-1-96)T

02. Free Space. Manufacturer's perm numbers should be displayed in the free space square. (7-1-96)T

03. Random Assignment of Numbers. Numbers printed on the card should be randomly assigned. (7-1-96)T

04. Serial Numbers. Each set of cards should be comprised of cards bearing the same serial number. No serial number should be duplicated by a manufacturer in a given year. (7-1-96)T

05. Packet Assembly. Cards assembled in books or packets should be glued, not stapled. (7-1-96)T

06. Labeling. A label should be placed on the exterior of each carton of bingo paper listing the type of product, number of packets or loose sheets, serial numbers, per (series) numbers, number of cases, cut of paper, and color of paper. (7-1-96)T

07. Packing Slips. A packing slip inside each case should list the same information as listed on the label. (7-1-96)T

607. -- 699. (RESERVED).

Subchapter H--Suspension, Revocation or Denial of a License

700. SUSPENSION, REVOCATION OR DENIAL OF LICENSE (Rule 700).

Any person, business, vendor, or organization found to be in violation of any statutes or rules governing the operating, participating, or establishing of charitable or nonprofit gaming in the State of Idaho may be subject to suspension, revocation or denial of its license. See Section 67-7712 and 67-7715, Idaho Code. (7-1-96)T

701. GROUNDS FOR SUSPENSION, REVOCATION OR DENIAL OF LICENSE (Rule 701).

The Idaho State Lottery may suspend, revoke or deny a license if it finds that the licensee or applicant for a license has violated any provision of Chapter 77, Title 67, Idaho Code, any of these rules, or any county ordinance adopted pursuant to Chapter 77, Title 67, Idaho Code, (See Section 67-7712(2), Idaho Code) including: (7-1-96)T

01. Ineligibility for License. The licensee or any person connected with the licensee has continued to operate bingo sessions or games after losing tax exempt or nonprofit status or has ceased to exercise independent control over the licensee's activities or budget as required by Chapter 77, Title 67, Idaho Code and by these rules. See Section 67-7712(2)(a), Idaho Code. (7-1-96)T

02. Violations of Bingo/Raffle Law. The licensee or any person connected with the licensee has violated or failed or refused to comply with the provisions of Chapter 77, Title 67, Idaho Code, or has violated the provisions of these rules or has allowed a violation to occur upon premises over which the licensee has substantial control. See Section 67-7712(2)(b), Idaho Code. (7-1-96)T

03. Assisting Violations of Bingo/Raffle Law. The licensee or any person connected with the licensee has knowingly caused, aided or abetted, or conspired with another to cause, any person to fail or refuse to comply with the provisions, requirements, conditions, limitation or duties imposed in Chapter 77, Title 67, Idaho Code, or failing or refusing to comply with these rules. See Section 67-7712(2)(c), Idaho Code. (7-1-96)T

04. Wrongfully Obtained License. The licensee or any person connected with the licensee has obtained a license or permit by fraud, misrepresentation or concealment, or through inadvertence or mistake. See Section 67-7712(2)(d), Idaho Code. (7-1-96)T

05. Moral Turpitude. The licensee or any person connected with the licensee has been convicted, has forfeited bond, or has been granted a withheld judgment, upon a charge involving forgery, theft, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports to a governmental agency, or any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving gambling activity, physical injury to individuals or moral turpitude. See Section 67-7712(2)(e), Idaho Code. (7-1-96)T

06. Denying Access to Books or Records. The licensee or any person connected with the licensee denies the Idaho State Lottery or any law enforcement officer access to any place where a licensed game is conducted, or fails promptly to produce for inspection or audit any records or items as required by law. See Section 67-7712(2)(f), Idaho Code. Failure to promptly produce for inspection or audit any book, record, document, or other items required to be produced by statute, these rules, or the terms of the license includes failure to produce records for the Idaho State Lottery and its representatives, the Office of Idaho Attorney General and its representatives, and other law enforcement agencies and their representatives, who are duly authorized to conduct an audit, and this subsection of the rule applies to failure to produce records at the request of any of these entities. (7-1-96)T

07. License Unavailable. The licensee or any person connected with the licensee fails to have the license available for verification where the licensed game is conducted. See Section 67-7712(2)(g), Idaho Code.

(7-1-96)T

08. Misrepresentation of Material Fact. The licensee or any person connected with the licensee misrepresents or fails to disclose to the State Lottery or any investigating law enforcement officer any material fact. See Section 67-7712(2)(h), Idaho Code.

(7-1-96)T

09. Not Proving Qualifications. The licensee or any person connected with the licensee fails to demonstrate to the Idaho State Lottery by clear and convincing evidence qualifications for the license according to statute and these rules. See Section 67-7712(2)(i), Idaho Code.

(7-1-96)T

10. Convictions and Pending Charges. The licensee or any person connected with the licensee is subject to current prosecution or pending charges, or to a conviction regardless of whether it has been appealed, for any offense described in subsection 701.05. At the request of the applicant for an original license, the Idaho State Lottery may defer decision upon the application during the pendency of the prosecution or appeal. See Section 67-7712(2)(j), Idaho Code.

(7-1-96)T

11. Unlawful Pursuit of Economic Gain. The licensee or any person connected with the licensee has pursued or is pursuing economic gain in a manner or context that violates criminal or civil public policy of this state and creates a reasonable belief that the participation of the person in gaming operations by charitable or nonprofit organizations would be harmful to the proper operation of a lawful bingo or raffle. See Section 67-7712(2)(k), Idaho Code.

(7-1-96)T

12. Missed Recordkeeping and Reporting. The licensee or any person connected with the licensee fails to file reports or keep records required by Chapter 77, Title 67, Idaho Code, or by these rules.

(7-1-96)T

13. Lack of Financial Responsibility. The licensee or any person connected with the licensee fails to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by issuing financial instruments that are dishonored.

(7-1-96)T

14. Not Reporting Violations. The licensee or any person connected with the licensee fails to notify the Idaho State Lottery of any charges or violations affecting the status of the license.

(7-1-96)T

15. Inappropriate Activities. The licensee or any person connected with the licensee allows activities on the licensed premises that would be illegal or contrary to the law of the State of Idaho. (i.e. illegal consumption of alcohol, discrimination, etc.)

(7-1-96)T

702. COMPLAINT AGAINST AND INVESTIGATION OF LICENSEES (Rule 702).

The State Lottery may, upon its own motion, or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized by Chapter 77, Title 67, Idaho Code, or by these rules. If the State Lottery has reasonable cause to believe that any gaming described in Chapter 77, Title 67, Idaho Code, or in these rules, violates the provisions of the Idaho Code or these rules, it may in its discretion revoke, cancel, rescind or suspend any license for a period not to exceed one (1) year, or it may refuse to grant a renewal of the license, or it may take other action as may be appropriate under Idaho Code or these rules. See Section 67-7712(3), Idaho Code.

(7-1-96)T

703. PROCEDURE UPON FINDING OF REASONABLE CAUSE (Rule 703).

If the State Lottery shall refuse to grant a license or refuse to grant a renewal of a license or revoke, cancel, rescind or suspend a license, it shall give the applicant or licensee fifteen (15) calendar days' written notice of its intended action stating generally the basis for its action. Within the fifteen (15) calendar days' notice period, the applicant or licensee shall indicate its acceptance of the decision of the State Lottery or shall request a hearing to be held in the same manner as hearings in contested cases pursuant to Chapter 52, Title 67, Idaho Code. See Section 67-7712(3), Idaho Code.

(7-1-96)T

704. CONDUCT OF HEARING IN CONTESTED CASE (Rule 704).

The hearing in a contested case shall be conducted within twenty-one (21) days of the request. The applicant or licensee may appeal the decisions of the State Lottery after the hearing pursuant to Chapter 52, Title 67, Idaho Code. Failure to make the request for hearing as provided in these rules shall render the decision of the State Lottery final and not subject to further appeal. See Section 67-7712(3), Idaho Code. (7-1-96)T

705. -- 999. (RESERVED).

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