

IDAHO ADMINISTRATIVE BULLETIN

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January 1, 1997

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**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**

DOCKET NO. 16-0309-9609

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rules become final and effective on July 1, 1997, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 (b), 56-203(g), and 56-203(i), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 2, 1996, Administrative Bulletin, Volume 96-10, pages 80 through 89.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ms. Robbie Charlton at (208) 334-5795.

DATED this 1st day of January, 1997.

Staci Welsh
Administrative Procedures Coordinator
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**IDAPA 16
TITLE 03
Chapter 09**

RULES GOVERNING MEDICAL ASSISTANCE

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-10, October 2, 1996,
Pages 80 through 89.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9701

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) 56-202(b), 56-203(g), and 56-203(i), 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 January 15, 1997.

DESCRIPTIVE SUMMARY: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

These rules clarify that reconstructive surgery that is not considered to be cosmetic in nature will be covered with prior authorization by the Department. Breast reconstruction after a mastectomy is specifically identified.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Dr. Willis Hubler at (208) 334-5795.

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 January 22, 1997.

DATED this 1st day of January, 1997.

STACI WELSH
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TEXT OF DOCKET NO. 16-0309-9701

065. SERVICES NOT COVERED BY MEDICAL ASSISTANCE.

The following services are not covered for payment by the Medical Assistance Program: (5-15-84)

01. Service Categories Excluded. The following categories of service are excluded from MA payment: (5-15-84)

- a. Acupuncture services; and (5-15-84)
- b. Naturopathic services; and (5-15-84)
- c. Bio-feedback therapy; and (11-10-87)
- d. Fertility related services including testing. (11-10-87)

02. Procedure Excluded. The costs of physician and hospital services for the following types of treatments are excluded from MA payment. This includes both the procedure itself, and the costs for all follow-up medical treatment directly associated with such a procedure: (6-1-86)
- a. Elective medical and surgical treatment, except for family planning services, without Departmental approval. Procedures that are generally accepted by the medical community and are medically necessary may not require prior approval and may be eligible for payment; or (6-1-86)
 - b. Cosmetic surgery, excluding reconstructive surgery which has prior approval by the Department which is not medically necessary and is accomplished without prior approval of the MA Section of the Department; or (5-15-84)(7-1-96)T
 - c. Acupuncture; or (6-1-86)
 - d. Bio-feedback therapy; or (6-1-86)
 - e. Laetrile therapy; or (6-1-86)
 - f. Organ transplants; lung, pancreas, or other transplants considered investigative or experimental procedures and multiple organ transplants; or (10-1-91)
 - g. Procedures and testing for the inducement of fertility. This includes, but is not limited to: artificial inseminations, consultations, counseling, office exams, tuboplasties, and vasovasostomies. (11-10-87)
 - h. New procedures of unproven value and established procedures of questionable current usefulness as identified by the Public Health Service and which are excluded by the Medicare program are excluded from MA payment; or (5-15-84)
 - i. Drugs supplied to patients for self-administration other than those allowed under the conditions of Section 126; or (12-31-91)
 - j. Examinations: (6-1-86)
 - i. For routine checkups, other than those associated with the EPSDT program; or (6-1-86)
 - ii. In connection with the attendance, participation, enrollment, or accomplishment of a program; or (6-1-86)
 - iii. For employment. (6-1-86)
 - k. Services provided by psychologists and social workers who are employees or contract agents of a physician, or a physician's group practice association except for psychological testing on the order of the physician; or (6-1-86)
 - l. The treatment of complications, consequences or repair of any medical procedure, in which the original procedure was excluded from MA coverage, unless the resultant condition is life threatening as determined by the MA Section of the Department; or (5-15-84)
 - m. Medical transportation costs incurred for travel to medical facilities for the purpose of receiving a noncovered medical service are excluded from MA payment. (5-15-84)
 - n. Eye exercise therapy. (10-25-88)
 - o. Surgical procedures on the cornea for myopia. (3-2-94)

066. RECONSTRUCTIVE SURGERY.

Reconstruction or restorative procedures which may be rendered with prior approval by the Department include procedures which restore function of the affected or related body part(s). Approvable procedures include breast reconstruction after mastectomy, or the repair of other injuries resulting from physical trauma. (7-1-96)T

0667. -- 069. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9702

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 1, 1997.

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 Sections 56-202(b), 56-203(g), and 56-203(i), 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 January 15, 1997.

DESCRIPTIVE SUMMARY: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

The proposed rules expand counseling and training services for certain patients with newly diagnosed or uncontrolled diabetes to reduce the incidence of hospitalization and treatments related to the illness.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Beldon Ragsdale at (208) 334-5795.

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 January 22, 1997.

DATED this 1st day of January, 1997.

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TEXT OF DOCKET NO. 16-0309-9702

128. DIABETES EDUCATION AND TRAINING SERVICES.

01. Education and Training Conditions. Outpatient diabetes education and training services will be covered under the following conditions: (1-1-97)T

a. The education and training services are provided through a diabetes management program recognized as meeting the program standards of the American Diabetes Association. (1-1-97)T

b. The education and training services are provided through a formal program conducted through a hospital outpatient department, or through a physician's office, only by a Certified Diabetic Educator. (1-1-97)T

c. For purposes of this section, a Certified Diabetes Educator is a state licensed health professional

who is identified as a Certified Diabetes Educator according to the national standards set forth by the National Certification Board for Diabetes Educators. (1-1-97)T

02. Service Description. Only training and education services which are reasonable and necessary for treatment of a current injury or illness will be covered. Covered professional and educational services will address each client's medical needs through scheduled outpatient group or individual training or counseling concerning diet and nutrition, medications, home glucose monitoring, insulin administration, foot care, or the effects of other current illnesses and complications. (1-1-97)T

03. Diabetes Counseling. To receive diabetes counseling, the following conditions apply to each patient. (1-1-97)T

a. The patient must have written order by his or her primary care physician or physician extender referring the patient to the program. (1-1-97)T

b. The physician may not use the formally structured program, or a Certified Diabetes Educator, as a substitute for basic diabetic care and instruction the physician must furnish to the patient which includes the disease process/pathophysiology of diabetes mellitus and dosage administration of oral hypoglycemic agents. (1-1-97)T

c. The medical necessity for diabetes education and training are evidenced by the following: (1-1-97)T

i. A recent diagnosis of diabetes within ninety (90) days of enrollment with no history of prior diabetes education; or, (1-1-97)T

ii. Uncontrolled diabetes manifested by two (2) or more fasting blood sugar of greater than one hundred forty milligrams per decaliter (140 mg/dL), hemoglobin A_{1c} greater than eight percent (8%), or random blood sugar greater than one hundred eighty milligrams per decaliter (180 mg/dL), in addition to the manifestations; or, (1-1-97)T

iii. recent manifestations resulting from poor diabetes control including neuropathy, retinopathy, recurrent hypoglycemia, repeated infections, or nonhealing wounds. (1-1-97)T

d. Diabetes education and training services will be limited to twenty-four (24) hours of group sessions and twelve (12) hours of individual counseling every five (5) calendar years. (1-1-97)T

04. Reimbursement. Diabetes education and training services will be reimbursed according to the Department's established fee schedule. (1-1-97)T

~~128.~~ **129. (RESERVED).**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9703

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 Sections 56-202(b), 56-203(g), and 56-203(i), 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 January 15, 1997.

DESCRIPTIVE SUMMARY: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

A definition of medical necessity is added for purposes of Medicaid coverage.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Robbie Charlton at (208) 334-5795.

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 January 22, 1997. The comments that have already been received for this rulemaking will be studied and considered after the January 22, 1997, comment deadline.

DATED this 1st day of January, 1997.

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TEXT OF DOCKET NO. 16-0309-9703

003. DEFINITIONS.

For the purposes of these rules, the following terms will be used, as defined below: (11-10-81)

01. Abortion. The medical procedure necessary for the termination of pregnancy endangering the life of the woman, or the result of rape or incest, or determined to be medically necessary in order to save the health of the woman. This Subsection is effective retroactively from October 1, 1993. (2-17-94)

02. Access Unit (ACCESS). Access to Care Coordination, Evaluation, Services and Supports. A regional multidisciplinary, transdivisional unit that has the responsibility of determining eligibility, authorizing services, and assuring quality for services and supports for individuals with developmental disabilities. (7-1-95)

03. Ambulatory Surgical Center (ASC). Any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, and which is certified by the U.S. Department of Health and Human Services as an ASC. (1-3-96)T

04. Bill. The itemized cost of all services provided to one (1) recipient on a single claim form. (11-10-81)
05. Bureau. The Bureau of Medicaid Policy and Reimbursement within the Division of Medicaid, Idaho Department of Health and Welfare, which has the responsibility for administration of the Medical Assistance Program for the state of Idaho. (1-3-96)T
06. Bureau of Systems and Operations. A Bureau of the Division of Medicaid charged with the responsibility of investigation and seeking prosecution of cases involving Medicaid fraud. (1-3-96)T
07. Buy-In Coverage. The amount the State pays for Part B of Title C XVIII on behalf of the A/R.3 (11-10-81)
08. Category I Sanctions. Less severe administrative sanctions, which can be employed concurrently, which neither require notification nor are subject to appeal unless specifically allowed. (11-10-81)
09. Category II Sanctions. Severe administrative sanctions which are appealable as provided for in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-3-96)T
10. Central Office. The administrative headquarters for the Idaho Department of Health and Welfare which are located in the State Office Building (State Towers), 450 West State Street, Boise, Idaho 83720. (11-10-81)
11. Certified Registered Nurse Anesthetist (CRNA). A Registered Nurse qualified by advanced training in an accredited program in the specialty of nurse anesthesia to manage the care of the patient during the administration of anesthesia in selected surgical situations. (1-3-96)T
12. Claim. An itemized bill for services rendered to one (1) recipient by a provider submitted on any of the following Department claim forms: (11-10-81)
- a. DHW PH 3-80, "Physician Invoice" or such other claim form as may be prescribed by the Department; or (11-10-81)
 - b. DHW 03-80, "Title XIX Pharmacy Claim"; or (11-10-81)
 - c. DHW-AD78, "Adjustment Request"; or (11-10-81)
 - d. DHW OP REV 4-80, "Hospital Out-patient"; or (11-10-81)
 - e. DHW IP 3-80, "Hospital In-patient"; or (11-10-81)
 - f. DHW 0137, "Attending Dentist's Statement"; or (11-10-81)
 - g. DHW NH 3-80, "Nursing Home Statement"; or (11-10-81)
 - h. HW-0034 "Consent Form" for sterilization procedures. (11-10-81)
13. Collateral Contacts. Contacts made with a parent, guardian, or other individual having a primary relationship to the patient by an appropriately qualified treatment professional. The contact must be ordered by a physician, contained in the treatment plan, directed at the medical treatment of the patient, and documented in the progress notes or continuous service record. (10-6-88)
- ~~7~~14. Community Living Home. A licensed ICF/MR facility of eight (8) beds or less that has converted to a group home to provide residential habilitation services to developmentally disabled waiver recipients. Room and board is not included in the reimbursement rate. (7-1-95)
- ~~14~~5. Contraception. The provision of drugs or devices to prevent pregnancy. (1-16-80)

156. Department. The State of Idaho Department of Health and Welfare (DHW). (11-10-81)
167. Director. The Director of the Idaho Department of Health and Welfare. (11-10-81)
178. Durable Medical Equipment (DME). Equipment other than prosthetics or orthotics which can withstand repeated use by one or more individual, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury, is appropriate for use in the home, and is reasonable and necessary for the treatment of an illness or injury for a MA recipient. (11-1-86)
189. Educational Services. Services which are provided in buildings, rooms or areas designated or used as a school or as educational facilities; which are provided during the specific hours and time periods in which the educational instruction takes place in the normal school day and period of time for these students; and which are included in the individual educational plan for the recipient or required by federal and state educational statutes or regulations; are not "related services" as listed in Section 120; and such services are provided to school age individuals as defined in Section 33-201, Idaho Code. (12-31-91)
1920. Eligibility Manuals. IDAPA 16.03.01, "Rules Governing Eligibility for Aid for Families with Dependent Children," and IDAPA 16.03.05, "Rules Governing Eligibility for the Aged, Blind and Disabled." (1-3-96)T
201. Emergency. Any situation arising in the medical condition of a patient, which, after applying the prevailing medical standards of judgement and practice within the community requires immediate medical intervention. All obstetrical deliveries are considered emergencies. (10-29-92)
242. Endangerment of Life. A condition where, in the opinion of two (2) licensed physicians, a pregnant woman may die or suffer severe and long lasting physical health damage if the fetus is carried to term. (1-16-80)
223. Health Authority. An authorized official of any of the seven (7) Idaho District Health Departments or their satellite centers. (1-16-80)
234. Home Health Services. Services ordered by a physician and performed by a licensed nurse, registered physical therapist, or home health aide as defined in IDAPA 16.03.07, Subsection 002.11, "Rules for Proprietary Home Health Agencies." (1-3-96)T
245. In-patient Hospital Services. Services that are ordinarily furnished in a hospital for the care and treatment of an in-patient under the direction of a physician or dentist except for those services provided in mental hospitals. (11-10-81)
256. In-State Care. Medical services provided within the Idaho border or in counties bordering Idaho are considered to be in-state, excluding long term care. (2-5-93)
267. Inspection of Care Team (IOCT). An interdisciplinary team which provides inspection of care in intermediate care facilities for the mentally retarded approved by the Department as providers of care for eligible medical assistance recipients. Such a team is composed of: (7-1-94)
- a. At least one (1) registered nurse; and (7-1-94)
 - b. One (1) qualified mental retardation professional; and when required, one (1) of the following: (7-1-94)
 - i. A consultant physician; or (7-1-94)
 - ii. A consultant social worker; or (7-1-94)
 - iii. When appropriate, other health and human services personnel responsible to the Department as employees or consultants. (7-1-94)

278. Interested Physician. (11-10-81)
- a. A physician who performs a Medicaid funded abortion for a fee; or (11-10-81)
- b. A physician who is related by blood or marriage to another physician performing a Medicaid funded abortion. (11-10-81)
289. Intermediate Care Facility Services. Those services furnished in an intermediate care facility as defined in 42 CFR 440.150, but excluding services provided in a Christian Science Sanatoria. (11-10-81)
2930. Law Enforcement Authority. An agency recognized by the state of Idaho in enforcement of established state and federal statutes. (11-10-81)
301. Legend Drug. A drug that requires by federal or state regulation, the order of a licensed medical practitioner before dispensing or administration to the patient. (11-10-81)
342. Licensed Psychologist. An individual who is licensed to practice psychology under Chapter 23, Title 54, Idaho Code. (10-6-88)
323. Licensed, Qualified Professionals. Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (11-10-81)
334. Lock-in Program. An administrative sanction, required of recipients found to have misused the services provided by the Medical Assistance Program, requiring the recipient to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (11-10-81)
345. Medical Care Treatment Plan. The problem list, clinical diagnosis, and treatment plan of care administered by or under the direct supervision of a physician. (11-10-81)
36. Medical Necessity. A service is medically necessary if: (7-1-96)T
- a. It is reasonably calculated to prevent, diagnose, or treat conditions in the client that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (7-1-96)T
- b. There is no other equally effective course of treatment available or suitable for the client requesting the service which is more conservative or substantially less costly. (7-1-96)T
- c. Medical services shall be of a quality that meets professionally recognized standards of health care and shall be substantiated by records including evidence of such medical necessity and quality. Those records shall be made available to the Department upon request. (7-1-96)T
357. Medical Supplies. Items excluding drugs and biologicals and equipment furnished incident to a physician's professional services commonly furnished in a physician's office or items ordered by a physician for the treatment of a specific medical condition. These items are generally not useful to an individual in the absence of an illness and are consumable, nonreusable, disposable, and generally have no salvage value. Surgical dressings, ace bandages, splints and casts, and other devices used for reduction of fractures or dislocations are considered supplies. (11-1-86)
368. Morbid Obesity. The condition of a person who exceeds ideal weight by more than one hundred (100) pounds and who has significant medical complications directly related to weight gain. (7-1-96)T
379. Non-legend Drug. Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (11-10-81)
3840. Nurse Midwife. A registered nurse (RN) who is currently licensed to practice in Idaho, who meets applicable standards as found in the Idaho Nurse Practice Act, Rules and Minimum Standards promulgated by the

Idaho State Board of Nursing, and who meets one of the following provisions: (11-10-81)

- a. Is currently certified as a Nurse Midwife by the American College of Nurse Midwives; or (11-10-81)
- b. Has satisfactorily completed a formal educational program of at least one (1) academic year that: (11-10-81)
 - i. Prepares a RN to furnish gynecological and obstetrical care to women during pregnancy, delivery and postpartum, and care to normal newborns; (11-10-81)
 - ii. Upon completion, qualifies a RN to take the certification examination offered by the American College of Nurse Midwives; (11-10-81)
 - iii. Includes at least four (4) months, in the aggregate, of classroom instruction and a component of supervised clinical practice; and (11-10-81)
 - iv. Awards a degree, diploma, or certificate to persons who successfully complete the program. (11-10-81)

~~394~~1. Nurse Practitioner. A registered nurse (RN) who is currently licensed to practice in this State, who meets applicable standards as found in the Idaho Nurse Practice Act, Rules and Minimum Standards promulgated by the Idaho State Board of Nursing, and who meets one of the following provisions: (11-10-81)

- a. Is currently certified as a Primary Care Nurse Practitioner by the American Nurses Association or by the National Board of Pediatric Nurse Practitioners and Associates, or by the Nurses Association of the American College of Obstetricians and Gynecologists; or (11-10-81)
- b. Has satisfactorily completed a formal one (1) year academic year educational program that: (11-10-81)
 - i. Prepares a RN to perform an expanded role in the delivery of primary care; (11-10-81)
 - ii. Includes at least four (4) months, in the aggregate, of classroom instruction and a component of supervised clinical practice; and (11-10-81)
 - iii. Awards a degree, diploma, or certificate to persons who successfully complete the program. (11-10-81)

~~40~~2. Nursing Facility (NF). An institution, or distinct part of an institution, which is primarily engaged in providing skilled nursing care and related services for residents. The residents must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. An institution must provide, on a regular basis, health-related care and services to individuals; who because of their mental or physical condition require care and services above the level of room, board, and supervision; which are made available to them only through institutional facilities, not primarily for care and treatment of mental diseases. The institution is licensed in the state of Idaho pursuant to Section 39-1301, Idaho Code and is certified as a nursing facility pursuant to 42CFR 405.1120 through 405.1136. (7-1-94)

~~44~~3. Orthotic. Pertaining to or promoting the straightening of a deformed or distorted part. (10-1-91)

~~42~~4. Orthotic and Prosthetic Professional. An individual certified or registered by the American Board for Certification in Orthotics and/or Prosthetics. (10-1-91)

~~43~~5. Otologist. A licensed physician who specializes in the diagnosis and treatment of hearing disorders and diseases of the ear. (11-10-81)

~~44~~6. Out-patient Hospital Services. Preventive, diagnostic, therapeutic, rehabilitative, or palliative items

orservicesfurnishedbyorunderthedirectionofaphysicianordentisttopatientnotinneedofhospitalbedaccommodation.
(11-10-81)

457. Out-of-State Care. Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care.
(1-3-96)T

468. Oxygen-Related Equipment. Equipment which is utilized or acquired for the routine administration of oxygen in the home. This includes oxygen tanks, regulators, humidification nebulizers, oxygen concentrators, and related equipment. Equipment which is used solely for the administration of medication into the lungs is excluded from this definition.
(11-1-86)

479. Patient. The person undergoing treatment or receiving services from a provider. (11-10-81)

4850. Physician. A person possessing a Doctorate of Medicine degree or a Doctor of Osteopathy degree and licensed to practice medicine by a state or United States territory. (10-1-91)

4951. Physician's Assistant. A person who is licensed by the Idaho Board of Medicine and who meets at least one (1) of the following provisions: (1-3-96)T

a. Is currently certified by the National Commission on Certification of Physician Assistants to assist primary care physicians; or (11-10-81)

b. Has satisfactorily completed a program for preparing physician's assistants that: (11-10-81)

i. Was at least one (1) academic year in length; and (11-10-81)

ii. Consisted of supervised clinical practice and at least four (4) months, in the aggregate, of classroom instruction directed toward preparing students to deliver health care; and (11-10-81)

iii. Was accredited by the American Medical Association's Committee on Allied Health Education and Accreditation.
(11-10-81)

502. Plan of Care. A written description of medical, remedial and/or rehabilitative services to be provided to a recipient, developed by or under the direction and written approval of a physician. Medications, services and treatments are identified specifically as to amount, type and duration of service. (10-6-88)

543. Premium or Subscription Charge. The per capita amount paid by the Department for each eligible MA recipient enrolled under a contract for the provisions of medical and rehabilitative care and services whether or not such a recipient receives care and services during the contract period. (11-10-81)

524. Property. The homestead and all personal and real property in which the recipient has a legal interest.
(11-10-81)

535. Prosthetic Device. Replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts profession within the scope of his practice as defined by state law to:
(10-1-91)

a. Artificially replace a missing portion of the body; or (10-1-91)

b. Prevent or correct physical deformities or malfunctions; or (10-1-91)

c. Support a weak or deformed portion of the body. (10-1-91)

546. Provider. Any individual, organization or business entity furnishing medical goods or services in compliance with this chapter and who has applied for and received a provider number, pursuant to Section 020, and who has entered into a written provider agreement, pursuant to Section 040. (1-3-96)T

- ~~557~~. Provider Agreement. An agreement between the provider and the Department, entered into pursuant to Section 040. (12-31-91)
- ~~568~~. Provider Reimbursement Manual IDAPA 16.03.10, "Rules Governing Provider Reimbursement in Idaho." (1-3-96)T
- ~~579~~. Psychology Assistant. An individual who practices psychology under the supervision of a licensed psychologist when required under Chapter 23, Title 54, Idaho Code, and Section H of the "Rules of the Idaho State Board of Psychologist Examiners." (7-1-94)
- ~~586~~0. Recipient. An individual who is receiving Medical Assistance. (11-10-81)
- ~~596~~1. Recreational Therapy (Services). Those activities or services that are generally perceived as recreation such as, but not limited to, fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, training for Special Olympics, and special day parties (birthday, Christmas, etc.). (10-6-88)
- ~~602~~. Regional Nurse Reviewer (RNR). A registered nurse who reviews and makes determinations on applications for entitlement to and continued participation in Title XIX long term care for the Department. (7-1-94)
- ~~643~~. Social Security Act. 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons meeting certain criteria. (11-10-81)
- ~~624~~. Specialized Family Home. Living situation where a maximum of two (2) waiver recipients who do not require a skilled nursing service live with a provider family of residential habilitation services. (7-1-95)
- ~~635~~. Subluxation. A partial or incomplete dislocation of the spine. (11-10-81)
- ~~646~~. Supervision. Procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. (6-21-90)
- ~~657~~. Title XVIII. That program established by the 1965 Social Security Act authorizing funding for the Medicare Program for the aged, blind, and disabled. The term is interchangeable with "Medicare." (11-10-81)
- ~~668~~. Title XIX. That program established by the 1965 Social Security Act authorizing the Medical Assistance Program, commonly referred to as "Medicaid," which is jointly financed by the federal and state governments and administered by the states. The term is interchangeable with "Medicaid." (11-10-81)
- ~~679~~. Third Party. Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a recipient of medical assistance. (11-10-81)
- ~~687~~0. Transportation. The physical movement of a recipient to and from a medical appointment or service by the recipient, another person, taxi or common carrier. (10-6-88)
- ~~697~~1. Utilization Control (UC). A program of prepayment screening and annual review by at least one (1) Regional Nurse Reviewer to determine the appropriateness of medical entitlement and the need for continued medical entitlement of applicants/recipients to Title XIX benefits in a NF. (7-1-94)
- ~~702~~. Utilization Control Team (UCT). A team of Regional Nurse Reviewers which conducts on-site reviews of the care and services in the NFs approved by the Department as providers of care for eligible medical assistance recipients. (7-1-94)
- ~~743~~. Vocational Services. Services or programs which are directly related to the preparation of individuals for paid or unpaid employment. The test of the vocational nature of the service is whether the services are provided with the expectation that the recipient would be able to participate in a sheltered workshop or in the general work force within one (1) year. (10-6-88)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9704

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective February 12, 1996 and February 1, 1997.

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 Sections 56-202(b) and 56-203(g), 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 January 15, 1997.

DESCRIPTIVE SUMMARY: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

This rule change clarifies transportation coverage and the preauthorization process for Medicaid providers and recipients and incorporates the Department's Transportation Policy and Procedures Manual. A process for reconsideration review of denied payments to providers has been added to the rules. The rules also implement a less restrictive definition of medical necessity and incorporate the requirements for ambulances and ambulance services as described in IDAPA 16, Title 02, Chapter 03, Rules Governing Emergency Medical Services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Sharron Knutson at (208) 334-5795.

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 January 22, 1997.

DATED this 1st day of January, 1997.

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TEXT OF DOCKET NO. 16-0309-9704

150. TRANSPORTATION.

"Transportation" includes expenses for transportation, cost of meals and lodging en route to and from receiving medical care or treatment, and while receiving medical care or treatment. It also includes the cost of an attendant to accompany the recipient, if necessary, and the cost of the attendant's transportation, meals, lodging and, if the attendant is not a member of the recipient's family, salary. Preapproval Review of all "transportation" is required to insure that only necessary and reasonable expenses are paid. Certain transportation services require preapproval, and other services require review after the services have been rendered. An exception to preapproval can be made when the service was an emergency in nature or when it is determined reasonable and would have been approved if preauthorization had been requested eligibility for Medicaid is determined after the service was provided, or when a retrospective approval is required by the Department. (7-15-87)(2-12-96)T

01. Scope of Coverage and General Requirements for Transportation. ~~(7-1-93)~~(2-12-96)T

a. The Department will reimburse pay for necessary transportation for a Medicaid recipient to receive medical care or treatment and from providers of Medicaid approved medical services for a Medicaid recipient. Out-of-state transportation will not be reimbursed without obtaining authorizations required in Subsection 015.03. Transportation services are subject to review by the Department or its designee prior to services being rendered, or on a retrospective basis. Transportation service review is governed by provisions of the Transportation Policies and Procedures Manual as amended. If such review identifies that a transportation service is not covered, then no Medicaid payment will be made for the transportation service. Reimbursement for transportation services originally denied by the Department or its designee will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ~~(2-15-93)~~(2-12-96)T

~~ib.~~ The Department or its designee may authorize the transportation, meals, and lodging costs of an attendant or one (1) immediate family member to accompany the recipient, if necessary, and the cost of the attendant's immediate family member's transportation, meals, lodging, and salary for the attendant, if he is not a member of the recipient's family. The Department will not pay room and board the meals or lodging costs for of an salaried attendant once the recipient being escorted is admitted to an inpatient facility. The Department will pay room and board the meals and lodging costs to of one (1) immediate family member while the recipient is an inpatient in a facility, if deemed necessary due to the recipient's age or other factors, and authorized by the Department or its designee. ~~(5-4-94)~~(2-12-96)T

c. When lodging is required, the Department or its designee will authorize it insuring that the least expensive yet most appropriate lodging is provided. Receipts for lodging may be required by the Department. (2-12-96)T

~~id.~~ For any out-of-state requests for transportation costs to receive covered medical care or treatment, the Department or its designee will only authorize transportation costs to the nearest available, appropriate medical facility Medicaid provider. In some cases, a referral from the recipient's primary care physician is also required. ~~(2-15-93)~~(2-12-96)T

~~ie.~~ If private ear vehicle transportation is used, the Department must authorize will payment for such transportation at rates established by the Department. The private carrier is responsible to for providing all necessary insurance at no cost to the Department. ~~(2-15-93)~~(2-12-96)T

~~if.~~ If other than private vehicle transportation is used, the transportation must be the least expensive yet the most appropriate form available. The Department will make payment for such transportation at rates established by the Department. The carrier is responsible for providing all necessary insurance at no cost to the Department. ~~(11-10-81)~~(2-12-96)T

~~ig.~~ Reimbursement is to be will be made by the Department for necessary transportation to any person, including but not limited to the recipient, or a relative or friend of the recipient. The Department will make payment to the recipient if the recipient has paid for or provided the transportation service, or to the actual provider of the transportation service. Each billing invoice must have prior authorization attached, if appropriate, and be submitted to the Department for payment. Providers must bill on a HCFA 1500 claim form. If no attachments to the claim are required, the provider may bill electronically. Payment for transportation costs will not be issued prior to the service being rendered. ~~(1-16-80)~~(2-12-96)T

~~ih.~~ Commercial transportation companies, such as taxi, intra-city bus or van, inter-city bus or van, intrastate bus or van, interstate bus or van, airlines, car rental agencies, or lodging facilities, must not charge Medicaid recipients more than is charged to the general public for the same service. (2-12-96)T

~~ii.~~ If the recipient has two (2) or more separate medical appointments in a day which necessitate separate trips by the same or a different transporter, the Department will pay for a round trip to transport the recipient to each appointment. The Department will not pay the transporter for transportation when the recipient is not in the vehicle. (2-1-97)T

j. In order for the Department to pay for transportation services, the recipient must be taking the trip to actually receive medical care or treatment from a Medicaid provider. Trips to pick up medication, to pick up medical equipment or supplies, or to pick up any other items or supplies will not be authorized by the Department or its designee. (2-1-97)T

k. The Department will not pay for transportation or lodging when those services are available and provided at no cost by organizations such as Red Cross, Easter Seal Society, Cancer Society, fraternal and church organizations, Ronald McDonald Houses, and other private or social agencies. (2-12-96)T

e02. Preauthorization for Transportation to a Distant Point. Preauthorization of transportation for a MA recipient to consult with or be treated by a provider of medical care at to a distant point, either in or out-of-state, is required. For purposes of these rules, a "distant point" is defined as more than ten (10) miles from the recipient's residence. The Department or its designee must determine the following: (2-15-93)(2-12-96)T

ia. That adequate and comparable medical services are not available locally. When the services are available locally and/or more than one (1) service provider is within the local area, the Department's reimbursement is limited to round trip mileage to the closest provider of the necessary service; and (1-3-96)T

ib. That an appointment for covered medical care or treatment has been made with a provider at the distant point; and (11-10-81)(2-12-96)T

ic. If applicable, that a referral has been made by the patient's attending physician. (1-16-80)

iv. When lodging is required, the Department or its designee will preauthorize it insuring that the least expensive yet most appropriate lodging is provided. Receipts for lodging must be attached to the appropriate claim form submitted to the Department. (2-15-93)

vd. Transportation will not be authorized unless out-of-state care authorizations have been obtained as required in Subsection 015.03. Exceptions to this requirement are: Veteran's Hospitals and specialty hospitals which do not make a charge to the general public. Therefore, no authorization for hospitalization is made by Medicaid. (2-15-93)

vi. The Department or its designee will not authorize transportation and/or lodging when other sources are available at minimal or no cost such as Red Cross, Easter Seal Society, Cancer Society, fraternal and church organizations, Ronald McDonald Houses, and other private or social agencies which provide transportation and/or lodging. (2-15-93)

fe. The Department will only authorize meals when overnight travel to a distant point is required and cooking facilities are not available at a reasonable cost. The actual cost of the meals will be authorized up to the amount allowed by the State Board of Examiners for state employees set by the Department. Meals and lodging will not be paid if the recipient and/or the attendant stays in a private home that is not a lodging facility. (2-15-93)(2-12-96)T

023. Scope of Coverage and General Requirements for Ambulance Services. Medically necessary ~~A~~ ambulance services ~~is~~ are reimbursable in emergency situations or when prior authorization has been obtained from the Department or its designee. Ambulance services are subject to review by the Department or its designee prior to the service being rendered, and on a retrospective basis. Ambulance service review is governed by provisions of the Transportation Policies and Procedures Manual as amended. If such review identifies that an ambulance service is not covered, then no Medicaid payment will be made for the ambulance service. Reimbursement for ambulance services originally denied by the Department or its designee will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." Payment for ambulance services is subject to the following limitations: (1-3-96)T(2-12-96)T

a. If a MA Medicaid recipient is also a Medicare recipient, a provider must first bill Medicare for services rendered; and (11-10-81)(2-12-96)T

b. If Medicare does not pay the entire bill for ambulance service, the provider is to secure an "Explanation of Benefits" (EOB) from Medicare, attach it to the appropriate claim form and submit it to the Department; ~~and~~. (11-10-81)(2-12-96)T

c. For Medicare recipients, the Department will reimburse providers for deductible and co-insurance not to exceed ~~the usual and customary fees~~ the Medicaid allowed amount for the services billed; ~~and~~ (11-10-81)(2-12-96)T

~~d. The Department's payment for ambulance services is not to exceed usual and customary charges as determined by Medicare; and (11-10-81)~~

~~ed. Before payment is made by the Department, a MA Medicaid recipient must utilize any available insurance benefits to pay for ambulance services. (11-10-81)(2-12-96)T~~

fe. Ambulance services are medically necessary when an emergency condition exists. An emergency condition exists when a recipient manifests acute symptoms and/or signs which, by reasonable medical judgement, represent a condition of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in death, serious impairment of a bodily function or major organ, and/or serious jeopardy to the overall health of the recipient. If such condition exists, and treatment is required at the recipient's location, or transport of the recipient for treatment in another location by ambulance is the only appropriate mode of travel, the Department will review such claims and consider authorization for emergency ambulance services. If an emergency does not exist, prior written authorization to use transport by ambulance services must be secured from the Department or its designee. In non emergency situations, the provider must provide justification to the Department or its designee that travel by ambulance is medically necessary due to the medical condition of the recipient, and that any other mode of travel would, by reasonable medical judgement of the Department or its designee, result in death, serious impairment of a bodily function or major organ, and/or serious jeopardy to the overall health of the recipient. (1-3-96)T(2-12-96)T

gf. Each billing invoice for ambulance service must have prior authorization attached, if appropriate, and be submitted to the Department for payment. Ambulance units that are not hospital-based must bill on a HCFA 1500 claim form and are reimbursed on a fee for service schedule. Hospital-based ambulance units must bill on a UB-92 claim form and are reimbursed at the hospital's outpatient reimbursement rate. If no attachments to the claim are required, the provider may bill electronically. (11-10-81)(2-12-96)T

~~h. Ambulance service must be medically necessary and reasonable in order to be covered by MA. Medical necessity is established when the recipient's condition is such that use of any other method of transportation would endanger his life. (11-10-81)~~

g. All Emergency Medical Services (EMS) Providers that provide services to Medicaid recipients in Idaho must hold a current license issued by the Emergency Medical Services Bureau of the Department, and must be governed by IDAPA 16.02.03, "Rules Governing Emergency Medical Services." Ambulances based outside the state of Idaho must hold a current license issued by their states' EMS licensing authority when the transport is initiated outside the state of Idaho. Payment will not be made to ambulances that do not hold a current license. (2-12-96)T

~~03h. Destination. Only local transportation by ambulance is covered. In exceptional situations where the ambulance transportation originates beyond the locality to which the recipient was transported, full payment may be made for such services only if the evidence clearly establishes that such institution is the nearest one with appropriate facilities and the service is authorized by the Department or its designee.~~ (11-10-81)(2-12-96)T

i. Ambulance services providers cannot charge Medicaid recipients more than is charged to the general public for the same service. (2-12-96)T

04. Air Ambulance Service. In some areas, transportation by airplane or helicopter may qualify as ambulance services. Air ambulance services are covered only when: (11-10-81)(2-12-96)T

a. The point of pickup is inaccessible by land vehicle; or (11-10-81)

b. Great distances or other obstacles are involved in getting the recipient to the nearest appropriate facility and speedy admission is essential; and (11-10-81)

c. Air ambulance service will be covered where the recipient's condition and other circumstances necessitate the use of this type of transportation; however, where land ambulance service will suffice, payment will be based on the amount payable for land ambulance, or the lowest cost. (11-10-81)

d. Air ambulance services must be approved in advance by the Department or its designee except in ~~life or death emergency~~ situations. Emergency air ambulance services must be authorized by the Department or its designee on a retrospective basis. (~~11-10-81~~)(2-1-96)T

e. The operator of the air service must bill the air ambulance service rather than the hospital or other facility receiving the recipient. (~~11-10-81~~)(2-12-96)T

05. Ambulance Reimbursement Conditions. (~~11-10-81~~)(2-12-96)T

a. Base rate for ambulance services includes customary patient care equipment including such items as stretcher, clean linens, reusable devices, and reusable equipment. (11-10-81)

b. Not to be included as a base rate and to be billed separately are charges for each nonreusable item and disposable supply, such as oxygen, triangular bandage and dressing, which may be required for the care of the recipient during transport. Oxygen will be reimbursed according to volume used by the recipient during transport. The volume must appear in the appropriate field on the claim. (~~11-10-81~~)(2-12-96)T

c. Charges for extra attendants are not covered except for justified situations and must be authorized by the Department or its designee. (~~11-10-81~~)(2-12-96)T

~~i. Use of extra attendants must be supported by documentation attached to the claim form indicating the necessity and the type of specialty of the attendant(s) to receive consideration for payment; and (11-10-81)~~

~~ii. If a physician is in attendance during transport, he is responsible for the billing of his services. (11-10-81)~~

~~d. Charges for cardiac monitor and other life saving equipment which is not customary patient care equipment will be considered for payment under the base rate for advanced life support. (11-10-81)~~

e. Reimbursement for waiting time will not be considered unless documentation attached to the claim form submitted to the Department or its designee identifies the length of the waiting time and establishes its medical necessity or indicates that it was physician ordered. Limited waiting time will be allowed for round trips (see Subsection 150.05.h.). (~~12-31-91~~)(2-12-96)T

f. ~~Oxygen will be reimbursed according to volume used by the patient during transport. The volume must appear in that portion of the claim form describing services rendered.~~ Ambulance units are licensed by the EMS Bureau of the Department, or other states' EMS licensing authority according to the level of training and expertise its personnel maintains. At least, this level of personnel are required to be in the patient compartment of the vehicle for every ambulance trip. The Department will reimburse a base rate according to the level of ambulance license the unit has been issued. Units with Emergency Medical Technician - Basic (EMT-B) or equivalent personnel in the patient compartment of the vehicle will be reimbursed at the Basic Life Support (BLS) rate. Units with Advanced Emergency Medical Technician-Ambulance (AEMT-A) or equivalent personnel in the patient compartment of the vehicle will be reimbursed at the Intermediate Life Support (ILS) rate. Units with Emergency Medical Technician - Paramedic (EMT-P) or equivalent personnel in the patient compartment of the vehicle will be reimbursed at the Advanced Life Support(ALS)rate. In addition to the base rate, the Department will reimburse mileage. These rates are set by the Department. (~~11-10-81~~)(2-1-97)T

g. If multiple licensed EMS providers are involved in the transport of a recipient, only the ambulance provider which actually transports the recipient will be reimbursed for the services. In situations where personnel and equipment from a licensed ALS provider boards an ILS or BLS ambulance, the transporting ambulance may bill for

ALS services as authorized by the Department or its designee. In situations where personnel and equipment from a licensed ILS provider boards a BLS ambulance, the transporting ambulance may bill for ILS services as authorized by the Department or its designee. In situations where medical personnel and equipment from a medical facility are present during the transport of the recipient, the transporting ambulance may bill at the ALS level of service. The transporting provider must arrange to pay the other provider for their services. (2-1-97)T

h. If multiple licensed EMS providers transport a recipient for different legs of a trip, each provider must bill their base rate, mileage, and for nonreusable supplies and oxygen used, as authorized by the Department or its designee. (2-12-96)T

i. If a licensed transporting EMS provider responds to an emergency situation and treats the recipient, but does not transport the recipient, the Department may reimburse for the treat and release service. The Department will reimburse the appropriate base rate and will pay for nonreusable supplies and oxygen used at the scene. This service requires authorization from the Department or its designee on a retrospective basis. (2-12-96)T

g.j. If an ambulance vehicle and crew have returned to a base station after having transported a recipient to a facility and under a physician's order, the recipient's physician orders the recipient to ~~must~~ be transferred from ~~one (1) this~~ facility to another facility because of medical need, two (2) base rate charges, in addition to the mileage, will be considered for reimbursement. If an ambulance vehicle and crew do not return to a base station and the patient is transferred from one (1) facility to another facility, charges for only one (1) base rate, waiting time, and mileage will be considered. ~~(11-10-81)~~(2-12-96)T

h.k. Round trip charges will be allowed only in circumstances when a hospital in-patient ~~goes is~~ transported to another hospital to obtain specialized services not available in the hospital in which the recipient is an in-patient. ~~The transport must be to and from a and the hospital furnishing the service is that is~~ the nearest one with such facilities with the specialized services. ~~(11-10-81)~~(2-12-96)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9705

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 1, 1997.

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 Sections 56-202(b) and 56-203(g), 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 January 15, 1997.

DESCRIPTIVE SUMMARY: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

Rule changes will allow the Department to purchase plastic single vision lenses and bifocal lenses without the restriction of diopter measurements. This rule change will also allow the Department to purchase tinted lenses and contact lenses for extreme medical conditions, and allow the recipient to choose trifocal lenses if they are willing to pay the difference in dollar amounts, between bifocal lenses and trifocal lenses.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Cindy Taylor at (208) 334-5795.

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 January 22, 1997.

DATED this 1st day of January, 1997.

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TEXT OF DOCKET NO. 16-0309-9705

122. VISION SERVICES.

The Department will pay for vision services and supplies in accordance with the guidelines and limitations listed below. All eyeglass frames and lenses provided to Medicaid recipients and paid for by the Medicaid Program will be purchased from the supplier designated by the Department. (1-3-96)T

01. Eye Examinations. The Department will pay participating physicians and optometrists for one (1) eye examination during any twelve (12) month period for each eligible recipient to determine the need for glasses to correct a refractive error. Each eligible MA recipient, following a diagnosis of visual defects and a recommendation that eyeglasses are needed for correction of a refractive error, can receive eyeglasses within Department guidelines (See Section 100). (12-31-91)

02. Lenses. Lenses, single vision or bifocal will be provided when there is documentation that the correction need is equal to or greater than plus or minus one-half (.50) diopters. (10-29-92)

a. ~~Plastic or p~~Polycarbonate lenses will be purchased only when there is clear documented evidence that the thickness of the glass plastic lenses precludes their use (prescriptions above plus or minus two (2) diopters of correction); ~~(10-1-91)(1-1-97)T~~

b. ~~When plastic or polycarbonate lenses are required, s~~Scratch resistant coating shall be purchased ~~is~~ required for all plastic and polycarbonate lenses.; ~~(10-1-91)(1-1-97)T~~

c. Payment for tinted lenses will only be made when there is a diagnosis of albinism or in the case of other extreme medical conditions as defined by the Department.; ~~(10-22-93)(1-1-97)T~~

d. Contact lenses will be covered only with documentation that an extreme myopic condition requiring a correction equal to or greater than minus four (-4) diopters, cataract surgery, ~~or~~ keratoconus, or other extreme conditions as defined by the Department that preclude the use of conventional lenses. ~~(10-22-93)(1-1-97)T~~

03. Replacement Lenses. Replacement lenses shall be purchased from qualified providers only with documentation of a major visual change as defined by the Department. Statements of major visual change shall include documentation of a visual refraction change of at least one-half (.50) diopter plus or minus. (10-1-91)

04. Frames. Frames will be purchased from qualified providers according to the following guidelines: (10-1-91)

a. One (1) set of frames will be purchased by the Department not more often than once every four (4) years for eligible recipients; (10-1-91)

b. Except when it is documented by the physician that there has been a major change in visual acuity that cannot be accommodated in lenses that will fit in the existing frames, new frames also may be authorized. (10-22-93)

05. Glasses. Replacement of Bbroken, lost, or missing glasses shall be the responsibility of the recipient. ~~(10-22-93)(1-1-97)T~~

06. Payment for Non Covered Services. A Medicaid Provider may receive payment from a Medicaid recipient for vision services that are either not covered by the Idaho Medicaid State Plan, or include special features or characteristics that are desired by the recipient but are not medically necessary. Non covered items include Trifocal lenses, Progressive lenses, photo grey, and tint. (1-1-97)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT
DOCKET NO. 16-0310-9601

NOTICE OF PENDING RULE AND AMENDMENTS TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective October 1, 1996. These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rules become final and effective on July 1, 1997, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-108, 56-113, and 56-202, Idaho Code.

DESCRIPTIVE SUMMARY: The proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 2, 1996, Administrative Bulletin, Volume 96-10, pages 90 through 129.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Doug Norton at (208) 334-5795.

DATED this 1st day of January, 1997.

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IDAPA 16
TITLE 03
Chapter 10

RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT

There are substantive changes from the proposed rule text.

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

The complete original text was published in the Idaho Administrative Bulletin, Volume 96-10, October 4, 1996, Pages 90 through 129.

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

TEXT OF DOCKET NO. 16-0310-9601

060. PROPERTY REIMBURSEMENT.

Facilities other than hospital based nursing facilities will be paid a property rental rate, and shall also be reimbursed the Medicaid share of property taxes and reasonable property insurance. The Medicaid share is determined by the ratio of Medicaid patient days to total patient days. The property rental rate includes compensation for major movable equipment but not for minor movable equipment. However, the property rental rate for ICF/MR shall not include compensation for major movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. Prior to final audit for a NF, an interim rate for property reimbursement shall be set to approximate the property rental rate as determined by Sections 56-108 and 56-109, Idaho Code. (10-1-96)T

01. Property Rental Rate. The property rental rate is based upon current construction costs, the age of the facility, the type of facility, and major expenditures made to improve the facility, or a rate based upon property costs as of January 1, 1985. The amount paid for each Medicaid day of care will be phased in according to Section 061., and, beginning April 1, 1985, shall be:

$R = \text{"Property Base"} \times 40 - \text{"Age"} / 40 \times \text{"change in building costs where:}$ (12-31-91)

a. "R" = the property rental rate. (11-4-85)

b. "Property Base" = Thirteen dollars and nineteen cents (\$13.19) beginning October 1, 1996 for all freestanding nursing facilities but not ICF/MR facilities. Beginning October 1, 1996, the property base rate for ICF/MR - living units shall be eleven dollars and twenty-two cents (\$11.22) except for ICF/MR living units not able to accommodate residents requiring wheelchairs. Property base = seven dollars and twenty-two cents (\$7.22) for ICF/MR living units not able to accommodate residents requiring wheelchairs. (10-1-96)T

c. "Change in building costs" = 1.0 from October 1, 1996, through December 31, 1996. ~~(10-1-96)T~~

~~i-~~ Beginning January 1, 1997, "change in building costs" will be adjusted each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as published by the Marshall Swift Valuation Service or the consumer price index for renter's costs whichever is greater. For freestanding NF facilities, the index available in September of the prior year will be used; for ICF/MR facilities, the most recent index available when it is first necessary to set a prospective rate for a period that includes all or part of the calendar year, will be used. (10-1-96)T

d. "Age" of facility - The effective age of the facility in years shall be set by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof shall be assigned an age of more than thirty (30) years, however: (11-4-85)

i. If adequate information is not submitted by the facility to document that the facility, or portion thereof, is newer than thirty (30) years, the age shall be set at thirty (30) years. Adequate documentation shall include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contract, and original notes of indebtedness. An age shall be determined for each building. A weighted average using the age and square footage of the buildings shall become the effective age of the facility. The age of each building shall be based upon the date when construction on that building was completed. This age shall be adjusted to reflect major building expansion or remodeling prior to April 1, 1985, if that expenditure was large enough to reduce the age of the facility by two (2) or more years according to the following formula:

$$r = A \times E / S \times C$$

Where:

r = Reduction in the age of the facility in years.

A = Age of the building at the time when construction was completed.

E = Actual expenses for the construction provided that the total costs must have been incurred within twenty-four (24) months of the completion of the construction.

S = The number of square feet in the building at the end of construction.

C = The cost of construction for the buildings in the year when construction was completed according to the schedule in Subsection 060.01.d.ii.

If the result of this calculation, "r" is equal to or greater than 2.0, the age of the building in years will be reduced by this number, rounded to the nearest whole number for rate setting purposes. In no case will the age be less than zero (0). (12-28-89)

ii. Historical Nursing Home Construction Cost per Square Foot for Purposes of Evaluating Facility Age.

Age	Year	Cost	Age	Year	Cost	Age	Year	Cost
1	1984	49.72	2	1983	47.61	3	1982	45.99
4	1981	44.51	5	1980	41.77	6	1979	38.58
7	1978	35.20	8	1977	31.54	9	1976	29.43
10	1975	27.38	11	1974	25.17	12	1973	23.58
13	1972	21.37	14	1971	19.57	15	1970	18.27
16	1969	17.52	17	1968	16.32	18	1967	15.41
19	1966	14.86	20	1965	14.22	21	1964	13.87
22	1963	13.65	23	1962	13.20	24	1961	12.90
25	1960	12.77	26	1959	12.58	27	1958	12.23
28	1957	12.05	29	1956	11.84	30	1955	11.32

(10-22-93)

iii. For rates paid after June 30, 1989, the effective age of a facility shall be further adjusted when the cost of major repairs, replacement, remodeling, or renovation of a building initiated after April 1, 1985, results in the change in age by at least one (1) year when applied to the formula in Subsection 060.01.d.i. However, such change shall not decrease the effective age of a facility beyond the point where the increase in the property rental rate is greater than three-fourths (3/4) of the difference between the property rental rate "r" for a new facility at the time of the proposed rate revision and the property rental rate for which the facility was eligible immediately before the adjustment. The cost used for "C" shall be adjusted according to costs published by Marshall Swift Valuation Service to reflect current construction costs for average Class D convalescent hospitals. It is the provider's responsibility to notify the Department and document costs. The Department will adjust the age after documentation of costs.

(10-22-93)

iv. In the event that new requirements are imposed by state or federal agencies, the Department shall reimburse the expenditures directly related to these requirements as an increase in the property rental rate if the expense is in excess of one hundred dollars (\$100) per bed. If the cost related to the requirement is less than one hundred dollars (\$100) per bed, the Department shall, within twelve (12) months of verification of expenditure, reimburse the Medicaid share of the entire cost of such new requirements, as a one (1) time payment to the facility.

(10-1-96)T

v. At no time shall the property rental rate paid to a facility be less than the greater of the rate allowable to that facility on December 31, 1988, the rate allowable immediately following the first opening of a new facility after December 31, 1988, or the rate allowable immediately following the last, if any, age revision after December 31, 1988. However, subsequent to the application of this provision, before any property rental rate increase may be made for current or successor operators, the final settlement amount of any increase in the property rental rate

will first be offset by an amount equal to the impact on final settlement of any rate decrease that would have occurred if the provisions of Subsections 060.01.d.iii. and 060.01.d.iv. of these rules had not been applied. This is intended to allow the postponement of the financial burden to providers of property rental rate decreases and to allow an equal offset of the financial burden to the state of subsequent property rate increases for a current or successor provider.
(10-1-96)T

vi. Effective July 1, 1991, for freestanding nursing facilities, and effective October 1, 1996, for ICF/MR facilities, "age of facility" will be a revised age which is the lesser of the age established under other provisions of this Section or the age which most closely yields the rate allowable to existing facilities as of June 30, 1991, under Subsection 060.01 of these rules. This revised age shall not increase over time.
(10-1-96)T

02. Grandfathered Rate. A "grandfathered property rental rate" for existing free-standing nursing facilities will be determined by dividing the audited allowable annualized property costs, exclusive of taxes and insurance, for assets on hand as of January 1, 1985, by the total patient days in the period July 1, 1984, through June 30, 1985.
(10-1-96)T

a. Prior to audit settlement, the interim rate for property costs allowable as of January 1, 1985, shall be used to approximate the grandfathered rate.
(11-4-85)

b. The grandfathered property rental rate shall be adjusted to compensate the facility for the property costs of major repairs, replacement, expansion, remodeling or renovation initiated prior to April 1, 1985, and completed during calendar year 1985.
(12-28-89)

c. Beginning July 1, 1989, facilities receiving grandfathered rates may have those rates adjusted for modifications related to major repairs, replacement, expansion, remodeling, or renovation initiated after January 1, 1986, if the cost of these modifications would be sufficient to reduce the age of the facility by one (1) year or more according to Subsection 060.01.d.i. The grandfathered rate shall be revised after completion of modifications and shall be the greater of:
(12-31-91)

i. The grandfathered rate previously allowed; or
(12-28-89)

ii. The actual per diem property costs of amortization, depreciation and interest not applicable to the modifications for the audit period in which the modifications were completed plus the per diem rate of the first year amortization of the cost of these modifications when amortized over American Hospital Association guideline useful life or lives. However, no change in the grandfathered rate shall be allowed to change that rate by more than three-fourths (3/4) of the difference between the previous grandfathered rate and the property rental rate that would be paid for a new building at the time of the proposed rate revision.
(12-28-89)

d. The facility will be reimbursed a rate which is the higher of the grandfathered property rental rate as determined according to provisions of Subsection 060.02 or the property rental rate determined according to Subsections 060.01, 060.03, or 060.05 and Section 061.
(12-31-91)

03. Leased Freestanding Nursing Facilities. Freestanding nursing facilities with leases will not be reimbursed in the same manner specified in Subsections 060.01 and 060.02 of these rules. Provisions in this Section do not apply to reimbursement of home office costs. Home office costs shall be paid based on reasonable cost principles.
(10-1-96)T

a. Facilities with leases entered into on or after March 30, 1981, are to be reimbursed in the same way as owned facilities with ownership costs being recognized instead of lease costs.
(11-4-85)

b. Facilities with leases entered into prior to March 30, 1981, will not be subject to reimbursement according to the provisions of Subsections 060.01 or 060.02 or Section 061. Their property rental rate per day of care will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1985, exclusive of taxes and insurance when paid separately, divided by total patient days in the period June 30, 1983, through July 1, 1984.
(10-22-93)

i. Effective July 1, 1989, the property rental rates of leased nursing facilities (NFs) with leases entered

into prior to March 30, 1981, may be adjusted to compensate for increased property costs resulting from facility modifications related to major repairs, replacement, expansion, remodeling, or renovation initiated after January 1, 1985, if the cost would be sufficient to reduce the age of the facility by one (1) year or more according to Subsection 060.01.d.i. The rate shall be revised after the completion of such modifications and shall be the greater of the property rental rate previously allowed under Subsection 060.03, or the actual per diem property costs for the amortization, depreciation, and interest not applicable to the modifications for the reporting period in which the modifications were completed, plus the per diem of the first year amortization of the modification expenses using the American Hospital Association guideline useful life of lives. However, no such rate change shall increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the previous rate and the property rental rate that would be allowed for a new building at the time of the proposed rate revision. (10-22-93)

ii. Where such leases contain provisions that bind the lessee to accept an increased rate, reimbursement shall be at a rate per day of care which reflects the increase in the lease rate. (10-22-93)

iii. Where such leases bind the lessee to the lease and allow the rate to be renegotiated, reimbursement shall be at a rate per day of care which reflects an annual increase in the lease rate not to exceed the increase in the consumer price index for renters' costs. After April 1, 1985, if such a lease is terminated or if the lease allows the lessee the option to terminate other than by an option to purchase the facility, the property rental rate shall become the amount "R" determined by the formula in Subsection 060.01 as of the date on which the lease is or could be terminated. (10-22-93)

04. Sale of a Facility. In the event of the sale of a facility, or asset of a facility, the buyer shall receive the property rental rate of Subsection 060.01, except in the event of a forced sale or except in the event of a first sale of a facility receiving a "grandfathered rate" after June 30, 1991, whereupon the property rental rate of the new owner shall be computed as if no sale had taken place. (10-22-93)

05. Forced Sale of a Facility. In the event of a forced sale of a facility, or asset of a facility, where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, not modified by Section 061, whichever is higher, but not exceeding the rate that would be due the seller. (12-31-91)

(BREAK IN CONTINUITY OF SECTIONS)

062. PROPERTY REIMBURSEMENT TO INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICF/MR CLASS).

Beginning October 1, 1996, property costs of an ICF/MR shall be reimbursed in accordance with Section 060 of these rules except as follows: (10-1-96)T

01. Restrictions. No grandfathered rates or lease provisions other than lease provisions in Section 062 of these rules will apply to ICF/MR facilities. (10-1-96)T

02. Home Office and Day Treatment Property Costs. Distinct parts of buildings containing ICF/MR living units may be used for home office or day treatment purposes. Reimbursement for the property costs of such distinct parts may be allowed if these areas are used exclusively for home office or day treatment services. The portion of property cost attributed to these areas may be reimbursed as part of home office or day treatment costs without a reduction in the property rental rate. Reimbursement for home office and day treatment property costs shall not include costs reimbursed by, or covered by the property rental rate. Such costs shall only be reimbursed as property cost if the facility clearly included space in excess of space normally used in such facilities. At a minimum to qualify for such reimbursement, a structure would have square feet per licensed bed in excess of the average square feet per licensed bed for other ICF/MR living units within four (4) licensable beds. (10-1-96)T(10-1-96)T

03. Leases For Property. Beginning October 1, 1996, ICF/MR facilities with leases will be reimbursed as follows: (10-1-96)T

a. The property costs related to ICF/MR living units other than costs for major movable equipment will be paid by a property rental rate in accordance with Sections 060 and 062 of these rules. ~~(10-1-96)T~~(10-1-96)T

b. Leases for property other than ICF/MR living units will be allowable based on lease cost to the facility not to exceed a reasonable market rate, subject to other provisions of this chapter, and HIM-15 principles including principles associated with related party leases. (10-1-96)T

(BREAK IN CONTINUITY OF SECTIONS)

110. ALLOWABLE COSTS.

Below is a list of the normally allowable costs, and the related definitions and explanations, which includes, but is not limited to, the following items: (10-1-96)T

01. Auto and Travel Expense. Expense of maintenance and operation of a vehicle and travel expense related to patient care are reimbursable. The allowance for mileage reimbursement will not exceed the amount determined reasonable by the Internal Revenue Service for the period being reported on. Meal reimbursement will be limited to the amount that would be allowed by the state for a Department employee. Entertainment expense is allowable only if documentation is provided naming the individuals and stating the purpose of the meeting. Entertainment expense is allowable only for patient care related purposes. (10-1-96)T

02. Bad Debts. Payments for efforts to collect past due Title XIX accounts are reimbursable. This may include the fees for lawyers and collection agencies. Other allowances for bad debt and bad debt write-off are not allowable. However, Title XIX coinsurance amounts are one hundred percent (100%) reimbursable (HIM 15, Section 300). (1-16-80)

03. Bank and Finance Charges. Charges for routine maintenance of accounts are allowable. Penalties for late payments, overdrafts, etc., are not allowable. (1-16-80)

04. Contracted Service. All services which are received under contract arrangements are reimbursable to the extent that they are related to patient care or the sound conduct and operation of the facility. (1-16-80)

05. Depreciation. Depreciation on buildings and equipment is an allowable property expense for hospital-based facilities. Depreciation expense is not allowable for land. Lease-hold improvements may be amortized. Generally, depreciation and amortization must be calculated on a straight line basis and prorated over the estimated useful life of the asset. (10-22-93)

06. Employee Benefits. Employee benefits including health insurance, vacation, and sick pay are allowable to the extent of employer participation. See HIM 15, Chapter 21 for specifics. (1-16-80)

07. Insurance. Premiums for insurance on assets or for liability purposes, including vehicles, are allowable to the extent that they are related to patient care. (1-16-80)

08. Interest. Interest on working capital loans is an allowable administrative expense. When property is reimbursed based on cost, interest on related debt is allowable. However, interest payable to related entities is not normally an allowable expense. Penalties are not allowable. (10-1-96)T

09. Lease or Rental Payments. Payments for the property cost of the lease or rental of land, buildings, and equipment are allowable according to Medicare reasonable cost principles when property is reimbursed based on cost for leases entered into before March 30, 1981. Such leases entered into on or after March 30, 1981, shall be reimbursed in the same manner as an owned asset. The cost of leases related to home offices and ICF/MR day programs treatment services shall not be reported as property costs and shall be allowable based on reasonable cost principles subject to other limitations contained herein. ~~(10-1-96)T~~(10-1-96)T

10. Payroll Taxes. The employer's portion of payroll taxes is reimbursable. (1-6-80)

11. Property Costs. Property costs related to patient care are allowable subject to other provisions of this chapter. Property taxes and reasonable property insurance are allowable for all facilities. A property rental rate will be paid in lieu of costs in some circumstances according to other provisions of these rules. ~~than hospital-based facilities in lieu of property cost reimbursement.~~ (10-1-96)T(10-1-96)T

12. Property Insurance. Property insurance per licensed bed is limited to no more than two (2) standard deviations above the mean of the most recently reported property insurance costs, as used for rate setting purposes, per licensed bed of all facilities in the reimbursement class of the end of a facility's fiscal year. (11-4-85)

13. Repairs and Maintenance. Costs of maintenance and minor repairs are allowable when related to the provision of patient care. (1-16-80)

14. Salaries. Salaries and wages of all employees engaged in patient care activities or overall operation and maintenance of the facility, including support activities of home offices, shall be allowable. (1-16-80)

15. Supplies. Cost of supplies used in patient care or providing services related to patient care are allowable. (1-16-80)

16. Taxes. Property taxes on assets used in rendering patient care are allowable. Other taxes may be allowable. Specifics are covered in the Provider Reimbursement Manual, SSA-HIM 15, Chapter 21. Tax penalties are not allowable. (1-1-82)

17. Compensation of Owners. An owner may receive reasonable compensation for services subject to the limitations in this chapter, to the extent the services are actually performed, documented, reasonable, ordinary, necessary, and related to patient care. Allowable compensation shall not exceed the amount necessary to attract ~~non~~ related assistance from parties not related to the owner to perform the same services. The nature and extent of services must be supported by adequate documentation including hours performing the services. Where an average industry wide rate for a particular function can be determined, reported allowable owner compensation shall not exceed the average rate. Compensation to owners, or persons related to owners, providing administrative services is further limited by provisions in Sections 402 and 403 of these rules. In determining the reasonableness of compensation for services paid to an owner or a person related to an owner, compensation is the total of all benefits or remuneration paid to or primarily for the benefit of the owner regardless of form or characterization. It includes, but is not limited to, the following: (10-1-96)T(10-1-96)T

a. Salaries wages, bonuses and benefits which are paid or are accrued and paid for the reporting period within one (1) month of the close of the reporting period. (10-1-96)T

b. Supplies and services provided for the owner's personal use. (1-16-80)

c. Compensation paid by the facility to employees for the sole benefit of the owner. (1-16-80)

d. Fees for consultants, directors, or any other fees paid regardless of the label. (1-16-80)

e. Keyman life insurance. (1-16-80)

f. Living expenses, including those paid for related persons. (1-16-80)

(BREAK IN CONTINUITY OF SECTIONS)

115. NONALLOWABLE COSTS.

In the absence of convincing evidence to the contrary, expenses listed below will be considered nonreimbursable. (1-16-80)

01. Charity Allowances. Cost of free care or discounted services. (1-16-80)

02. Nonpatient Care Related Activities. All activities not related to patient care. (1-16-80)
03. Accelerated Depreciation. Depreciation in excess of straight line except as otherwise provided (see Subsection 354.04.c.ii.). (12-31-91)
04. Related Party Interest. Interest on related party loans (see HIM-15, Sections 218.1 and 218.2). (1-16-80)
05. Related Party Nonallowable Costs. All costs not allowable to providers are not allowable to a related party, whether or not they are allocated. (1-16-80)
06. Acquisitions. Cost of corporate acquisitions, e.g., purchase of corporate stock as an investment. (1-16-80)
07. Holding Companies. All home office costs associated with holding companies are not allowable (HIM-15, Section 2150.2A). (1-16-80)
08. Related Party Refunds. All refunds, allowances, terms, etc., shall be deemed to be allocable to the members of related organizations, on the basis of their participation in the related purchases, costs, etc. (1-16-80)
09. Fund Raising. Certain fund raising expenses (HIM-15, Section 2136.2). (1-16-80)
10. Vending Machines. Costs of vending machines. Barber and beauty shops. (1-16-80)
11. Organization. Organization costs (see HIM-15, Section 2134 and subsections of Section 2134 for specifics). (1-16-80)
12. Fees. Franchise fees (HIM-15, Section 2133.1). (1-16-80)
13. Medicare-Covered Costs. Any costs incurred by Medicare certified facilities which are covered by Medicare Part A or Part B. (1-1-82)
14. Yellow Pages Advertising. Telephone book yellow page advertising costs in excess of the base charge for a quarter column advertisement for each telephone book advertised in. (1-1-82)
15. Consultant Fees. Costs related to the payment of consultant fees in excess of the lowest rate available to a facility. It is the provider's responsibility to make efforts to obtain the lowest rate available to that facility. The efforts may include personally contacting possible consultants and/or advertising. The lowest rate available to a facility is the lower of the actual rate paid by the facility or the lowest rate available to the facility, as determined by departmental inquiry directly to various consultants. Information obtained from consultants will be provided to facilities. Costs in excess of the lowest rate available will be disallowed effective thirty (30) days after a facility is notified pursuant to Subsection 115.15-b, unless the provider shows by clear and convincing evidence it would have been unable to comply with state and federal standards had the lowest rate consultant been retained or that it tried to but was unable to retain the lowest rate consultant. This Subsection in no way limits the Department's ability to disallow excessive consultant costs under other Sections of this chapter, such as 100 or 121, when applicable. (10-1-96)T
16. Goodwill. Costs associated with goodwill as defined in Subsection 003.27 of these rules. (10-1-96)T
17. Interest. Interest to finance nonallowable costs. (10-1-96)T
18. Property Costs. ~~Property costs other than property insurance and taxes at any facility that are reimbursed based on cost principles~~ Costs reimbursed based on a property rental rate according to other provisions of these rules. (9-12-86)(10-1-96)T

(BREAK IN CONTINUITY OF SECTIONS)

150. RELATED PARTY TRANSACTIONS.

01. Principle. Costs applicable to services, facilities and supplies furnished to the provider by organizations or persons related to the provider by common ownership, control, etc., are allowable at the cost to the related party. Such costs are allowable to the extent that they relate to patient care, are reasonable, ordinary, and necessary, and are not in excess of those costs incurred by a prudent cost-conscious buyer. (1-16-80)

02. Cost Allowability - Regulation. Allowability of costs is subject to the regulations prescribing the treatment of specific items as outlined in 42 CFR 413.17, et al, and the Providers Reimbursement Manual, SSA-HIM Chapter 10 and other applicable chapters of HIM -15. ~~(10-1-96)T~~(10-1-96)T

(BREAK IN CONTINUITY OF SECTIONS)

208. REPORTING FORMS.

Unless prior approval is granted, only state forms will be acceptable. Requests for approval of alternate forms must be in writing accompanied by samples. Such requests will not be considered adequate reason for late filing, or granting of a waiver, except in extraordinary circumstances as determined by the intermediary. Following is a partial listing of the account titles used on the state forms. Included also is an explanation of the classification and reporting standards applicable to that account. The report form may be revised periodically to meet changing Department and provider needs and may be in electronic format at the discretion of the Department. Reported costs shall only include allowable costs unless the Department structures the report to remove nonallowable costs by cost groupings, in which case, reported total and subtotal costs shall reflect net allowable costs except for the nonreimbursable section of the report. (10-1-96)T

01. Revenues. The categories are self-explanatory. They are intended to give sufficient breakdown of revenues to effect the reasonable cost principles embodied in the cost reporting system. Facilities may also use the cost center approach of the statement to evaluate the expense of certain cost centers in respect to their revenue. (1-16-80)

02. Expenses. (7-1-93)

a. Administrative. (12-31-91)

i. Salaries: Administrator. Included in this category are salaries paid for administrators and assistant administrators of the facility. Any compensation in excess of the amount allowable under other provisions of this chapter shall be entered in the nonreimbursable Section of the cost statement (see Subsection 110.17 of these rules). (10-1-96)T

ii. Salaries: Office and Clerical. Salaries and wages paid to clerks, bookkeepers, and others whose duties relate to overall operation of the facility, should be included in this account. (1-16-80)

iii. Payroll Taxes. The provider's portion of payroll taxes for all employees except those taxes related to the payroll for persons providing day treatment services to ICF/MR patients shall be included in ~~Section 208.01.a.iii. of these rules~~ the report categories provided for such costs. Payroll taxes for employees providing day treatment services to ICF/MR patients shall be reported in categories provided for these expenses. Self employment taxes related to owners are nonallowable and should not be included. ~~(10-1-96)T~~(10-1-96)T

iv. Employee Benefits. Expenses incurred such as sick pay and vacation pay should be included in this account except for those expenses relating to persons providing day treatment services for ICF/MR patients. Employee benefits for these employees should be reported in cost categories provided for those expenses. (10-1-96)T

v. Accounts Collections. The expenses related to collection of past due program accounts such as legal fees, bill collectors, etc., are allowable. Allowances for bad debts and bad debt write-off are not allowable, and

should be included in the Section titled Nonreimbursable Expenses. (4-28-89)

vi. Auto and Travel. These expenses shall be those incurred in the operation of vehicles and other travel expense related to patient care. Normally, entertainment shall not be involved, but shall be recorded in the Section under Nonreimbursable Expenses (see HIM 15, Chapter 21). (1-16-80)

vii. Bank and Finance Charges. Normally recurring minor charges for handling of accounts shall be included here. (1-16-80)

viii. Dues, Licenses and Subscriptions. Subscriptions to periodicals related to patient care or for general patient use, license fees (not including franchises), and dues to professional health care organizations are to be included. Dues, tuitions and educational fees to facilitate quality health care services are includable where the provisions of HIM 15, Section 400, are met. (1-16-80)

ix. Employee Recruitment. Costs of advertising for new employees shall be recorded in this account including applicable entertainment costs. (1-16-80)

x. Home Office Costs. Costs allocated by related entities for various services shall be included in this account. (1-16-80)

xi. Malpractice/Public Liability Insurance. Premiums for malpractice and public liability insurance shall be included in this account. (1-16-80)

xii. Purchased Services. Costs of legal, accounting, and management services (not including related entities) for overall operations shall be included in this account. (1-16-80)

xiii. Supplies and Rentals. Cost of supplies, postage, ledger sheets, and rental of minor office equipment shall be included in this account. (1-16-80)

xiv. Telephone and Communications. Cost of telephone and related communications shall be included in this account. (1-16-80)

xv. Interest, Working Capital. Allowable interest expense for loans not related specifically to the purchase of the real or personal property of the provider shall be reported here. (1-1-82)

xvi. Miscellaneous. Any expense not properly allocable to other cost centers and not properly classified in other classification of administration expenses shall be included here. (1-16-80)

b. Property. Property costs shall be reported by all facilities including those facilities which are reimbursed a property rental rate. (11-4-85)

i. Amortization. Amortization of leasehold improvements shall be included here. Certain others may be included here also. (1-16-80)

ii. Depreciation on Fixed Assets. Depreciation expenses for buildings and fixtures should be included here. Any depreciation in excess of straight line AHA lives shall not be included unless otherwise waived by the Department. Such excess shall be included in the Section of Nonreimbursable Expenses. (10-1-96)T

iii. Depreciation of Equipment. Depreciation expense for moveable equipment shall be included here. Excess depreciation as defined above shall be included in the Nonreimbursable Section (see Subsection 354.04.c.). (12-31-91)

iv. Interest Expense. Interest expense related to purchase of land, buildings and equipment related to patient care shall be included here only if it is payable to unrelated entities. Generally, interest payable to related entities shall be included in the Nonreimbursable Section (HIM-15, Section 202.3). (11-4-85)

v. Insurance. Insurance premiums for property insurance such as fire and glass shall be includable here.

(1-16-80)

vi. Lease and Rental Payments. Payments for lease or rental of buildings, land and for equipment shall be includable here. (1-16-80)

vii. Taxes. Taxes on property related to patient care shall be recorded in this account. (1-16-80)

c. Patient Care Service. (1-16-80)

i. Nursing Care. (1-16-80)

(a) Salaries. Director of Nursing. Salaries or wages of the Director of Nursing shall be included here. (1-16-80)

(b) Registered Nurse. Salaries and wages of registered nurses shall be included in this account. Payroll taxes shall not be included but overtime shall be. (1-16-80)

(c) Licensed Professional Nurses. Wages for licensed professional nurses shall be included in this account including overtime, but not including payroll taxes. (1-16-80)

(d) Aides/Orderlies. Normal overtime and wages for aides and orderlies, not to include payroll taxes, shall be included in this account. (1-16-80)

(e) Contracted Services. Payments for patient health care services under contract shall be entered here. (1-16-80)

ii. Therapy Services. (1-16-80)

(a) Salaries. Salaries for all therapy personnel shall be recorded here. (1-16-80)

(b) Professional Services. Payments for contracted therapy services shall be recorded here. (1-16-80)

(c) Supplies and Miscellaneous. Expenses for supplies and miscellaneous expenses related to therapy and recreational therapy services shall be recorded here. (1-16-80)

iii. Social Services. (1-16-80)

(a) Salaries. Wages and salaries for activity directors and social services personnel shall be recorded here. (1-16-80)

(b) Contracted Services. Payments under contract arrangement for activities director or other social services personnel shall be included here. (1-16-80)

iv. Payroll Taxes and Employee Benefits. The payroll taxes and cost of employee benefits related to the salaries reported in Section 208 of these rules should be reported here. (10-1-96)T

v. Costs Not Subject to the Percentile Cap. (12-31-91)

(a) Special Needs. Those costs determined by the Department and authorized under Section 56-117, Idaho Code, will be excluded from other reported costs and will be reported here (see Subsection 254.08). (12-31-91)

(b) Excluded Costs. Increases in costs otherwise subject to the percentile a cap incurred by facilities in the ICF/SNF Freestanding class as a result of changes in legislation or regulations will be excluded from costs reported in categories subject to the percentile cap and will be reported here (see Subsection 254.09). (12-31-91)(10-1-96)T

d. Facility Operations and Services. (1-16-80)

- i. Central Supply. (1-16-80)
 - (a) Salaries: Pharmacist. Salaries and wages of pharmacists who are regular employees of the facility shall be included here, but are not reimbursable. (1-16-80)
 - (b) Salaries. Salaries and wages of others, such as stock clerks, shall be recorded here. (1-16-80)
 - (c) Contracted Services. Payments for services under contract will be recorded in this category, not including pharmaceutical services. (1-16-80)
 - (d) Supplies and Miscellaneous. Miscellaneous expenses and routine nursing supplies such as laxatives, aspirin, and dressings shall be recorded here; the cost of oxygen concentrators may also be recorded here. Cost of prescription drugs must not be included. (12-28-89)
- ii. Laundry and Linen. (1-16-80)
 - (a) Salaries. Salaries and wages for personnel involved in laundry operations shall be recorded here. (1-16-80)
 - (b) Purchased Services. Costs of contracted linen services shall be recorded here. (1-16-80)
 - (c) Linens and Bedding. Purchase of sheets, mattress pads, blankets, towels, etc., shall be entered here. Costs of beds and mattresses are capitalizable and should be treated accordingly. (1-16-80)
 - (d) Miscellaneous Expenses. Miscellaneous expenses not properly classified in other areas of Section 208 should be included in this account. (12-31-91)
- e. Dietary. (1-16-80)
 - i. Salaries: Dietitian. Wages of a dietitian who is a regular employee shall be included here. (1-16-80)
 - ii. Salaries: Other. Salaries of cooks and other dietary personnel should be recorded here. (1-16-80)
 - iii. Purchased Services. Payments for contracted dietary services, or dietitians, shall be included here. (1-16-80)
 - iv. Food. Cost of food used for the period will be included here not including vending machine items. For purposes of reasonable cost evaluation, revenues from meals sold to nonpatients will reduce food costs and should be reported in the revenue Section. (1-16-80)
 - v. Supplies. Cost of dietary supplies other than food should be recorded here. Do not include vending machine items. (1-16-80)
- f. Plant Operations and Maintenance. (1-16-80)
 - i. Salaries. Wages of all housekeeping and maintenance employees shall be included in this account. (1-16-80)
 - ii. Repairs and Maintenance. Cost of minor repairs to buildings and equipment shall be recorded here. (1-16-80)
 - iii. Purchased Services. Costs of maintenance and repair services purchased under contract arrangements shall be recorded here. (1-16-80)
 - iv. Utilities. Expenses for heat, electricity, water and sewer shall be included in this account. (9-15-84)

v. Supplies and Miscellaneous. Expense of supplies and other unclassified expenses should be included here. (1-16-80)

g. Nonreimbursable Expenses. This classification of expenses is provided to reconcile your cost statement to books of record. It will also help the facility to determine its reasonable costs and anticipate its revenues. Routine business expenses not includable in the reasonable cost formula are to be recorded in Section 208. The account titles are indicative of these costs which are commonly found. (12-31-91)

03. Home Office Reporting. The purpose of the provisions of Section 208, is to support the costs allocated to the provider facility. A report is required for each level of organization which allocates costs to the provider, directly or indirectly. (10-1-96)T

(BREAK IN CONTINUITY OF SECTIONS)

242. PROPERTY REIMBURSEMENT.

Beginning October 1, 1996, ICF/MR property costs are reimbursed by a rental rate or based on cost. The following shall be reimbursed based on cost as determined by the provisions of this chapter and applicable provisions of HIM-15 to the extent not inconsistent with this chapter: ICF/MR living unit property taxes, ICF/MR living unit property insurance, and major movable equipment not related to home office or day treatment services. Reimbursement of other property costs is included in the property rental rate. Any property cost related to home offices and day treatment services are not considered property costs and shall not be reported in the property cost portion of the cost report. These costs shall be reported in the home office and day treatment section of the cost report. Property costs, including costs which are reimbursed based on a rental rate, shall be reported in the property cost portion of the cost report. The Department may require and utilize an appraisal to establish those components of property costs which are identified as an integral part of an appraisal. Property costs include the following components: (10-1-96)T

01. Depreciation. Allowable depreciation based on straight line depreciation. (10-1-96)T

02. Interest. All allowable interest expense which relates to financing depreciable assets. Interest on working capital loans is not a property cost and is subject to the cap. (10-1-96)T

03. Property Insurance. All allowable property insurance. Malpractice insurance, workmen's compensation and other employee-related insurances are not property costs. (10-1-96)T

04. Lease Payments. All allowable leases or rental payments. (10-1-96)T

05. Property Taxes. All allowable property taxes. (10-1-96)T

06. Costs of Related Party Leases. Costs of related party leases are to be reported in the property cost categories ~~appropriate to based on the~~ owner's costs. ~~(10-1-96)T~~(10-1-96)T

243. ICF/MR CAPPED COST.

Beginning October 1, 1996, this cost area includes all allowable costs except those specifically identified as property costs in Section 242 and exempt costs or excluded costs in Section 246 or 247 of these rules. This Section defines items and procedures to be followed in determining this limit and provides the procedures for extracting cost data from historical cost reports, applying a cost forecasting market basket to project cost forward, procedures to be followed to project costs forward, and procedures for computing the median of the range of costs and the ICF/MR cap. ~~(10-1-96)T~~(10-1-96)T

01. Costs Subject to the Cap. Items subject to the cap include all allowable costs except property costs identified in Section 242 and exempt costs or excluded costs identified in Section 246 or 247 of these rules. Property costs related to a home office are administrative costs, shall not be reported as property costs, and are subject to the cap. ~~(10-1-96)T~~(10-1-96)T

02. Per Diem Costs. Costs to be included in this category will be divided by the total patient days for

the facility for the cost reporting period to arrive at allowable per diem costs. If costs for services provided some or all non-Medicaid residents are not included in the total costs submitted, the provider must determine the costs and combine them with the submitted costs in order that a total per diem cost for that facility can be determined both for the purpose of determining the ICF/MR cap and for computing final reimbursement. (10-1-96)T

03. Cost Data to Determine the Cap. Cost data to be used to determine the cap for ICF/MR facilities will be taken from each provider's most recent final cost report available sixty (60) days before the beginning of the period for which the cap is being set. Cost reports are final when the final audit report is issued, ~~the final desk review report is issued~~, or earlier if the Department informs the facility the report is final ~~without review for rate setting purposes~~. The selected final cost report will be used to establish the facility's prospective reimbursement rate. However, the final cost reports covering a period of less than twelve (12) months will be included in the data for determining the cap at the option of the Department. ~~(10-1-96)T~~(10-1-96)T

04. Projection. Per diem allowable costs will be inflated forward using a cost forecasting market basket and forecasting indices according to the same table as used for free standing facilities in Subsection 254.04.a. of these rules. (10-1-96)T

a. The projection method used in this Section to set the cap will also be used to set non property portions of the prospective rate which are not subject to the cap. (10-1-96)T

b. Forecasting indices as developed by Data Resources, Incorporated, will be used unless they are unavailable. In such case, indices supplied by some other nationally recognized forecaster will be used. (10-1-96)T

05. Costs Which Can Be Paid Directly by the Department to Non ICF/MR Providers. Costs which can be paid directly by the Department to non ICF/MR providers are excluded from the ICF/MR prospective rates and ICF/MR cap: (10-1-96)T

a. Direct physician care costs. Physicians who provide these services must bill the Medicaid program directly using their own provider numbers. (10-1-96)T

b. Costs of services covered under the Early and Periodic Screening Diagnosis and Treatment (EPSDT) portion of the Medicaid Program. These services are enumerated in IDAPA 16 Title 03, Chapter 09, "Rules Governing Medical Assistance," and include such items and services as eyeglasses, hearing aids, and dental services provided to Medicaid recipients under the age of twenty-one (21). The cost of these services is not includable as a part of ICF/MR costs. Reimbursement can be made to a professional providing these services through his billing the Medicaid Program on his own provider number. (10-1-96)T

c. Costs of services covered by other parts of the Medicaid Program. Examples of these items include legend drugs and ambulance transportation. These items must be billed to the Medicaid Program directly by the provider using his own provider number. (10-1-96)T

06. Cost Projection. Allowable per diem costs will be projected forward from the midpoint of the Base Period to the midpoint of the Target Period. "Base Period" is defined as the last available final cost report period. "Target Period" is defined as the effective period of the prospective rate. Procedures for inflating these costs are as follows: (10-1-96)T

a. The percentage change for each cost category in the market basket will be computed from the beginning to the end of the Base Period. These percentages will then be divided by two (2) and the resultant percentages will be used to project forward allowable per diem costs for each cost category from the midpoint to the end of the Base Period. (10-1-96)T

b. The percentage change for each cost category in the market basket will be computed for the period from the end of the Base Period to the beginning of the Target Period. These percentages will then be used to project forward the allowable per diem costs for each cost category, as determined in Subsection 243.06.a. of these rules, from the end of the Base Period to the beginning of the Target Period. (10-1-96)T

c. The percentage change for each cost category in the market basket will be computed for the

beginning to the end of the Target Period. These percentages will then be divided by two (2) and the resultant percentages will be used to project forward the allowable per diem costs as determined in Subsection 243.06.b. of these rules from the beginning to the midpoint of the Target Period. (10-1-96)T

07. Cost Ranking. Prior to October 1 of each year the Director will determine that per cent above the median which will assure aggregate payments to ICF/MR providers will approximate but not exceed amounts that would be incurred using Medicare cost principles of reimbursement. That percentage will apply to caps and rates set after September 30 of each year. Projected per diem costs as determined in this Section and subject to the cap will be ranked from the highest to the lowest. The cap will be set at a percent of the bed-weighted median for each rate period. The initial cap will be set as of October 1, 1996. (10-1-96)T

a. The median of the range will be computed based on the available data points being considered as the total population of data points. (10-1-96)T

b. The cap for each ICF/MR facility with a fiscal year beginning October 1, 1996, will be computed prior to the beginning of that year. For those facilities with a fiscal year ending on a date other than September 30, the first cap will be computed for the period beginning October 1, 1996, and ending on the fiscal year end date. (10-1-96)T

c. Facilities with cost reports that transcend the period from October 1, 1996, through September 30, 1997, will be retrospectively settled using the previous reimbursement system for the period of the report up to September 30, 1996. There will not be a retrospective settlement on the portion of these cost reports attributed to October 1, 1996 through the end of the cost report period unless provisions of Section 245 of these rules apply. (10-1-96)T

d. Cost reports for periods beginning on or after October 1, 1996, will not be subject to retrospective settlement except as required by other provisions of this chapter. (10-1-96)T

e. A new cap and rate will be set for each facility's fiscal year after September 30, 1996. (10-1-96)T

f. The cap and prospective rate will be determined and set for each facility's upcoming fiscal year prior to that year and it will not be changed by any subsequent events or information with the exception that if the computations were found to contain mathematical or clerical errors, these errors will be corrected and the cap will be adjusted using the corrected figures. (10-1-96)T

g. Payment of costs subject to the cap will be limited to the cap unless the Department determines the exclusions found in Section 247 of these rules apply. (10-1-96)T

h. A facility which commences to offer patient care services as an ICF/MR on or after October 1, 1996, shall be subject to retrospective settlement until the first prospective rate is set. Such facility shall be subject to the ICF/MR cap as determined in this chapter. The first prospective rate for this provider will be set by the Department based on quarterly cost statements and final cost reports submitted for periods following the first three (3) months of operation. This first prospective rate may be set after the beginning of the second fiscal year of the provider. For the second year the provider will be paid ~~the higher of the prospective rate or retrospective audited costs~~ a rate to be settled retrospectively unless both the Department and the provider agree to a prospective rate or rates covering that fiscal period. ~~(10-1-96)T~~(10-1-96)T

(BREAK IN CONTINUITY OF SECTIONS)

245. RETROSPECTIVE SETTLEMENT.

When retrospective settlement is applicable, it is based on allowable reimbursement in accordance with this chapter and based on an audited cost report. Retrospective settlement will be subject to the same caps and limits determined for prospective payments. ~~Providers subject to retrospective settlement shall be required to submit payment of estimated amounts owed to the Department, if any, based on the as submitted cost report. Recoupments including statutory interest will be initiated within thirty (30) days from the due date of the cost report where a provider fails to~~

~~remit amounts due. Interest will be assessed beginning thirty (30) days after the cost report is due excluding extensions. The Department will issue payouts for undisputed amounts due to the provider, if any within thirty (30) days of the submission of the cost report. A provider may be subject to final settlement based on an audit of the cost report.~~
(10-1-96)T(10-1-96)T

01. A Provider's Failure to Meet Any of the Conditions. A provider's failure to meet any of the conditions of participation set forth in 42 CFR 483.400, Subpart I, may subject that provider to retrospective reimbursement for the fiscal year, or any portion thereof, during which the condition is not met. The provider's projected per diem rate may be adjusted to reflect actual reimbursable costs subject to cost limits.

(10-1-96)T(10-1-96)T

02. A First Time Provider. A first time provider operating a new ICF/MR living unit will be subject to a retrospective settlement for the first fiscal year and until the first subsequent period wherein a prospective rate is set in accordance with Sections 203, 204, and 243 and this chapter. A budget based on the best available information is required prior to opening for patient care so an interim rate can be set.

(10-1-96)T

03. New ICF/MR Living Unit. A new ICF/MR living unit for an existing operator is subject to first time facility requirements if the new living unit reflects a net increase in licensed beds, otherwise the Department may set a prospective rate with the nonproperty rate components based on similar components of rates most recently paid for the patients moving into the facility. The property rental rate will be set according to applicable provisions of this chapter.

(10-1-96)T(10-1-96)T

04. Change of Ownership of Existing ICF/MR Living Unit. Where there is a change of ownership of an existing ICF/MR living unit, the provider operating the ICF/MR living unit will not receive an adjustment of the provider's prospective rate except that ~~the property rental~~ portion of the rate will be adjusted subject to property rental provisions of this chapter. However, new facility reporting requirements and the cap will apply.

(10-1-96)T(10-1-96)T

05. Fraudulent or False Claims. Providers who have made fraudulent or false claims are subject to retrospective settlement as determined by the Department.

(10-1-96)T

06. Excluded Costs. Excluded costs may be retrospectively settled according to the provisions of Section 247 of these rules.

(10-1-96)T

246. EXEMPT COSTS.

Exempt costs are not subject to the ICF/MR cap.

(10-1-96)T

01. Day Treatment Services. ~~Day treatment services are habilitative services provided regularly during normal working hours during weekdays by, or on behalf of, the provider.~~ As specified in this Section, the cost of day treatment services may be reimbursed in this category and may not be subject to the ICF/MR cap.

(10-1-96)T(10-1-96)T

a. This category includes the direct costs of labor, benefits, contracted services, property, utilities and supplies for such services up to the limitations provided in this Subsection.

(10-1-96)T

b. When a school or another agency or entity is responsible for or pays for services provided to a patient regularly during normal working hours on weekdays, no costs will be assigned to this category for such services. The Department will not reimburse for the cost of services which are paid for or should be paid for by an other agency.

(10-1-96)T

c. When ICF/MR day treatment services are performed for patients in a licensed Developmental Disability Center, the allowable cost of such services shall be included in this category, but not more than the amount that would be paid according to the Department's fee schedule for individual or group therapy for similar services. Amounts incurred or paid by the ICF/MR in excess of what would be paid according to the Department's fee schedule for like services are not allowable costs and shall be reported as nonreimbursable.

(10-1-96)T

d. For day treatment services provided in a location other than a licensed developmental disability

center, the maximum amount reportable in this category shall also be limited. Total costs for such services reported by each provider in this category shall be limited to the number of hours, up to thirty (30) hours per week per client, of individual or group developmental therapy times the hourly rate that would be paid according to the most recent Department fee schedule for the same services if provided in a developmental disability center. Costs in excess of the limits determined in this Subsection shall be classified and reported as subject to the ICF/MR cap. Initial rates established under the prospective system effective October 1, 1996, and not later than October 1, 1997, will not include a limitation of day treatment costs based on the hourly rate, when the hours of individual or group therapy were not obtained or audited by the Department at the time the rate was published. However, if a provider believes that the day treatment cost used to establish the day treatment portion of its prospective rate was misstated for rates set for periods beginning October 1, 1996, through rates beginning October 1, 1997, revisions to the prospective rate may be made to the extent the provider demonstrates, to the satisfaction of the Department, that the cost used was misstated. Such a revision will be considered only if the provider requests a revision and provides adequate documentation within sixty (60) days of the date the rate was set. At the option of the Department it may negotiate fixed rates for these day treatment services. Such rates shall be set so the aggregate related payments are lower than would be paid with a limitation based on schedules used for licensed Developmental Disability Centers.

~~(10-1-96)T~~(10-1-96)T

e. Financial data including expenses and labor hours incurred by or on behalf of the provider in providing day treatment services, must be identifiable and separate from the costs of other facility operations. Reasonable property costs related to day treatment services and not included in the property rental rate, shall be separately identified, shall be reported as day treatment services costs, and shall not include property costs otherwise reimbursed. Property costs related to day treatment services shall be separately identified as not related to living unit costs by a final audit determination issued prior to October 1, 1996, or shall be separate and distinct from any property used for ICF/MR services which are or were day treatment services. (10-1-96)T

f. In the event a provider has a change in the number of patients requiring day treatment services, the prospective rate may be adjusted by the Department to reflect a change in costs related to such a change. Providers receiving such changes may be required to provide added documentation to the Department to assure that further changes can be identified and the prospective rate adjusted accordingly. (10-1-96)T

02. Major Movable Equipment. Costs related to major movable equipment, as defined in this chapter shall be exempt from the ICF/MR cap and shall be reimbursed prospectively based on Medicare principles of cost reimbursement. (10-1-96)T

247. COSTS EXCLUDED FROM THE CAP.

Certain costs may be excluded from the ICF/MR cap, may be subject to retrospective settlement at the discretion of the Department, and may result in changes to the prospective rate as provided in this Section to assure equitable reimbursement: (10-1-96)T

01. Increases of More Than One Dollar (\$1) Per Patient Day in Costs. Increases of more than one dollar (\$1) per patient day in costs otherwise subject to the cap incurred by a facility as a result of changes in State or Federal laws or rules will be reported separately on the cost report for reports filed less than thirty (30) months, or a greater length of time if so directed by the Department, from the date such increases were first required. Such costs will be subdivided into the component parts of wages, benefits, contracted services and other costs in the amounts equal to costs removed from the respective cost categories subject to the cap. The Department may adjust the forecasted rate to include the projected per diem related to such costs. (10-1-96)T

a. The provider shall report these costs on a separate schedule or by notations on the cost report so that these costs can be identified and reconciled to the provider's general ledger. (10-1-96)T

b. If more than one (1) increase occurs as a result of one (1) or more law or rule change, the costs from each event are to be reported separately. (10-1-96)T

c. The computation of the cost increase amount or amounts is to be presented in detail on a supplementary schedule or schedules unless the Department states otherwise. (10-1-96)T

d. For interim rate purposes the provider's prospective rate may be granted an increase to cover such

cost increases. A cost statement covering a recent period ~~shall be submitted~~ may be required with the justification for the increased costs. The actual amount ~~reimbursed for~~ related to such increases will be determined at audit and may be retrospectively settled. ~~(10-1-96)T~~(10-1-96)T

e. After the initial deadline has passed for all providers to file cost reports for reporting periods beginning on or after the date certain cost increases were first required, the Department will, at its option, include all of the previously excluded costs related to those increases with costs subject to the cap when setting rates or increase the cap and individual facility prospective rates following such cost increases. If a cap is set with these particular costs included in the cap category, providers subject to that cap will not have these costs excluded from the cap for prospective rate purposes. The intent of this provision is for costs to be exempt from the cap until these costs are able to be fully and equitably incorporated in the data base used to project the cap and for these costs to be exempt only when they are not included in the data base. In those cases, when costs are not incurred immediately after a change in rule or law, delays in incorporating the new costs in the cap are warranted. (10-1-96)T

f. When cost increases which have been excluded from the cap are incorporated in the inflation indices used to set the cap, the cost indices will be adjusted to exclude the influence of such changes if the amount is included in the index is identified. When the cap is set to include previously excluded amounts, any adjustments previously made to the indexes related to the previously excluded costs will be removed. (10-1-96)T

02. ~~Reimbursement of Costs~~ Excess Inflation. Reimbursement of costs subject to the cap will be limited to the cap unless the Department determines the inflation indices used to set the prospective rates for a reporting period understated actual inflation by more than seven (7%) percentage points. In such case, prospective rates and the cap will be increased by the amount which actual inflation indices exceeded projected inflation indices and may be retrospectively adjusted by the department. ~~(10-1-96)T~~(10-1-96)T

03. Cost Increases Greater than Three Percent (3%). Cost increases greater than three percent (3%) of the projected interim rate which result from disasters such as fire, flood, or earthquake, epidemic or similar unusual and unpredictable circumstances over which a provider has no control. In such case, prospective rates will be increased and will not be subject to the cap, by the amount which actual inflation indices exceeded projected inflation indices and may be retrospectively adjusted by the Department for purposes ~~of~~ of this Subsection, disaster ~~do~~ does not include personal or financial problems. ~~(10-1-96)T~~(10-1-96)T

04. Decreases. In the event of state or federal law, rule, or Policy changes which result in clearly identifiable reductions in required services, the Department may reduce the prospective rate to reflect the identified per diem amount related to such reductions. (10-1-96)T

05. Prospective Negotiated Rates. Notwithstanding the provisions of Sections 240 through 246, the Director shall have the authority to negotiate prospective rates for providers who would otherwise be subject to accept retrospective settlement. Such rates shall not exceed the projected allowable rate that would otherwise be reimbursed based on provisions of this chapter. (10-1-96)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-9601

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-4601 through 39-4608, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 2, 1996, Administrative Bulletin, Volume 96-10, page 130.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Paul Swatsenbarg at (208) 334-5512.

DATED this 1st day of January, 1997.

Staci Welsh
Administrative Procedures Coordinator
DHW - Legal Services Division
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P.O. Box 83720
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(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 04
Chapter 11

RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-10, November 6, 1996, Page 130.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-9602

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-4601 through 39-4608, Idaho Code.

DESCRIPTIVE SUMMARY: The proposed rules have been amended in response to public comment to help clarify the rule and are being amended pursuant to Section 67-5227, Idaho Code. Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 2, 1996, Administrative Bulletin, Volume 96-10, pages 131 through 155.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Paul Swatsenbarg at (208) 334-5512.

DATED this 1st day of January, 1997.

Staci Welsh
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IDAPA 16
TITLE 04
Chapter 11

RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

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

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

**The complete original text was published in the
Idaho Administrative Bulletin, Volume 96-10, October 2, 1996,
Pages 131 through 155.**

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

TEXT OF DOCKET NO. 16-0411-9602

301. APPLICATION FOR LICENSURE.

01. License Required. Before any agency, private or public, profit or nonprofit, can provide rehabilitative and habilitative services to persons with developmental disabilities under these rules, it shall make application for licensure. No consumer shall receive services through an agency until the licensing agency has approved the application for licensure. No funding for services will be paid by the Department until the agency is licensed.
()

02. Conformity. Licensed agencies shall conform to all applicable rules and rules of the Department, such as Medicaid reimbursement procedures, background checks, and fingerprinting requirements. ()

03. Accessible Records. The DDA and records required under these rules shall be accessible during normal operations of the agency to the licensing agency for the purpose of inspection, with or without prior notification, pursuant to Sections 39-4605(4) and 39-108, Idaho Code. ()

04. Open Application. Application for new agencies will be accepted on an open and continuous basis in accordance with Subsection 301.02. ()

05. National Accreditation. The Department may adopt the policy of accepting national accreditation in lieu of state licensure for developmental disabilities agencies. ()

06. Content of Application. Application shall be made to the licensing agency of the Department on a form provided by the Department. The application and supporting documents shall be received by the Department at least sixty (60) days prior to the planned opening date. The application shall include: ()

a. Name, address and telephone number of the agency; and ()

b. Types of services to be provided by the agency and the anticipated capacity of each service; and ()

c. The service area of the agency; and ()

d. The target population to be served and the service area to be covered by the program; and ()

e. The anticipated date for the initiation of services; and ()

f. A statement indicating the need for the agency's services; and ()

g. A statement which identifies the ownership and describes the management structure of the agency, including a copy of the corporation's articles of incorporation with designation as nonprofit or profit, public or private, and a copy of the bylaws; and ()

h. A statement that the agency is in compliance with these rules and all other applicable local, state and federal requirements, including an assurance that the agency is in compliance with the provisions of Subsection

- 925.02 governing nondiscrimination; and ()
- i. A copy of the proposed organizational chart or plan for staffing of the agency; and ()
 - j. Staff qualifications including resumes, job descriptions and copies of state licenses for staff when applicable; and ()
 - k. When center-based services are to be provided, evidence of a local fire safety inspection; and ()
 - l. When center-based services are to be provided, evidence of compliance with local building and zoning codes; and ()
 - m. When center-based services are provided, written policy and procedures regarding emergency evacuation procedures; and ()
 - n. Staff and consumer illness policy, communicable disease policy and other health and hygiene policies and procedures; and ()
 - o. Written admission and transition policy; and ()
 - p. Written consumer grievance policy; and ()
 - q. Program records system including completed examples of individual service plans, intervention techniques, and monitoring records; and ()
 - r. Fiscal record system including program billings and documentation of services provided consumers; and ()
 - s. Written description of the agency's quality assurance program; and ()
 - t. Any other information requested by the Department for determining the agency's compliance with these rules or the agency's ability to provide the services for which licensure is requested. ()
 - u. If the agency intends to seek a waiver or variance of any rule, then the application shall include a written request for a waiver or variance request and shall specify the particular rule and provide an explanation of the reasons for requesting the waiver or variance. ()
07. Agency Review. Upon receipt of the application form and initial application materials, the licensing agency will review the materials to determine if the agency has in place systems, which if properly implemented, would result in regulatory compliance. ()
08. Written Decision. A written decision with regard to licensure will be submitted to the agency by the licensing agency within thirty (30) days of the date the completed application packet is received in the licensing agency's office. ()

(BREAK IN CONTINUITY OF SECTIONS)

902. TRAINING.

Each agency designated under these rules shall provide ongoing training for staff and volunteers. ()

- 01. Annual Training. A minimum of twelve (12) hours of formal training shall be provided. ()

- a. Within ninety (90) days of employment, each staff member will be certified in first aid and CPR; and ()
 - b. In addition, a minimum of twelve (12) hours of training areas including fire safety, behavior management, and skill development in the area of rehabilitation or habilitation of persons with developmental disabilities on an annual basis. ()
02. Sufficient Training. Training of staff and volunteers shall be sufficient to ensure the following as applicable to their work assignments and responsibilities: ()
- a. Correct and consistent implementation of consumer individual program plans and implementation plans, to achieve individual objectives; and ()
 - b. Optimal independence of all individuals receiving services is encouraged, supported and reinforced through appropriate activities, opportunities, and training; and ()
 - c. Correct and appropriate use of assistive technology used by individuals obtaining services; and ()
 - d. Accurate record keeping and data collection procedures; and ()
 - e. Consistent use of behavioral and developmental programming principles and the use of positive behavioral intervention techniques; and ()
 - f. Adequate observation, review and monitoring of staff, volunteer and consumer performance to promote the achievement of consumer objectives; and ()
 - g. Each consumer's rights, advocacy resources, confidentiality, safety and welfare; and ()
 - h. The proper implementation of all policies and procedures developed by the agency. ()

(BREAK IN CONTINUITY OF SECTIONS)

920. PHYSICAL PLANT BUILDING STANDARDS.

The requirements under this section apply when an agency is providing center-based services. ()

01. Accessibility. Agencies designated under these rules shall be responsive to the needs of the service area and persons receiving services and accessible to persons with disabilities as defined in 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and the uniform federal accessibility standard. ()

02. Environment. The agency shall be designed and equipped to meet the needs of each consumer including, but not limited to, factors such as sufficient space, equipment, lighting and noise control. ()

03. Capacity. Agencies shall serve no more than forty (40) persons with developmental disabilities on site at a given time. Agencies may apply to the Director for a waiver pursuant to these rules. The decision of the Director may be reviewed by the Board. Agencies are encouraged to include persons without disabilities in their programs or to integrate persons with disabilities into community activities for part of the day. ()

04. Fire and Safety Standards. ()

a. Buildings on the premises used as facilities shall meet all local and state codes concerning fire and life safety that are applicable to a DDA. The owner/operator shall have the facility inspected at least annually by the local fire authority. In the absence of a local fire authority, such inspections shall be obtained from the Idaho State Fire Marshall's office. A copy of the inspection shall be made available to the licensing agency upon request and shall

include documentation of any necessary corrective action taken on violations cited; and ()

b. The facility shall be structurally sound and shall be maintained and equipped to assure the safety of consumers, employees and the public; and ()

c. On the premises of all facilities where natural or man-made hazards are present, suitable fences, guards or railings shall be provided to protect consumers; and ()

d. The premises and all buildings used as facilities shall be kept free from the accumulation of weeds, trash and rubbish; and ()

e. Portable heating devices shall be prohibited except units that have heating elements that are limited to not more than two hundred twelve (212) degrees Fahrenheit. The use of unvented, fuel-fired heating devices of any kind shall be prohibited. All portable space heaters must be U.L. approved as well as approved by the local fire or building authority. ()

f. Quantities of flammable or combustible materials deemed hazardous by the licensing agency shall not be stored in the facility; and ()

g. All hazardous or toxic substances shall be properly labeled and stored under lock and key; and ()

h. Water temperatures in areas accessed by consumers shall not exceed one hundred and twenty (120) degrees Fahrenheit; and ()

i. Portable fire extinguishers shall be installed throughout the facility. Numbers, types and location shall be directed by the applicable fire authority noted in Subsection 920.04.a. of these rules; and ()

j. Electrical installations and equipment shall comply with all applicable local or state electrical requirements. In addition, equipment designed to be grounded shall be maintained in a grounded condition and extension cords and multiple electrical outlet adapters shall not be utilized unless U.L. approved and the numbers, location, and use of them are approved, in writing, by the local fire or building authority. ()

k. There shall be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers shall be posted near the telephone; and ()

l. Furnishings, decorations or other objects shall not obstruct exits or access to exits. ()

05. Evacuation Plans. Evacuation plans shall be posted throughout the building. Plans shall indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of building. ()

a. Emergency plans and training requirements: ()

b. There shall be written policies and procedures covering the protection of all persons in the event of fire or other emergencies; and ()

c. All employees shall participate in fire and safety training upon employment and at least annually thereafter; and ()

d. All employees and consumers shall engage in quarterly fire drills. At least two (2) of these fire drills shall include evacuation of the building; and ()

e. A brief summary of the fire drill and the response of the employees and consumers shall be written and maintained on file. The summary shall indicate the date and time the drill occurred, problems encountered and corrective action taken. ()

06. Food Preparation and Storage. ()
- a. If foods are prepared in the agency, they shall be prepared by sanitary methods. ()
- b. Except during actual preparation time, cold perishable foods shall be stored and served under forty-five (45) degrees Fahrenheit and hot perishable foods shall be stored and served over one hundred forty (140) degrees Fahrenheit. ()
- c. Refrigerators and freezers used to store consumer lunches and other perishable foods used by consumers, shall be equipped with a reliable, easily-readable thermometer. Refrigerators shall be maintained at forty-five (45) degrees Fahrenheit or below. Freezers shall be maintained at zero (0) to ten (10) degrees Fahrenheit or below. ()
- d. When meals are prepared or provided for by the agency, meals will meet the nutritional, dietary and individual needs of each consumer. ()
07. Housekeeping and Maintenance Services. ()
- a. The interior and exterior of the agency shall be maintained in a clean, safe and orderly manner and shall be kept in good repair; and ()
- b. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; and ()
- c. All housekeeping equipment shall be in good repair and maintained in a clean, safe and sanitary manner; and ()
- d. The agency shall be maintained free from infestations of insects, rodents and other pests; and ()
- e. The facility shall maintain the temperature and humidity within a normal comfort range by heating, air conditioning or other means. ()
08. Vehicle Safety. If the DDA provides transportation, a preventive maintenance program will be in place for each agency owned or leased vehicle, including but not limited to: ()
- a. Inspections, liability insurance, licensed drivers, and other maintenance to insure safety; and ()
- b. Coordination with transportation providers when the DDA does not provide the transportation. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

DOCKET NO. 16-0601-9604

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 16-1624, 16-1822, 16-1827, 16-2001, 16-2102, 39-105, 39-106, 39-7501, 56-202, 56-203b, 56-204, 56-204a, and 56-803, Idaho Code.

DESCRIPTIVE SUMMARY: The proposed rules have been amended in response to public comment to help clarify the rule and to add language from federal requirements and are being amended pursuant to Section 67-5227, Idaho Code. Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 2, 1996, Administrative Bulletin, Volume 96-10, pages 157 through 167.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Roseanne Hardin at (208) 334-5700.

DATED this 1st day of January, 1997.

Staci Welsh
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

IDAPA 16
TITLE 06
Chapter 01

RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

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

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

**The complete original text was published in the
Idaho Administrative Bulletin, Volume 96-10, October 2, 1996,
Pages 157 through 167.**

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

TEXT OF DOCKET NO. 16-0601-9604

172. DISPOSITION OF REPORTS.

Within five (5) days after completion of risk assessments, the Department shall determine whether the reports are valid or not valid. The validity of reports shall be determined using the following definitions, with consideration given to the age of the child, extenuating circumstances, prior history, parental attitude toward discipline, and severity of abuse or neglect: ()

01. Valid. Child abuse and neglect reports are confirmed by one (1) or more of the following: witnessed by a worker, determined or evaluated by a court, a confession, or are substantiated through the presence of significant evidence that establishes a clear factual foundation for the determination of "valid." ()

02. Verifiable. Child abuse and neglect reports are confirmed by one (1) or more of the following: witnessed by a worker, determined or evaluated by a court, a confession, or are substantiated through the presence of significant evidence, but where ~~the act was unintentional~~ circumstances demonstrated that such incidents are not likely to reoccur. ()

03. Indicated. Child abuse and neglect reports are indicated when the allegations cannot be confirmed or refuted; however, the worker has a reasonable belief the abuse or neglect occurred. ()

04. Unable to Determine. A determination of child abuse and neglect cannot be made and the worker has no firm belief that abuse or neglect occurred. This category includes reports relating to families the worker is unable to locate. ()

05. Invalid. Child abuse and neglect reports that are clearly unfounded, erroneous or otherwise incorrect. The worker is reasonably sure that the abuse or neglect did not occur. ()

(BREAK IN CONTINUITY OF SECTIONS)

424. REQUIREMENTS FOR THE ALTERNATE CARE PLAN (SECTION 422 COMPLIANCE).

Section 422 of P.L. 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980," requires states to implement a case review system to protect children who are in alternate care under the supervision of the state. The system must meet certain requirements for the contents of the alternate care plan, for periodic case review and for dispositional hearings. ()

01. Contents. The alternate care plan shall include the following eight (8) requirements (seven (7) requirements of P.L. 96-272 and one (1) requirement subsequently added by P.L. 101-239): ()

a. A description of the type of home or institution in which the child is to be placed; ()

b. A discussion of the appropriateness of the placement; ()

c. A statement of how the plan is designed to achieve placement in the least restrictive (most family-like) and most appropriate setting available, consistent with the best interest and special needs of the child; ()

d. A statement of how the plan is designed to achieve placement in close proximity to the parents' home, consistent with the best interest and special needs of the child; ()

e. Discussion of how the family and the Department plan to carry out the judicial determination made (court order) with respect to the child in accordance with Section 472(a)(1), P.L. 96-272. The Department shall use a family unity meeting concept making reasonable efforts to gather immediate and extended family members and other significant supporters to identify family strengths relevant to creating a safe environment for the child. This process

will be fully reported to the court along with resulting plans and commitments; ()

f. A plan for assuring that the child receives proper care; ()

g. A plan for assuring that identified services are provided to the child and family to improve the conditions in the parents' home, to recommend to the court return of the child to that home or to arrange for other permanent placement for the child. All case plans shall include specific time frames of obtaining the family's measurable outcomes and defined frequency of communication, review and reassessment of risk; ()

h. A plan for assuring that identified services are provided to the child and foster parents to address the needs of the child while in foster care; ()

i. A discussion of the appropriateness of the services provided to the child under the plan; and ()

j. To the extent available and accessible, current health and education records, including: ()

i. The names and addresses of the child's health and educational providers; ()

ii. The child's grade level performance; ()

iii. The child's school record; ()

iv. Assurances that the child's alternate care arrangements take into account proximity to the school in which the child is enrolled at the time the alternate care plan is developed; ()

v. A record of the child's immunizations; ()

vi. The child's known medical problems; ()

vii. Any other pertinent health and education information concerning the child. ()

k. A statement explaining why the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a state different from the state in which such home is located, and why such placement is in the best interests of the child; ()

l. A plan for assuring that if a child has been placed in foster care outside the state in which the home of the parents of the child is located, periodically but not less frequently than every twelve (12) months, a caseworker on the staff of the state agency of the state in which the home of the parents of the child is located, or of the state in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the state agency of the state in which the home of the parents of the child is located. ()

02. Periodic Review. By the provision of Section 475(5)(b), P.L. 96-272, the status of each child placed in alternate care must be reviewed periodically, but no less frequently than every six (6) months from the date of the original alternate care placement and every six (6) months thereafter until the child has been in placement for eighteen (18) months (see Subsection 424.03.c.), by either a court or an administrative review. The periodic reviews shall meet the following six (6) requirements: ()

a. The periodic reviews have determined the continuing necessity for an appropriateness of the placement. ()

b. The periodic reviews have determined the extent of compliance with the alternate care plan. ()

c. The periodic reviews have determined the extent of progress which has been made toward alleviating or mitigating the causes necessitating the placement. ()

d. The periodic reviews have projected a likely date by which the child may be returned to his or her own home or placed for adoption or in legal guardianship. ()

e. The periodic reviews are open to the participation of the parents and the children involved. ()

f. The periodic reviews are conducted by a panel of appropriate persons, at least one (1) of whom is not responsible for the case management of, or delivery of, services to either the child or the parents who are the subject of the review. ()

03. Dispositional Hearings. By the provisions of Section 475(5)(b), P.L. 96-272, every child in alternate care under state supervision must be afforded a permanency planning dispositional hearing. ()

a. Dispositional hearings shall meet the following three (3) requirements: ()

i. Procedural safeguards were applied with respect to parental rights pertaining to the removal of the child from the home of his or her parents. ()

ii. Procedural safeguards were applied with respect to parental rights pertaining to a change in the child's placement. ()

iii. Procedural safeguards were applied with respect to parental rights pertaining to any determination affecting visitation rights. ()

b. Procedural safeguards shall assure fundamental fairness to the family including the following: ()

i. Opportunity for a hearing prior to any change of disposition or of the status quo; ()

ii. Adequate notice of such hearings, with time to prepare and right to be present; ()

iii. Their right to know the allegations against them and to confront those allegations; and ()

iv. Their right to have legal counsel appointed if requested and eligible. ()

c. Permanency planning dispositional hearings shall be held no later than eighteen (18) months after the date of the original alternate care placement and no later than every twelve (12) months thereafter. Some hearings, not dispositional hearings, are required more frequently according to the following guidelines: ()

i. Hearings are required each time any child is moved to a more restrictive alternate care setting; ()

ii. Every twelve (12) months for any child in the care of the Department under Section 16-1610, Idaho Code, the "Child Protective Act," a renewal of custody hearing is needed. This hearing shall meet dispositional hearing requirements if the judge makes, and the resulting court order contains, required findings. ()

iii. Hearings are required in accordance with Section 16-2010(c), Idaho Code, at least each eighteen (18) months from the date guardianship was granted, until a final court order of adoption is issued and placed in the adoptive family's case record. ()

d. The administrative or judicial hearing for permanency planning disposition must include, at a minimum: ()

i. Written notice to all parties at least two (2) weeks in advance specifying: ()

- (a) The date, time, and place of the review; ()
- (b) Action to be taken; ()
- (c) Opportunity for face-to-face discussion including attending, asking questions, and making statements; ()
- (d) Opportunity for recourse in the form of a petition for review by the magistrate division of the District Court or, more generally, by the request for a review hearing in underlying court action under the appropriate Act. ()
 - ii. Determination of: ()
 - (a) Continuing necessity for, and appropriateness of, the child's placement; and ()
 - (b) Future status of the child (whether the child should be returned to the family, should continue in foster care for specified period, should be placed for adoption or should continue in foster care on a permanent, long term basis, and in the case of a child in care out of state, whether the out-of-state placement continues to be appropriate and in the best interest of the child). ()
 - e. The eighteen (18) month permanency planning dispositional hearing may be held by the court having jurisdiction in the underlying case if that is the preference of the court. If the court does not wish to conduct this hearing, it may be held administratively by a hearing officer appointed by the regional director. ()
 - i. The hearing officer shall not be an employee of the Division of Family and Community Services or a regional Family and Children's Services Program. ()
 - ii. The hearing officer shall be certified as having completed the training program provided by the Deputy Attorney General assigned to the region or the Division that will enable him to understand the review process and his role as participant and hearing officer. This requirement of certification does not include hearing officers with legal background or judges, although both are encouraged to attend training sessions. ()
 - f. A written record of the administrative or judicial hearing shall be maintained: ()
 - i. Indicating the time, date, and place of the review and all the participants; ()
 - ii. Stating the recommendations and conclusions and the reasons therefore; ()
 - iii. Filed in the family's case record; and ()
 - iv. Provided to all participants, subject to the safeguards regarding confidentiality in accordance with the provisions of IDAPA 16, Title 05, Chapter 01, "Rules Governing the Protection and Disclosure of Department Records." ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.09 - RULES GOVERNING THE FAMILY SELF SUPPORT PROGRAM
DOCKET NO. 16-0609-9701

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective December 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 Sections 39-106(l), 56-202(b), and 56-209, 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 January 15, 1997.

DESCRIPTIVE SUMMARY: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs.

This rulemaking docket:

- Changes where non-paid work experience sites can be developed and where participants can be placed to include the private for-profit sector.
- Increases the number of hours a cash assistance recipient can be required to participate in a non-paid work experience site.
- Eliminates the conciliation process for food stamp recipients when they "non-comply" with program requirements.
- Section 520 is being deleted since it described a procedure.
- Changes the termination of work and training sanctions for food stamp recipients from two months or completion of corrective action activity, whichever is shorter, to whichever is later of the required sanction period or the completion of the assigned corrective action activity.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

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 January 22, 1997.

DATED this 1st day of January, 1997.

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

TEXT OF DOCKET NO. 16-0609-9701

421. IDAHO WORK EXPERIENCE PROGRAM - NON-PAID.

Participants are assigned to non-paid work experience placements to become familiar with the practical expectations and demands of employment and to improve technical skills. (1-11-94)

01. Cash Benefits. ~~Cash AFDC~~ benefits are not compensation for participation in work experience. (1-11-94)(12-1-96)T
02. Work Experience Placements. Work experience placements are developed with public or private ~~nonprofit~~ employers. ~~These placements must not be used to fill established but unfilled positions.~~ (1-11-94)(12-1-96)T
03. Participants Are Not Employed. Participants are not employed by the placement site but are assigned to slots under the work experience employer contracts. (1-29-91)(12-1-96)T
04. Job Placement. Job placement will have priority over participation in work experience. (1-11-94)(12-1-96)T
05. Maximum Number of Hours. The maximum number of hours that can be required for ~~each JOBS~~ ~~participant in~~ work experience is 240 hours per week. For JSAP, the number of hours are determined by dividing the amount of the family food stamp benefit received per month by the federal minimum hourly wage. (1-11-94)(12-1-96)T
06. Unpaid Work Experience Participants. ~~IWEP~~ Unpaid work experience participants may volunteer for additional work experience hours if this extra time is consistent with the requirements of the individual's ~~employment~~ plan. (1-29-91)(12-1-96)T
07. Review of The Work Experience Assignment. Review of the work experience assignment must occur at thirteen (13) weeks. Reassessment and revision of the individual's ~~employment~~ plan, as appropriate, must be made after each six (6) months of an individual's participation, and at the at the conclusion of each assignment. (1-11-94)(12-1-96)T

(BREAK IN CONTINUITY OF SECTIONS)

515. CONCILIATION.

Conciliation is a structured procedure for exploring and resolving disputes about a recipient's participation in work activities required for cash assistance. ~~the Family Self Support Program.~~ Conciliation is used to resolve issues of clients' participation, complaints about working conditions, worker's compensation coverage, and participants' complaints. (1-11-94)(12-1-96)T

01. Required Conciliation. ~~FSS~~ Staff must initiate conciliation prior to any determination of noncompliance without good cause. (1-11-94)(12-1-96)T
02. Conciliation. Conciliation must begin within one (1) day of the date ~~FSS~~ staff become aware of an apparent instance of noncompliance. (5-5-92)(12-1-96)T
03. Time Frame—~~Thirty (30) Days.~~ Conciliation shall ~~be time limited~~ lasting no longer than thirty (30) days. Food Stamp recipients have until the effective date of the closure indicated on the Notice of Decision to establish good cause for noncompliance in work and training activities. (1-29-91)(12-1-96)T
04. Days. Conciliation may be terminated at any time ~~during the thirty (30) day time limit~~ if the complaint or dispute is resolved, good cause is established, the participant becomes exempt, both parties agree that the complaint or dispute cannot be resolved, the participant refuses to continue the conciliation, or the participant requests a fair hearing. (1-11-94)(12-1-96)T

05. Failure To Participate. If there has been a determination that failure to participate was without good cause, the participant must participate in assigned activities for the remainder of the ~~thirty (30) day period of~~ conciliation to avoid sanction. ~~(1-11-94)~~(12-1-96)T

06. New Period Of Conciliation. A new ~~thirty (30) day~~ period of conciliation is not required when a recipient ceases to participate following conciliation if the noncompliance is for the same reason. ~~(1-11-94)~~(12-1-96)T

(BREAK IN CONTINUITY OF SECTIONS)

520. ~~RESERVED. NOTICE OF NONCOMPLIANCE (NONC) — MANDATORY PARTICIPANTS.~~

~~Notice of Noncompliance (NONC) is a written statement from FSS staff to medical and financial assistance staff requesting sanction because an individual has failed to comply without good cause with JOBS or JSAP participation requirements. (1-11-94)~~

01. ~~The NONC for a mandatory AFDC recipient is provided to Medical and Financial Assistance staff within two (2) working days of the determination of noncompliance without good cause. (1-11-94)~~

02. ~~The NONC for a mandatory FS recipient is provided to Medical and Financial Assistance staff in time for them to send the notice of adverse action no later than the last day of the conciliation period. When good cause cannot be determined by the fifteenth (15) day of conciliation, the NONC must be sent to medical and financial assistance staff in time for them to send the notice of adverse action no later than the last day of the conciliation period. (1-11-94)~~

(BREAK IN CONTINUITY OF SECTIONS)

540. CORRECTIVE ACTION.

In order for a mandatory recipient to requalify for AFDC cash assistance or Food Stamp benefits following sanction, the individual must demonstrate that failure to comply has ceased. ~~Mandatory food stamp recipients may correct the noncompliance or may wait for the two (2) month sanction period to expire. (1-11-94)(12-1-96)T~~

01. Client Must Contact. The client must contact the ~~FSS program~~ Department and request an opportunity to comply. ~~(1-11-94)~~(12-1-96)T

02. The Department May Require The Client To Attend. The Department may require the client to attend the assigned activity for a two (2) week time period to demonstrate a willingness to participate prior to certifying that failure to comply has ceased. ~~(1-11-94)~~(12-1-96)T

03. Termination of Sanction Following Corrective Action. ~~If the client successfully corrects the noncompliance by participating in the assigned activity for the trial period, the sanction will be terminated. The first JOBS sanction ends the date the client contacted the Department requesting the opportunity to comply if the client completes the assigned activity. The second and subsequent benefit sanctions for a JOBS client ends with the final date shall last until the later of the required sanction period if the participant has completed or the completion of the assigned corrective action activity. A JSAP sanction terminates on the date a client successfully completes the assigned corrective action. (1-11-94)(12-1-96)T~~

04. ~~A JSAP participant may repeatedly noncomply, and repeatedly correct the noncompliance by completing an assigned activity, but never complete the component. A JSAP worker can determine that the participant is not making a good faith effort to comply and can disqualify the individual for the two (2) month sanction period. (1-11-94)~~

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.04 - BENEFITS

DOCKET NO. 17-0204-9601

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 72-508 and 72-433, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 1996 Administrative Bulletin, Volume 96-11, page 97.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these pending rules, contact Maureen Bock, Benefits Administration, Industrial Commission, (208)334-6000.

DATED this 27th day of November 1996.

Patricia S. Ramey, Commission Secretary
Industrial Commission
P. O. Box 83720
Boise, Idaho 83720-0041
Telephone: (208) 334-6000
Fax: (208) 334-2321

**IDAPA 17
TITLE 02
Chapter 04**

RULES GOVERNING BENEFITS

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996, Page 97.**

**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 17 - INDUSTRIAL COMMISSION

17.02.05 - ADMINISTRATIVE RULES UNDER WORKERS' COMPENSATION LAW

DOCKET NO. 17-0205-9601

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Sections 72-508, 72-523, 72-524, 72-526, and 72-306A, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 6, 1996 Administrative Bulletin, Volume 96-11, pages 98 through 100.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these pending rules, contact Maureen Bock, Benefits Administration, Industrial Commission, (208)334-6000.

DATED this 27th day of November 1996.

Patricia S. Ramey, Commission Secretary
Industrial Commission
P. O. Box 83720
Boise, Idaho 83720-0041
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**IDAPA 17
TITLE 02
Chapter 05**

**RULES GOVERNING ADMINISTRATIVE RULES UNDER
WORKERS' COMPENSATION LAW**

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996,
Pages 98 through 100.**

**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 17 - INDUSTRIAL COMMISSION

17.02.06 - EMPLOYERS' REPORTS

DOCKET NO. 17-0206-9601

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Sections 72-508, 72-702, 72-703, and 72-704, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 6, 1996 Administrative Bulletin, Volume 96-11, pages 101 and 102.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these pending rules, contact Maureen Bock, Benefits Administration, Industrial Commission, (208)334-6000.

DATED this 27th day of November 1996.

Patricia S. Ramey, Commission Secretary
Industrial Commission
P. O. Box 83720
Boise, Idaho 83720-0041
Telephone: (208) 334-6000
Fax: (208) 334-2321

**IDAPA 17
TITLE 02
Chapter 06**

RULES GOVERNING EMPLOYERS' REPORTS

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996,
Pages 101 and 102.**

**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 17 - INDUSTRIAL COMMISSION
17.05.01 - RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

DOCKET NO. 17-0501-9601

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 72-1004(a), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 1996 Administrative Bulletin, Volume 96-11, pages 104 and 105.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these pending rules, contact Gary W. Stivers, Executive Director, Industrial Commission, (208)334-6000.

DATED this 27th day of November 1996.

Patricia S. Ramey, Commission Secretary
Industrial Commission
P. O. Box 83720
Boise, Idaho 83720-0041
Telephone: (208) 334-6000
Fax: (208) 334-2321

IDAPA 17
TITLE 05
Chapter 01

RULES GOVERNING THE CRIME VICTIMS COMPENSATION ACT

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996,
Pages 104 and 105.**

**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 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.44 - SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-9601

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. These rules are adopted and proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

DESCRIPTIVE SUMMARY: No changes between the text of the proposed rule and the pending rule have been made. The text of the proposed rule can be found in the November 6, 1996 Administrative Bulletin, Volume 96-11, pages 121 through 126. The following is an explanatory statement for adopting the pending rule:

This rule amends the existing rule to make fees, licenses, and miscellaneous charges non-refundable unless otherwise noted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James M. Alcorn at 208-334-4202.

Dated this 12th day of November, 1996.

James M. Alcorn, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

IDAPA 18
TITLE 01
Chapter 44

RULES GOVERNING SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996,
Pages 121 through 126.**

**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 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS

DOCKET NO. 18-0160-9601

NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. These rules are adopted and proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

DESCRIPTIVE SUMMARY: No changes between the text of the proposed rule and the pending rule have been made. The text of the proposed rule can be found in the November 6, 1996 Administrative Bulletin, Volume 96-11, pages 127 through 130. The following is an explanatory statement for adopting the pending rule:

This rule amends the existing rule by eliminating subsection 011.05.f.iii., to conform with the 1996 amendments to section 41-4605, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ken Hurt at 208-334-4350.

Dated this 12th day of November, 1996.

James M. Alcorn, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

IDAPA 18
TITLE 01
Chapter 60

RULES GOVERNING LONG-TERM CARE INSURANCE MINIMUM STANDARDS

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996,
Pages 127 through 130.**

**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 18 - DEPARTMENT OF INSURANCE
18.01.76 - FIRE ALARM SYSTEM CONTRACTORS
DOCKET NO. 18-0176-9601
NOTICE OF VACATION OF RULE-MAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rule-making previously initiated under this docket. The action is authorized pursuant to Title 41, Chapter 2, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the vacation:

Based on public comment received in response to the proposed rule-making, the Department of Insurance has elected not to proceed with the rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Don McCoy at 208-334-4376.

DATED this 10th day of December, 1996.

James M. Alcorn, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.77 - ACTUARIAL AND MEMORANDUM RULE
DOCKET NO. 18-0177-9601
NOTICE OF PENDING RULE

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

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. These rules are adopted and proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

DESCRIPTIVE SUMMARY: No changes between the text of the proposed rule and the pending rule have been made. The text of the proposed rule can be found in the November 6, 1996 Administrative Bulletin, Volume 96-11, pages 138 through 155. The following is an explanatory statement for adopting the pending rule:

This rule sets forth guidelines and standards for statements of actuarial opinion and supporting memoranda required of insurers by Section 41-612(12), Idaho Code, guidelines and standards for statements of actuarial opinion required when a company is exempt from the requirements of Section 41-612(12), Idaho Code, and rules applicable to appointment of actuaries by insurers.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Bob Murphy at 208-334-4240.

Dated this 12th day of November, 1996.

James M. Alcorn, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

IDAPA 18
TITLE 01
Chapter 77

RULES GOVERNING ACTUARIAL AND MEMORANDUM RULE

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 96-11, November 6, 1996, Pages 138 through 155.

**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 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 PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-105, 39-107, and 39-3601 et. seq., Idaho Code.

DESCRIPTIVE SUMMARY: There are substantive changes from the proposed rule text published in the September 4, 1996 Idaho Administrative Bulletin, Volume No. 96-9, pages 116 through 123. The intent of the rules has not changed. Changes in terminology have been made for the purpose of clarification only. Only those sections with changes are published here.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Bryce Taylor, Chief, Bureau of Range Management and Surface Leasing, Idaho Department of Lands, (208) 334-0251.

Dated this 15th day of November, 1996.

Bryce Taylor
Chief, Bureau of Range Management and Surface Leasing
Idaho Department of Lands
954 W. Jefferson St.
P.O. Box 83720
Boise, ID 83720-0050
Phone: (208) 334-0251; Fax: (208) 334-3698

**IDAPA 20
TITLE 03
Chapter 17**

**RULES GOVERNING LEASES ON STATE-OWNED SUBMERGED LANDS
AND FORMERLY SUBMERGED LANDS**

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

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

The complete original text was published in the
Idaho Administrative Bulletin, Volume 96-9, September 4, 1996,
Pages 116 through 123.

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

TEXT OF DOCKET NO. 20-0317-9601

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 Public Trust Doctrine. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. Structures that provide moorage facilities for more than two riparian/littoral property owners. A community dock shall be considered a commercial navigational aid. ()

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. For purposes of these rules only, the per acre market value of the state owned submerged lands shall be the same as the per acre value of the adjacent uplands for which the submerged or formerly submerged land shall serve as a substitute. The per acre value of the adjacent upland may be the county assessed value or may be appraised, as determined by the Director. ()

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 riparian/littoral owner. ()

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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 owns 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 or 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 remains 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 for water craft customarily in use on that particular lake. ()

(BREAK IN CONTINUITY OF SECTIONS)

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, "Rules for the 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/Denial. The applicant shall be notified in writing if the lease application is approved or denied. The applicant shall also be notified of any additional requirements. ()

08. Request For Reconsideration. Any applicant aggrieved with the director's determination of rent or denial of a lease application may request reconsideration by the Director. ()

(BREAK IN CONTINUITY OF SECTIONS)

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 or waive annual lease rent for commercial submerged lands leases 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

045. APPRAISAL PROCEDURES.

01. Appraisal. An appraisal normally will be performed by qualified department staff. If desired by the applicant and agreed to by the director, the applicant may ask the department for an independent contract appraisal. Any appraisal must be under the control of the department. ()

02. Cost Of Appraisal. If the appraisal is performed by department staff or by an independent contract appraiser, the appraisal costs shall be the actual cost for department personnel plus transportation, including per diem and administrative overhead or the bid amount for the contract appraiser. 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 Subsections 035.01 and 035.02. and shall be billed separately from the application fee and rent. ()

(BREAK IN CONTINUITY OF SECTIONS)

050. LEASE MODIFICATION OR AMENDMENT.

01. Encroachment Amendment. A lease modification or amendment must first be permitted through an amendment to the lake encroachment permit or stream alteration permit. ()

02. 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. ()

03. 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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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. Permit Transfer. The encroachment permit/stream alteration permit pertinent to a lease must be transferred to a purchaser simultaneously with a lease assignment. A lease assignment will not be approved unless the permit is transferred. ()

04. Approval Required For Assignment. An assignment is not valid until it has been approved by the director. ()

(BREAK IN CONTINUITY OF SECTIONS)

060. CANCELLATION.

01. Cancellation Of Lease For Violation Of Terms. Any violation of the terms of the lease by the lessee, including non-payment 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 non-payment 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 lessee will have thirty (30) days to appeal an adverse decision to the director. ()

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. ()

(BREAK IN CONTINUITY OF SECTIONS)

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, the personal and real property of adjacent upland owners and the personal and real property owned by the encroachment owner that is appurtenant to and supportive of the encroachment. ()

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. ()

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 PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1215, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the September 4, 1996, Idaho Administrative Bulletin, Volume No. 96-9, pages 125 and 126.

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 QUESTION: For assistance on technical question concerning his pending rule, contact Henry Gotz, Executive Director, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this fifteenth day of November, 1996.

Henry Gotz, Executive Director
Idaho Board of Scaling Practices
N. 9407 Government Way, Suite #8
PO Box 999
Hayden, ID 83835-0999
Phone (208) 769-1445
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IDAPA 20
TITLE 06
Chapter 02

GENERAL RULES, LICENSING, AND CHECKSCALES OF THE
IDAHO BOARD OF SCALING PRACTICES

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 96-9, September 4, 1996, Pages 125 and 126.

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 20 - DEPARTMENT OF LANDS
IDAPA 20.06.03 - RULES FOR SCALING SPECIFICATIONS
AND CHECK SCALING STANDARDS STATE BOARD OF SCALING PRACTICES

DOCKET NO. 20-0603-9602

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective April 15, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1215, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rules have been amended in response to public comment and are being amended pursuant to Section 67-5227, Idaho Code.

The proposed rule revisions (as published in the Idaho Administrative Bulletin, Docket No. 20-0603-9602) were considered for final adoption by the Board at their special teleconference meeting on November 22, 1996. The Board decided against adopting the proposed rules version originally published in the Idaho Administrative Bulletin. In its stead, the Board adopted a more temperate revision to the rule that increases the current maximum trim allowance of six inches (6") per segment by an additional two inches (2") to the overall log length.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, September 4, 1996, Volume No. 96-9, pages 127 through 142.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Henry Gotz, Executive Director, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this twenty-fifth day of November, 1996.

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IDAPA 20
TITLE 06
Chapter 03

RULES FOR SCALING SPECIFICATIONS AND CHECK SCALING STANDARDS
STATE BOARD OF SCALING PRACTICES

There are substantive changes
from the proposed rule text.

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

The complete original text was published in the Idaho Administrative Bulletin, Volume 96-9, September 4, 1996, Pages 127 through 142.

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

TEXT OF DOCKET NO. 20-0603-9602

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 (6") maximum trim allowance per segment, plus two inches (2"), for the scaling length in accordance with the Appendix, Table III, of these rules. (~~1-1-95~~)()

b. Minimum log length shall be 8'1". (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)

101. -- 199. (RESERVED).

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 maximum trim allowance per segment, plus two inches (2"), for the scaling length in accordance with the Appendix, Table III, of these rules. (~~4-1-95~~)()

b. Minimum log length shall be 8'1". (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 saw log). (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~~)()

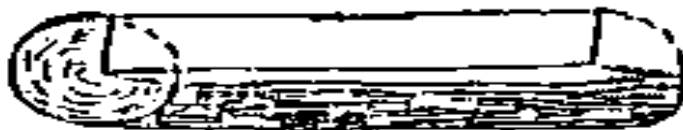
b. The scaling length of a cedar products log in round form shall be determined by the length of the scaling cylinder (as explained in the National Forest Log Scaling Handbook) plus trim allowance. All gross scaling shall recognize scale for odd-length logs when odd-length logs are requested in addition 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:

DIAGRAM I



(16' Scaling Length)

(1-1-95)

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:
(12-31-90)

$$1/4 \times 16' = 4'$$

$$16' - 4' = 12'$$

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)

$$W \times H \times (L / 16) = \text{volume in board feet}$$

(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 x 6 x (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 (6") maximum trim allowance per segment, plus two inches (2"), 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 8'1". (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)

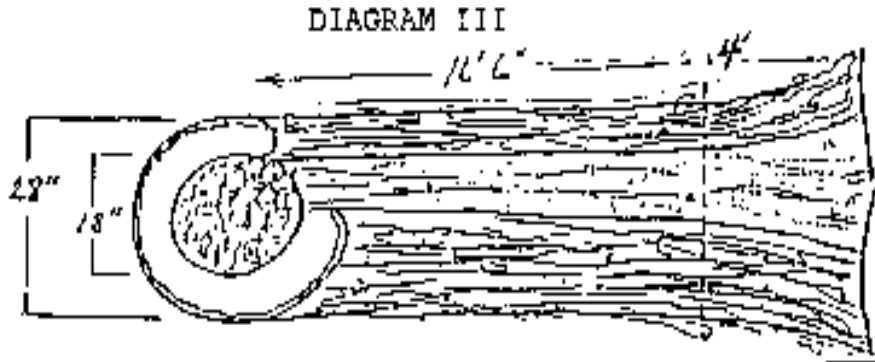
07. Net Scale Determination. (12-31-90)

a. The netscale 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:

- 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.

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)	
<u>-14 (length-cut defect)</u>	
44	(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)	
<u>-16 (interior defect deduction)</u>	
28	(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)	
<u>-5 (diameter reduction defect)</u>	
23	(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.

$$\begin{array}{r} 23 \text{ (total scale remaining after step \#3)} \\ - 6 \text{ (pie-cut defect)} \\ \hline 17 \end{array} \qquad (12-31-90)$$

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

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		

Log Length	Scaling Length	Segment Length	Segment Length	Segment Length	Segment Length
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		
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

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>
<u>8'1" - 8'8"</u>	<u>8</u>				
<u>8'9" - 9'8"</u>	<u>9</u>				
<u>9'9" - 10'8"</u>	<u>10</u>				
<u>10'9" - 11'8"</u>	<u>11</u>				
<u>11'9" - 12'8"</u>	<u>12</u>				
<u>12'9" - 13'8"</u>	<u>13</u>				
<u>13'9" - 14'8"</u>	<u>14</u>				
<u>14'9" - 15'8"</u>	<u>15</u>				
<u>15'9" - 16'8"</u>	<u>16</u>				
<u>16'9" - 17'8"</u>	<u>17</u>				
<u>17'9" - 18'8"</u>	<u>18</u>				
<u>18'9" - 19'8"</u>	<u>19</u>				
<u>19'9" - 20'8"</u>	<u>20</u>				
<u>20'9" - 22'2"</u>	<u>21</u>	<u>11</u>	<u>10</u>		
<u>22'3" - 23'2"</u>	<u>22</u>	<u>12</u>	<u>10</u>		
<u>23'3" - 24'2"</u>	<u>23</u>	<u>12</u>	<u>11</u>		
<u>24'3" - 25'2"</u>	<u>24</u>	<u>12</u>	<u>12</u>		
<u>25'3" - 26'2"</u>	<u>25</u>	<u>13</u>	<u>12</u>		
<u>26'3" - 27'2"</u>	<u>26</u>	<u>14</u>	<u>12</u>		
<u>27'3" - 28'2"</u>	<u>27</u>	<u>14</u>	<u>13</u>		
<u>28'3" - 29'2"</u>	<u>28</u>	<u>14</u>	<u>14</u>		
<u>29'3" - 30'2"</u>	<u>29</u>	<u>15</u>	<u>14</u>		
<u>30'3" - 31'2"</u>	<u>30</u>	<u>16</u>	<u>14</u>		
<u>31'3" - 32'2"</u>	<u>31</u>	<u>16</u>	<u>15</u>		
<u>32'3" - 33'2"</u>	<u>32</u>	<u>16</u>	<u>16</u>		
<u>33'3" - 34'2"</u>	<u>33</u>	<u>17</u>	<u>16</u>		
<u>34'3" - 35'2"</u>	<u>34</u>	<u>18</u>	<u>16</u>		
<u>35'3" - 36'2"</u>	<u>35</u>	<u>18</u>	<u>17</u>		
<u>36'3" - 37'2"</u>	<u>36</u>	<u>18</u>	<u>18</u>		
<u>37'3" - 38'2"</u>	<u>37</u>	<u>19</u>	<u>18</u>		
<u>38'3" - 39'2"</u>	<u>38</u>	<u>20</u>	<u>18</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>
<u>39'3" - 40'2"</u>	<u>39</u>	<u>20</u>	<u>19</u>		
<u>40'3" - 41'2"</u>	<u>40</u>	<u>20</u>	<u>20</u>		
<u>41'3" - 42'8"</u>	<u>41</u>	<u>14</u>	<u>14</u>	<u>13</u>	
<u>42'9" - 43'8"</u>	<u>42</u>	<u>14</u>	<u>14</u>	<u>14</u>	
<u>43'9" - 44'8"</u>	<u>43</u>	<u>15</u>	<u>14</u>	<u>14</u>	
<u>44'9" - 45'8"</u>	<u>44</u>	<u>16</u>	<u>14</u>	<u>14</u>	
<u>45'9" - 46'8"</u>	<u>45</u>	<u>16</u>	<u>15</u>	<u>14</u>	
<u>46'9" - 47'8"</u>	<u>46</u>	<u>16</u>	<u>16</u>	<u>14</u>	
<u>47'9" - 48'8"</u>	<u>47</u>	<u>16</u>	<u>16</u>	<u>15</u>	
<u>48'9" - 49'8"</u>	<u>48</u>	<u>16</u>	<u>16</u>	<u>16</u>	
<u>49'9" - 50'8"</u>	<u>49</u>	<u>17</u>	<u>16</u>	<u>16</u>	
<u>50'9" - 51'8"</u>	<u>50</u>	<u>18</u>	<u>16</u>	<u>16</u>	
<u>51'9" - 52'8"</u>	<u>51</u>	<u>18</u>	<u>17</u>	<u>16</u>	
<u>52'9" - 53'8"</u>	<u>52</u>	<u>18</u>	<u>18</u>	<u>16</u>	
<u>53'9" - 54'8"</u>	<u>53</u>	<u>18</u>	<u>18</u>	<u>17</u>	
<u>54'9" - 55'8"</u>	<u>54</u>	<u>18</u>	<u>18</u>	<u>18</u>	
<u>55'9" - 56'8"</u>	<u>55</u>	<u>19</u>	<u>18</u>	<u>18</u>	
<u>56'9" - 57'8"</u>	<u>56</u>	<u>20</u>	<u>18</u>	<u>18</u>	
<u>57'9" - 58'8"</u>	<u>57</u>	<u>20</u>	<u>19</u>	<u>18</u>	
<u>58'9" - 59'8"</u>	<u>58</u>	<u>20</u>	<u>20</u>	<u>18</u>	
<u>59'9" - 60'8"</u>	<u>59</u>	<u>20</u>	<u>20</u>	<u>19</u>	
<u>60'9" - 61'8"</u>	<u>60</u>	<u>20</u>	<u>20</u>	<u>20</u>	
<u>61'9" - 63'2"</u>	<u>61</u>	<u>16</u>	<u>16</u>	<u>15</u>	<u>14</u>
<u>63'3" - 64'2"</u>	<u>62</u>	<u>16</u>	<u>16</u>	<u>16</u>	<u>14</u>
<u>64'3" - 65'2"</u>	<u>63</u>	<u>16</u>	<u>16</u>	<u>16</u>	<u>15</u>
<u>65'3" - 66'2"</u>	<u>64</u>	<u>16</u>	<u>16</u>	<u>16</u>	<u>16</u>
<u>...etcetera</u>					

In the above table, the butt segment is the longest.

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IDAPA 20 - DEPARTMENT OF LANDS

**IDAPA 20.06.04 - RULES OF FOREST PRODUCTS MEASUREMENT FOR THE PURPOSE OF
PAYMENT FOR LOGGING OR HAULING LOGGED FOREST PRODUCTS ONLY
STATE BOARD OF SCALING PRACTICES**

DOCKET NO. 20-0604-9601

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective April 15, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1215, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rules have been amended in response to public comment and are being amended pursuant to Section 67-5227, Idaho Code.

The proposed rule revisions (as advertised in the Idaho Administrative Bulletin, Docket No. 20-0604-9601) were considered for final adoption by the Board at their special teleconference meeting on November 22, 1996. The Board decided against adopting the proposed rules version advertised in the Idaho Administrative Bulletin. In its stead, the Board adopted a more temperate revision to the rule that increases the current maximum trim allowance of six inches (6") per segment by an additional two inches (2") to the overall log length.

The original text of the proposed rule was published in the September 4, 1996, Idaho Administrative Bulletin, Volume No. 96-9, pages 143 through 148.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Henry Gotz, Executive Director, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this 25th day of November, 1996.

Henry Gotz, Executive Director
Idaho Board of Scaling Practices
N. 9407 Government Way, Suite #8
PO Box 999
Hayden ID 83835-0999
Phone (208) 769-1445, Fax (208) 769-1485

**IDAPA 20
TITLE 06
Chapter 04**

**RULES GOVERNING RULES OF FOREST PRODUCTS MEASUREMENT FOR THE PURPOSE OF
PAYMENT FOR LOGGING OR HAULING LOGGED FOREST PRODUCTS ONLY
STATE BOARD OF SCALING PRACTICES**

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

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

**The complete original text was published in the
Idaho Administrative Bulletin, Volume 96-9, September 4, 1996,
Pages 143 through 148.**

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

TEXT OF DOCKET NO. 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 trim allowance of six inches (6") per segment, plus two inches (2"). Length determination shall recognize logs measuring from 8'1" to 20'8" as single-segment logs; from 20'9" to 41'2" as two-segment logs; from 41'3" to 61'8" as three-segment logs, etc. Refer to Appendix III, 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)

APPENDIX III
TABLE III

Log Length	Sealing 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		
38'1" - 39'0"	-38	-20	-18		

Log Length	Sealing Length	Segment Length	Segment Length	Segment Length	Segment Length
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>Log Length</u>	<u>Scaling Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>	<u>Segment Length</u>
<u>8'1" - 8'8"</u>	<u>8</u>				
<u>8'9" - 9'8"</u>	<u>9</u>				
<u>9'9" - 10'8"</u>	<u>10</u>				
<u>10'9" - 11'8"</u>	<u>11</u>				
<u>11'9" - 12'8"</u>	<u>12</u>				
<u>12'9" - 13'8"</u>	<u>13</u>				
<u>13'9" - 14'8"</u>	<u>14</u>				
<u>14'9" - 15'8"</u>	<u>15</u>				
<u>15'9" - 16'8"</u>	<u>16</u>				
<u>16'9" - 17'8"</u>	<u>17</u>				
<u>17'9" - 18'8"</u>	<u>18</u>				
<u>18'9" - 19'8"</u>	<u>19</u>				
<u>19'9" - 20'8"</u>	<u>20</u>				
<u>20'9" - 22'2"</u>	<u>21</u>	<u>11</u>	<u>10</u>		
<u>22'3" - 23'2"</u>	<u>22</u>	<u>12</u>	<u>10</u>		
<u>23'3" - 24'2"</u>	<u>23</u>	<u>12</u>	<u>11</u>		
<u>24'3" - 25'2"</u>	<u>24</u>	<u>12</u>	<u>12</u>		
<u>25'3" - 26'2"</u>	<u>25</u>	<u>13</u>	<u>12</u>		
<u>26'3" - 27'2"</u>	<u>26</u>	<u>14</u>	<u>12</u>		
<u>27'3" - 28'2"</u>	<u>27</u>	<u>14</u>	<u>13</u>		
<u>28'3" - 29'2"</u>	<u>28</u>	<u>14</u>	<u>14</u>		
<u>29'3" - 30'2"</u>	<u>29</u>	<u>15</u>	<u>14</u>		
<u>30'3" - 31'2"</u>	<u>30</u>	<u>16</u>	<u>14</u>		
<u>31'3" - 32'2"</u>	<u>31</u>	<u>16</u>	<u>15</u>		
<u>32'3" - 33'2"</u>	<u>32</u>	<u>16</u>	<u>16</u>		
<u>33'3" - 34'2"</u>	<u>33</u>	<u>17</u>	<u>16</u>		
<u>34'3" - 35'2"</u>	<u>34</u>	<u>18</u>	<u>16</u>		
<u>35'3" - 36'2"</u>	<u>35</u>	<u>18</u>	<u>17</u>		
<u>36'3" - 37'2"</u>	<u>36</u>	<u>18</u>	<u>18</u>		
<u>37'3" - 38'2"</u>	<u>37</u>	<u>19</u>	<u>18</u>		
<u>38'3" - 39'2"</u>	<u>38</u>	<u>20</u>	<u>18</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>
<u>39'3" - 40'2"</u>	<u>39</u>	<u>20</u>	<u>19</u>		
<u>40'3" - 41'2"</u>	<u>40</u>	<u>20</u>	<u>20</u>		
<u>41'3" - 42'8"</u>	<u>41</u>	<u>14</u>	<u>14</u>	<u>13</u>	
<u>42'9" - 43'8"</u>	<u>42</u>	<u>14</u>	<u>14</u>	<u>14</u>	
<u>43'9" - 44'8"</u>	<u>43</u>	<u>15</u>	<u>14</u>	<u>14</u>	
<u>44'9" - 45'8"</u>	<u>44</u>	<u>16</u>	<u>14</u>	<u>14</u>	
<u>45'9" - 46'8"</u>	<u>45</u>	<u>16</u>	<u>15</u>	<u>14</u>	
<u>46'9" - 47'8"</u>	<u>46</u>	<u>16</u>	<u>16</u>	<u>14</u>	
<u>47'9" - 48'8"</u>	<u>47</u>	<u>16</u>	<u>16</u>	<u>15</u>	
<u>48'9" - 49'8"</u>	<u>48</u>	<u>16</u>	<u>16</u>	<u>16</u>	
<u>49'9" - 50'8"</u>	<u>49</u>	<u>17</u>	<u>16</u>	<u>16</u>	
<u>50'9" - 51'8"</u>	<u>50</u>	<u>18</u>	<u>16</u>	<u>16</u>	
<u>51'9" - 52'8"</u>	<u>51</u>	<u>18</u>	<u>17</u>	<u>16</u>	
<u>52'9" - 53'8"</u>	<u>52</u>	<u>18</u>	<u>18</u>	<u>16</u>	
<u>53'9" - 54'8"</u>	<u>53</u>	<u>18</u>	<u>18</u>	<u>17</u>	
<u>54'9" - 55'8"</u>	<u>54</u>	<u>18</u>	<u>18</u>	<u>18</u>	
<u>55'9" - 56'8"</u>	<u>55</u>	<u>19</u>	<u>18</u>	<u>18</u>	
<u>56'9" - 57'8"</u>	<u>56</u>	<u>20</u>	<u>18</u>	<u>18</u>	
<u>57'9" - 58'8"</u>	<u>57</u>	<u>20</u>	<u>19</u>	<u>18</u>	
<u>58'9" - 59'8"</u>	<u>58</u>	<u>20</u>	<u>20</u>	<u>18</u>	
<u>59'9" - 60'8"</u>	<u>59</u>	<u>20</u>	<u>20</u>	<u>19</u>	
<u>60'9" - 61'8"</u>	<u>60</u>	<u>20</u>	<u>20</u>	<u>20</u>	
<u>61'9" - 63'2"</u>	<u>61</u>	<u>16</u>	<u>16</u>	<u>15</u>	<u>14</u>
<u>63'3" - 64'2"</u>	<u>62</u>	<u>16</u>	<u>16</u>	<u>16</u>	<u>14</u>
<u>64'3" - 65'2"</u>	<u>63</u>	<u>16</u>	<u>16</u>	<u>16</u>	<u>15</u>
<u>65'3" - 66'2"</u>	<u>64</u>	<u>16</u>	<u>16</u>	<u>16</u>	<u>16</u>
<u>...etcetera</u>					

In the above table, the butt segment is the longest.

()

IDAPA 22 - IDAHO STATE BOARD OF MEDICINE

22.01.06 - RULES FOR THE CERTIFICATION OF ADVANCED EMT-A AND EMT-P PERSONNEL

DOCKET NO. 22-0106-9601

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 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 Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to 54-1803 and 54-1806, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, August 7, 1996, Volume 96-8, page 917.

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

DATED this 25th day of November, 1996.

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

**IDAPA 22
TITLE 01
Chapter 06**

RULES GOVERNING CERTIFICATION OF ADVANCED EMT-A AND EMT-P PERSONNEL

This rule is being repealed in its entirety and is being rewritten under Docket No. 22-0106-9602.

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-8, August 7, 1996, Page 917.**

**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 22 - IDAHO STATE BOARD OF MEDICINE

22.01.06 - RULES FOR EMS PERSONNEL

DOCKET NO. 22-0106-9602

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 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 Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to 54-1803 and 54-1806, Idaho Code.

DESCRIPTIVE SUMMARY: The final rules define the allowable scope of practice and acts and duties which can be performed by persons certified as emergency services personnel by the Department of Health and Welfare Emergency Services Bureau and defines the required level of supervision by a physician.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, August 7, 1996, Volume 96-8, pages 918 through 922.

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

DATED this 25th day of November, 1996.

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

**IDAPA 22
TITLE 01
Chapter 06**

RULES FOR EMS PERSONNEL

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-8, August 7, 1996,
Pages 918 through 922.**

**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
24.01.01 - BOARD OF ARCHITECTURAL EXAMINERS
DOCKET NO. 24-0101-9501**

NOTICE OF ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: These temporary rules are effective November 15, 1996.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Idaho State Board of Architectural Examiners has adopted a temporary rule. The action is authorized pursuant to Section 54-312, Idaho Code.

DESCRIPTIVE SUMMARY: The Architect Rules, as published in the November 1, 1995, Volume No. 95-11, pages 121 through 130 of the Bulletin as proposed rules and published in the May 1, 1996, Volume No. 96-5, page 82, as pending rules, were adopted as Temporary by the Board on the 15th day of November, 1996.

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

DATED this 26th day of November, 1996.

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

**IDAPA 24
TITLE 01
Chapter 01**

RULES GOVERNING THE BOARD OF ARCHITECTURAL EXAMINERS

**These rules are being adopted as temporary
rules and are the same as the proposed rule.**

**The original text of the proposed rule was published in the Idaho
Administrative Bulletin, Volume 95-11, November 1, 1995,
Pages 121 through 130.**

**These rules will remain in effect until they are
replaced by the pending which will be reviewed by
the 1997 Idaho State Legislature for final adoption.**

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION
26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK
AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-9701

NOTICE OF PROPOSED RULE-MAKING

EFFECTIVE DATE: These permanent rules will be effective upon the conclusion of the 1997 legislative session, provided they are approved by the 1997 legislature.

SUBJECT: Permanent Rules Governing the Administration of Park and Recreation Areas and Facilities.

ACTION: The proposed action, under Docket No. 26-0120-9701, involves changes to the department's fee schedule, the addition of fees for use of boating facilities and overnight moorage, and changes in the process for making reservations. In addition, a number of minor housekeeping changes are proposed, included new and revised definitions.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated a proposed rule-making. The proposed rule-making is authorized pursuant to Section 67-4223, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held at the Idaho Department of Parks and Recreation headquarters building, 5657 Warm Springs Ave., Boise, ID, at 7:00 p.m. on Wednesday, January 22, 1997.

The hearing site will be accessible to the physically disabled. Interpreters for persons with hearing impairments and Braille or taped information for persons with visual impairments can be provided upon five days' notice. For arrangements, contact Rinda Just, Deputy Attorney General, at (208) 334-4120 (relay service is available by calling 1-800-377-1363 (voice) or 1-800-377-3529 (TDD)).

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rule:

Section 010 is modified by the addition of definitions for dock and boating facilities, motorized vehicle entry fee, vessel, and vessel length. Other housekeeping changes are included in the definitions.

Section 050 has been changed to reflect the fact that IDPR personnel have limited law enforcement authority outside of department operated facilities.

Section 200 includes a change to campsite occupancy provisions.

Section 201 is a new section which deals with department operated marine facilities. The section addresses overnight boat mooring, and boat camping, together with general rules regarding marine facilities.

Section 225 provides that the board has the authority to set fees for use of facilities and equipment, but allows park personnel to set fees for goods and services unique to the individual park. Also of importance is the addition of a fee collection surcharge. The surcharge is intended as an incentive to encourage campers to pay fees where self-collection systems are in effect. If park personnel are compelled to collect from nonpayors, a surcharge of \$5.00 may be imposed. Finally, the provision which provided for special rates for non profits has been deleted.

Section 250 includes numerous changes including an increase in the cost of a developed campsite of \$2.00 per day, and \$1.00 increases in the cost of electrical and sewer hookups. Noncampers will be charged an additional \$1.00 for use of shower facilities. A new fee category for deluxe campsites has been added. These sites accommodate up to 12 people, and are \$22.00 per day.

The Idaho resident senior citizen and disabled discount has been eliminated. It is being replaced by a low income discount for Idaho residents. The discount will only be available during the shoulder seasons, September 15 through April 15. The reasoning behind this change is a recognition that most department operated campsites are fully occupied during the summer season. In addition, the change recognizes that the department's concern is to make reasonable cost camping experiences available to all Idahoans, including those on limited incomes. The department believes that evidence of Medicaid eligibility is a better measure of economic disadvantage than age.

Motorized vehicle entry fees are being increased at five of the most heavily used parks (Farragut, Old Mission, Eagle Island, Lucky Peak, and Henry's Lake) with substantial visitor amenities. In these parks the MVEF increases to \$3.00 per vehicle. As a management tool, MVEF is being increased seasonally at Harriman and Ponderosa to reflect the impact of cross-country skiers on park facilities and to assist in providing groomed trails and parking. MVEF remains at \$2.00 at all other facilities which charge an MVEF. Concurrent with the increase in MVEF, annual state park passports will increase \$5.00, as will the cost of a discounted annual passport (purchased prior to February 1). Individuals needing additional annual passports for multiple vehicles will pay an additional \$10.00 per passport.

Water slide rides at Eagle Island increase by \$1.00 for a 10 ride bracelet, and by \$2.00 for an all day pass. This is reflective of the construction of a new water slide and the heavy use that it generates.

A new section has been added which will allow the department to charge for the rental of yurts and cabins within department facilities.

The returned check surcharge increases to \$20.00 to reflect the cost of the state's collection contractor.

Group use facility fees have been rearranged, making it clear that the \$25.00 reservation fee is applicable to all group use facilities. This charge reflects the cost of processing group use reservations. Groups using department facilities will be required to pay the reservation fee, cleaning deposits, and the first night's camping fee in advance. Group use fees increase at all group use facilities except Farragut. New group use fees have been added for two new group facilities--Three Island Crossing, and Walcott.

Boating fees include the addition of a launching fee (applicable only at department facilities that do not charge an MVEF). Land based campers who wish to leave a boat moored (unoccupied) overnight will be charged \$5.00 per night. The cost of camping on a boat depends upon the vessel's size and whether it is located at a dock or buoy. Fees range from \$5.00 per night for any length vessel moored at a buoy, to \$11.00 per night for vessels over 26 feet in length moored at a dock.

A fee has been added for use of department operated RV dump stations by non park users.

Section 275 includes reservation changes similar to those for group use reservations, but applicable to individual campers. First nights camping fees must be paid in order for a reservation to be confirmed.

Other minor housekeeping changes appear throughout the proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rinda Just, Deputy Attorney General, at the address and telephone below.

Anyone may submit written comment regarding the proposed rules. All written comments and data concerning the proposed rule must be directed to Rinda Just, Deputy Attorney General, at the address below, and must be postmarked or delivered on or before January 24, 1997.

Dated this 18th day of November, 1996

Rinda Just, Deputy Attorney General
P. O. Box 83720
Boise, ID 83720-0010
Phone: (208) 334-4120 (relay service is
available by calling 1-800-377-1363 (voice)
or 1-800-377-3529 (TDD)).

TEXT OF DOCKET NO. 26-0120-9701

002. WRITTEN INTERPRETATIONS.

This agency has written interpretations of these rules, in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules, or documentation of compliance with IDAPA 26.01.01.150, Rules Of Administrative Procedure Of The Idaho Park And Recreation Board. These documents are available for public inspection and copying in the central office of the agency. (1-1-94)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

As used in this chapter: (1-1-94)

() 01. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor.

02. Camping Day. The period between 2 p.m. of one (1) calendar day and 2 p.m. 11:00 a.m. of the following calendar day. (7-1-93)()

023. Camping Unit site. One (1) motorized vehicle and its included equipment within one (1) designated site Site designated for overnight camping. (7-1-93)()

034. Day Use. Use of any non-camping facilities between the hours of 7 a.m. and 10 p.m. unless otherwise posted. (1-1-94)()

045. Department. The Idaho Department of Parks and Recreation. (1-1-94)

056. Director. The director and chief administrator of the department, or the designee of the director. (1-1-94)

07. Dock and Boating Facility. Floats, piers and mooring buoys owned or operated by the department. ()

068. Extra Vehicle. An additional motorized vehicle (not in tow at time of entry) without built in sleeping accommodations which fits entirely within the camp spur registered to a camp site. (1-1-94)()

079. Group Use. Twenty-five (25) or more people, or any group needing special considerations or deviations from normal department rules or activities. (1-1-94)

08. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. (1-1-94)

10. Motorized Vehicle Entry Fee (MVEF). A fee charged for a motorized vehicle to enter a designated area for a non-camping visit. ()

0911. Park Manager. The person, designated by the director, responsible for administering and supervising particular lands, facilities, and staff that are under the jurisdiction of administered by the department, designated by the director. (1-1-94)()

12. Vessel. Every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but not including float houses, diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices not designed or modified to be

used as a means of transportation on the water such as inflatable air mattresses, single inner tubes, and beach and water toys. ()

13. Vessel Length. The distance measured at the centerline at the highest point above the waterline from the fore-part of the outer hull at the bow to the aft-part of the outer hull at the stern, excepting any bowsprits, railings or extraneous or additional equipment. ()

(BREAK IN CONTINUITY OF SECTIONS)

050. ENFORCEMENT.

The director may designate employees of the department to be deputized as special deputies, pursuant to the provision of Section 67-2901(5), Idaho Code, for the purpose of enforcing penal and regulatory laws of the state, ~~within the boundaries of lands administered by the department, for the protection of these areas against damage and for the preservation of peace therein.~~ (1-1-96)()

(BREAK IN CONTINUITY OF SECTIONS)

075. AUTHORITY CONFERRABLE ON EMPLOYEES.

The director may authorize any employee of the department to exercise any power granted to, or perform any duty imposed upon the director. (1-1-94)

01. Park Manager Authority. The park manager may establish and enforce rules which apply to the public safety or protection of natural, cultural, or other resources within lands administered by the department. Those rules shall be posted for public view and shall be consistent with established state laws and these rules. All state, county, and local laws are in effect and subject to enforcement within lands administered by the department. (1-1-94)

02. Establishing And Posting Hours. The park manager shall establish and post the hours for ~~day use~~ areas so as to serve the general public and protect the area with the staff available. (1-1-94)()

(BREAK IN CONTINUITY OF SECTIONS)

100. PENALTIES FOR VIOLATIONS.

Failure of any person, persons, partnership, corporation, concessionaire, association, society, fraternal, social or other organized groups to comply with these rules shall constitute an infraction. (1-1-96)

01. Civil Claim. The penalty established in ~~Section~~ 100 of this chapter shall not prevent the department from filing a civil claim against a violator to collect damages incurred to lands, resources, or facilities administered by the department. (1-1-94)()

02. Violators. Permanent department employees may remove any violator of the rules from land or facilities administered by the department, as a trespasser upon state land. ~~No Fees~~ paid by a violator may be returned to the violator upon his removal. (1-1-94)()

(BREAK IN CONTINUITY OF SECTIONS)

125. PRESERVATION OF PUBLIC PROPERTY.

The destruction, injury, defacement, removal or disturbance in or of any public building, sign, equipment, monument, statue, marker or any other structures, or of any tree, flower, or other vegetation, or of any cultural artifact or any other public property of any kind is prohibited unless authorized by the park manager of a specific area. ~~(1-1-94)()~~

(BREAK IN CONTINUITY OF SECTIONS)

200. CAMPING.

~~01. Occupancy. Camping shall be permitted only in designated areas. Only one (1) camping unit with a maximum of eight (8) people shall be permitted on each designated site, except with the permission of the park manager. One (1) extra vehicle is also permitted within each designated site. Campsites with maximums of: eight (8) people, one (1) extra vehicle, two (2) tents, and one (1) motor vehicle or towed unit with built-in sleeping accommodations.~~ ~~(1-1-94)()~~

~~02. Motorcycles. Maximum of two (2) motorcycles constitute one (1) motor vehicle or towed unit with built-in sleeping accommodations.~~ ~~()~~

~~03. Length Of Stay. Except as provided herein, No person, party or organization may be permitted to camp on any lands administered by the department for more than fifteen (15) days in any thirty (30) day period. Shorter or longer periods may be designated for any individual area by the director.~~ ~~(1-1-94)()~~

~~04. Saving Sites. Saving campsites is prohibited. The party registering for a campsite shall be the party that occupies it for the first night.~~ ~~(1-1-94)~~

~~05. Condition Of Site. Campers shall keep their campgrounds and other use areas clean.~~ ~~(7-1-93)~~

~~06. Liquid Waste Disposal. All liquid wastes shall be held in self-contained units or collected in water-tight receptacles in compliance with state adopted standards and dumped in sanitary facilities provided for the disposal of such wastes.~~ ~~(1-1-94)~~

~~07. Unattended Sites. Campers may not leave their camps unattended for longer than one (1) camping day, except by permission of the park manager.~~ ~~(1-1-94)~~

~~08. Motorized Equipment. No generators or other motorized equipment emitting sound and exhaust are permitted to be operated during quiet hours.~~ ~~(7-1-93)~~

~~09. Campsite Parking. All boats, trailers, rigs and motorized vehicles shall fit entirely within the campsite parking spur provided with the assigned campsite. All equipment which does not fit entirely within the campsite parking spur shall be parked outside the campground in an area designated by the park manager. If no outside parking is available, a second campsite shall be purchased.~~ ~~(1-1-94)~~

~~10. Equipment. All camping equipment and personal belongings of a camper shall be maintained within the assigned campsite perimeter.~~ ~~(1-1-94)()~~

~~11. Check Out. Campers are required to check out and leave a clean campsite by 2 p.m. 11 a.m. of the day following the paid night of camping.~~ ~~(7-1-93)()~~

~~12. Visitors. Visitors to campers shall park outside the campground, except with permission of the park manager. Visitors shall conform to established day use hours.~~ ~~(1-1-94)~~

~~13. Motorcycles. Two (2) motorcycles constitute a camping unit.~~ ~~(7-1-93)~~

~~14. Responsible Party. The individual purchasing a campsite is responsible for assuring compliance~~

with the rules within this chapter. (1-1-94)

14. Camping Prohibited. No camping is permitted outside designated campsites on docks, beaches, parking lots or day use facilities unless specifically authorized. (1-1-94)()

201. BOATING FACILITIES.

The provisions of this section do not apply to department-operated marinas which provide moorage on a lease basis. ()

01. Moorage and Use of Marine Facilities. ()

a. No person or persons shall moor or berth a vessel of any type in a department-owned or operated park or marine area except in designated facilities. ()

b. In order to afford the general public the greatest possible use of marine facilities, continuous moorage at a facility by the same vessel, person or persons, shall be limited to fifteen (15) consecutive nights, unless otherwise posted by the park manager at any individual facility or area. ()

c. In order to maximize usable space at mooring facilities, boaters shall, whenever necessary, moor their vessels as close as reasonably possible to vessels already moored. Rafting of vessels is also permitted within posted limits, but is not mandatory. ()

d. Use of any state park marine facility shall be on a first-come, first-served basis only. Reserving or retaining space to moor or berth a vessel at any facility by means of a dinghy or any method other than occupying the space by the vessel to be moored is prohibited. ()

e. Dinghies shall be tied up only in designated spaces on moorage facilities. ()

f. Open flames or live coals, or devices containing or using open flames, live coals or combustible materials, including but not limited to barbecues, hibachis, stoves and heaters, are permitted on floats, docks, or piers only when placed on a fireproof base and the fire is located away from fuel tanks and/or fuel vents. In case of dispute related to fire safety, the park manager is authorized to allow or prohibit the use. ()

02. Moorage Fees. ()

a. Vessels moored between 10:00 p.m. and 7:00 a.m. at designated facilities shall be charged an overnight moorage fee. ()

b. Annual moorage permits will be issued to an identified vessel. The charge for annual moorage permits shall be based upon the length of the vessel to which the permit is issued. ()

c. Annual permits shall be visible from outside the vessel and shall be permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or if not equipped with a windshield, to the left (port) outside transom, or if a sailboat, on the forward portion of the left (port) trunk. ()

03. Use of Onshore Campsites. If any person or persons from a vessel moored at a department boating facility also occupies any designated campsite onshore, the appropriate established fee for such campsite(s) shall be paid in addition to any moorage fee provided herein. ()

04. Self-registration. In those areas so posted, boaters shall register themselves for the use of marine facilities and onshore campsites, paying the appropriate moorage and campsite fees as provided for herein and in accordance with all posted instructions. ()

~~2012.~~ -- 224. (RESERVED).

225. FEES AND SERVICES.

01. Authority. ~~The board shall adopt fees for the use of lands, facilities, and equipment. Visitors shall pay all designated fees.~~ (1-1-94)(____)

a. The board shall adopt fees for the use of lands, facilities, and equipment. Visitors shall pay all fees. (____)

b. Park managers shall set fees for goods and services unique to the individual park. With the exception of those fees for services which are appropriately determined by negotiation on a case-by-case basis, all fees set by the park manager shall be clearly posted. (____)

02. Camping. Camping fees include the right to use designated ~~campground sites~~ and facilities. Utilities and facilities may be restricted by weather or other factors. (7-1-93)(____)

03. Group Use. (7-1-93)

a. Groups of twenty-five (25) persons or more, or any group needing special considerations or deviations from these rules shall have a permit. Permits may be issued after arrangements have been made for proper sanitation, population density limitations, safety of persons and property, and regulation of traffic. (1-1-94)

b. Permits for groups of up to two hundred fifty (250) people may be approved by the park manager with thirty (30) days advance notice. Permits for groups of two hundred fifty (250) to one thousand (1,000) may be approved by the director with forty-five (45) days advance notice. Groups over one thousand (1,000) may be approved by the board with sixty (60) days advance notice. The director may approve groups over one thousand (1,000) with thirty (30) days advance notice, if they are repeat users. (1-1-94)

04. Motorized Vehicle Entrance Fee (MVEF). ~~A~~ The motorized vehicle entry fee may be charged ~~for~~ to groups entering a designated area for a noncamping visit ~~by motorized vehicle.~~ (1-1-94)(____)

05. Fees And Deposits. Fees ~~or~~ and deposits may be required for certain uses or the reservation of certain facilities. (7-1-93)(____)

~~06. Exceptions. Those public supported groups (by tax dollar or nationally recognized fund drive) which are nondiscriminatory, open to the public and hold no ethnic barriers may negotiate a minimal cost arrangement for facility use. Costs shall be determined by the requirements of the group and the requirements of the department. (1-1-94)~~

06. Fee Collection Surcharge. A surcharge may be assessed when department staff are compelled to collect fees at a self-collection camping facility. (____)

(BREAK IN CONTINUITY OF SECTIONS)

250. FEE SCHEDULE.

01. Campsites.

CAMPSITES TABLE	
Primitive Campsite (table, grill, camp-spur, vault toilet, no water.)	\$7.00/day
Basic Campsite (table, grill, camp-spur, central water, vault toilets.)	\$9.00/day

CAMPSITES TABLE	
Developed Campsite (table, grill, camp-spur, central water, flush toilets.)	\$10.00 <u>12.00/day</u>
<u>Deluxe Campsite (designed to accommodate higher occupancy limits of up to twelve (12) persons)</u>	<u>\$22.00/day</u>
Electric hookups at site	additional \$3.00 <u>4.00/day</u>
Sewer hookups at site	additional \$1.00 <u>2.00/day</u>
Use of campground showers by noncampers	\$2.00 <u>3.00/person</u>
<u>Fee collection surcharge</u>	<u>\$5.00/occurrence</u>
Camping fee includes MVEF (see Subsection 250.04. of this chapter).	

(1-1-96)()

02. ~~Idaho Resident~~ Low Income Discount.

LOW INCOME DISCOUNT TABLE.	
Idaho residents sixty-five (65) years of age or older and disabled Idaho residents <u>showing proof of limited income (Medicaid card or other evidence as approved by the board) may receive discount from September 15 through April 15 of up to per day of up to</u>	<u>\$4.00/day</u>
<u>Minimum charge is</u>	<u>\$7.00</u>

(1-1-96)()

03. Campsite Reservations. TABLE.	
Available at Farragut, Hells Gate, Ponderosa and Priest Lake State Parks	\$6.00

(1-1-94)

03. Reservation Service Charge. Where reservations are available a non-refundable service fee of six dollars (\$6) shall be charged. ()

04. Motorized Vehicle Entrance Fee (MVEF).

MOTORIZED VEHICLE ENTRY (MVEF) TABLE.	
Daily charge per motorized vehicle <u>Farragut, Old Mission, Eagle Island, Lucky Peak, Henrys Lake</u>	\$2.00 <u>3.00</u>
<u>Harriman, Ponderosa (November 15-March 31)</u>	<u>\$5.00</u>
<u>Harriman, Ponderosa (April 1-November 14)</u>	<u>\$2.00</u>
<u>All other facilities which charge a MVEF</u>	<u>\$2.00</u>
Daily charge per commercial motor coach (no annual pass available)	\$20.00
Annual State Park Passport per motorized vehicle	\$30.00 <u>35.00</u>

MOTORIZED VEHICLE ENTRY (MVEF) TABLE.	
Annual State Park Passport per motorized vehicle if purchased prior to February 1	\$20.00 <u>25.00</u>
Second Vehicle Annual Passport	\$5.00 <u>10.00</u>
a. (The second vehicle passport shall be purchased at the same location as the first vehicle passport. A vehicle registration in the same owner's name is required).	

(7-1-96)()

b. ~~The MVEF applies to those persons entering a designated area by motorized vehicle for a noncamping visit. The MVEF does not permit use of campsites.~~ (1-1-94)

05. Eagle Island Waterslide Rides.

EAGLE ISLAND WATERSLIDE RIDES TABLE.	
Bracelet	10 rides for \$3.00 <u>4.00</u>
All day pass	\$6.00 <u>8.00</u>

(7-1-93)()

06. Yurts and Cabins.

<u>YURTS AND CABINS TABLE.</u>	
<u>Up to four (4) persons</u>	<u>\$30.00/night</u>
<u>Up to six (6) additional persons</u>	<u>\$4.00 each/night</u>

()

<u>06. Group Use Fees. TABLE.</u>	
Minimum reservation fee	\$25.00
Additional fee may be charged depending on the cost of providing the services. Reservation fee is nonrefundable. Contact the park manager.	
Special groups and overnight camping (per person)	\$2.00
The following minimum fees apply to group use at Farragut State Park:	
Thimbleberry	\$70.00
Kestrel	\$120.00
Nighthawk	\$240.00
Buttonhook Area A	\$50.00
Buttonhook Area B	\$80.00
Buttonhook Area C	\$30.00

06. Group Use Fees. TABLE.	
Commercial group fees may be negotiated contact the park manager)	

~~(7-1-96)~~

07. Extra Vehicle. TABLE.	
One (1) extra vehicle allowed to park within the camp spur as long as it fits entirely, or in an overflow area, per night	\$5.00
Extra vehicle cannot be a camping unit.	

~~(1-1-96)~~

07. Extra Vehicle. One (1) extra vehicle is allowed to park either within the camp spur (so long as it fits entirely within the spur), or in an overflow area, per night five dollars (\$5)/day ()

08. Special Charges. TABLE.	
Returned checks - fee charged for checks returned because of insufficient funds	\$10.00

08. Special Charges. A fee of twenty dollars (\$20) will be charged for each check returned for insufficient funds. ()

09. ~~Group Facility Fees. TABLE~~ ()

a. A minimum reservation service charge of twenty-five dollars (\$25) will be charged for each group usereservation. Additional charges may be imposed depending upon the cost of providing services (contact the park manager). ()

b. Groups using overnight facilities shall be charged two dollars (\$2) per person per night camping fees. ()

c. The reservation service charge together with the first night group use fee and any required deposits are required to confirm a group use facility reservation. The reservation service charge is non-refundable. First night group use fee will be refunded if notice of cancellation is provided not later than 2: 00 p.m., local time, ten (10) days prior to date of scheduled arrival. ()

d. Cleaning deposits may be required for certain facilities. Where cleaning deposits are required, they must be paid along with the reservation service charge and first night group use fee. Cleaning deposits will be fully refunded if the facilities are left in the same condition in which they were accepted. ()

e. Commercial group use fees may be negotiated (contact the park manager). ()

f. Fee Table. ()

FARRAGUT STATE PARK	
	<u>(minimum fee per day)</u>
<u>Thimbleberry</u>	<u>\$90.00</u>
<u>Kestrel</u>	<u>\$150.00</u>
<u>Nighthawk</u>	<u>\$300.00</u>
<u>Buttonhook--Larch</u>	<u>\$70.00</u>
<u>Buttonhook--Oceanspray</u>	<u>\$90.00</u>
<u>Buttonhook--Saw-Whet</u>	<u>\$50.00</u>
<u>Cleaning Deposit</u>	<u>\$100.00</u>

HARRIMAN STATE PARK DORMITORY AND COOKHOUSE	
Dormitory (includes use of the <u>and</u> cookhouse) per person per night (fifteen (15) person minimum, forty (40) person maximum).	\$10.00 <u>12.00/night</u>
* Reservation Fee	\$25.00
(refundable up to fifteen (15) days prior to your visit).	
Cleaning Deposit	\$100.00 <u>150.00</u>
<u>Boy's House (Maximum capacity--Seventy (70) persons)</u>	
<u>Up to four (4) hours</u>	<u>\$50.00</u>
<u>Full day</u>	<u>\$80.00</u>
<u>Cleaning deposit</u>	<u>\$50.00</u>
This shall be paid along with the balance of the rental fee no later than fifteen (15) days prior to your visit. The cleaning deposit shall be fully refunded if the buildings are left in the same condition in which they were first accepted.	

GROUP CAMP AT LIONHEAD UNIT OF PRIEST LAKE STATE PARK	
Use of g Group eCamp area per day including ings kitchen and sleeping quarters-	\$150.00 <u>175.00/day</u>
RV hookups per official <u>See</u> fee schedule set by Subsection 250.01. of this chapter.	
* Reservation Fee \$25.00 Cleaning Deposit may be required, not to exceed	\$50.00
This shall be paid along with the reservation fee no later than fifteen (15) days prior to your visit. The cleaning deposit shall be fully refunded if the building is left in the same condition in which it was first accepted.	

THREE ISLAND CROSSING STATE PARK	
<u>Group Camp (per day)</u>	<u>Number of campsites multiplied by the number of nights multiplied by \$6.00 (sites x nights) x \$6.00</u>

THREE MEADOWS GROUP CAMP WITHIN DWORSHAK STATE PARK	
Basic daily rate (includes lodge and two (2) sleeping cabins)	\$195.00 <u>225.00</u>
Lodge rental (day-use only) (per day)	\$50.00 <u>75.00/day</u>
Additional sleeping cabins (per night)	\$45.00 <u>50.00/night</u>
Group leader cabin rental (per night)	\$45.00 <u>50.00/night</u>
Tent sites	\$8.00 <u>9.00/night</u>
RV sites	\$10.00 <u>15.00/night</u>
* Reservation Fee	\$25.00
Cleaning Deposit	\$150.00
* This shall be paid along with the balance of the rental fee no later than fifteen (15) days prior to your visit. The cleaning deposit shall be fully refunded if the buildings are left in the same condition in which they were first accepted.	
* Criteria for group use reservations contained in Section 300 of this chapter applies, except under Subsection 300.01. of this chapter, reservation requests for group facility use shall be accepted for the next calendar year by mail only with a post date on or after October 1. Notwithstanding the provisions of Subsection 300 of this chapter, reservation requests for group use facilities at Three Meadows Group Camp will be accepted by mail on and after October 1 for the following calendar year.	

LAKE WALCOTT STATE PARK	
<u>Group Camp (per day)</u>	<u>Campsite fee plus \$2.00 per person</u>

(7-1-96)()

10. Boating Facilities.

BOATING FACILITIES TABLE	
<u>Vessel launching (per vessel)</u> <u>(Annual park passport, daily MVEF, or payment of camping fees applies toward vessel launching fees)</u>	<u>\$2.00/ day</u>

<u>BOATING FACILITIES TABLE</u>	
<u>Overnight moorage--any length of vessel. (Applicable to persons who have paid for a park campsite and are not camping on the vessel)</u>	<u>\$5.00/night</u>
<u>Overnight moorage--persons camping on vessel</u>	
<u>Vessel under twenty-six (26) feet</u>	<u>\$8.00/night</u>
<u>Vessels twenty-six (26) feet and over</u>	<u>\$11.00/night</u>
<u>Any length vessel moored at buoy</u>	<u>\$5.00/night</u>

- ()
11. RV Dump Station Fees. ()
- a. A fee of two dollars (\$2) shall be charged for use of department dump stations. ()
- b. Annual park passport, daily MVE For payment of campsite fees will apply toward use of RV dump stations. ()
102. Modification Of Fees. Additional fees or deposits may be required for certain uses or for the reservation of certain facilities. The department reserves the right to waive or reduce fees and charges for department sponsored promotions. (7-1-93)
- 1+3. Sales Tax. All fees include applicable state tax. (7-1-93)
124. Length Of Stay. Fifteen (15) days in any thirty (30) day period. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

275. CRITERIA FOR CAMPSITE RESERVATIONS FOR PARKS THAT HAVE A RESERVATION PROGRAM.

01. Confirmation Requirements. Reservation service charge plus first night campsite fee are required to confirm a reservation. ()
- 0+2. Mail Reservations. Reservations, for parks that have a reservation program, shall be accepted only by mail ~~only~~ for a minimum of three (3) calendar months beginning the first working day of January for that calendar year. Reservation requests received prior to the first working day of January shall be returned to the sender. Reservation requests shall be processed according to date received, after the first working day of January. Telephone and walk-in reservations shall be accepted at a later date, to be established at each park. (1-1-94)()
023. Multiple Reservations. A separate reservation, in the occupant's name, with appropriate registration service charges and fees included, in the occupant's name, must be received for each campsite. More than one (1) reservation request may be submitted in one (1) envelope, provided all required information is submitted along with each separate request. Other requirements may apply on an individual park basis. (7-1-93)()
034. Reservation Fees Service Charges. The reservation fee service charge and first night campsite fee for mail-in and telephone reservation requests must be received no later than fifteen (15) days prior to the date of arrival with the reservation request. A walk-in reservation can be made and paid for less than fifteen (15) days in advance of the date of arrival at any time, if an appropriate site is available. (1-1-94)()
045. Campsite Requests. A request for a specific campsite may cannot be honored. An appropriate site

shall be assigned. (1-1-94)()

056. Late Arrival. Reservations shall only be held until 8:00 p.m. of the date of arrival, unless park staff is otherwise notified of a late arrival. Check-in time cannot be guaranteed in any reserved site prior to 2 p.m. on the designated date of arrival. (1-1-94)

067. Fee Reservation Service Charge Non-Refundable. The reservation fee service charge is non-refundable and does not apply to the first night's campsite fee. First night campsite fee will be refunded if notice of cancellation is received twenty-four (24) hours prior to scheduled arrival date (not later than 2:00 p.m., local time, on the day preceding arrival). (7-1-93)()

078. Reservations Non-transferable. Reservations are not transferable. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

300. CRITERIA RESERVING FOR GROUP USE RESERVATIONS FACILITIES.
Further criteria and definitions can be found in Subsection 225.03. and Section 425 of this chapter. (7-1-93)

01. Generally. Unless otherwise provided, Reservation requests for group facility use facilities shall be accepted the first working day of January. Reservations shall be on a first come, first served basis. A completed reservation form, and the required reservation fee service charge, the first night group use fees and all required deposits must be received in the park no more than twenty (20) days after the park mails it to the requester. In no case may a (mail) reservation be accepted if the completed reservation form and the required reservation service charges and fees is are not received by the park ten (10) calendar days before the reserved date. (1-1-94)()

02. Responsible Party. A designated group leader shall be responsible for all facilities and shall be on-site at all times. A damage or cleaning deposit may be required by the park manager as a condition of reservation. (7-1-93)

03. Park Manager Authority. The park manager may deny a reservation to any group whose prior behavior has violated department rules, whose in-park activities are incompatible with the park's operation, or whose in-park activity will violate department rules. (1-1-94)

04. Additional Information. Additional information concerning group use reservations and definitions can be found in Subsection 250.08 of this chapter. ()

(BREAK IN CONTINUITY OF SECTIONS)

325. RENTAL OF STATE-OWNED COTTAGES WITHIN HEYBURN STATE PARK. TABLE.

Cabins Cottages with full utilities (per night)	\$65.00/night
Cabins Cottages with partial utilities (per night)	\$35.00/night
Rental to any person shall be for a minimum of five (5) days and a maximum of fourteen (14) days in any thirty (30) day period. A six dollar (\$6) nonrefundable reservation fee shall be charged, and provisions of Section 300. of this chapter apply. A cleaning deposit of twenty-five dollars (\$25) may be required.	

(1-1-96)()

(BREAK IN CONTINUITY OF SECTIONS)

350. RENTAL OF STATE-OWNED COTTAGE WITHIN LAKEVIEW VILLAGE ADJACENT TO PONDEROSA STATE PARK. TABLE.

In-season (Memorial Day weekend through Labor Day weekend) per night , two (2) night minimum	\$75.00/ <u>night</u>
Off-season, per night , two (2) night minimum	\$55.00/ <u>night</u>
Six (6) night, seven (7) day package	\$300.00
Monthly	\$600.00
Reservations are available subject to the terms of Section 275. of this chapter. A cleaning deposit may be required.	

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

375. RENTAL RATES FOR MOBILE HOME SITES AND LONG-TERM CAMPING SITES WITHIN LAKEVIEW VILLAGE ADJACENT TO PONDEROSA STATE PARK. TABLE.

Residential lakefront mobile home sites	
(Used more than six (6) months per year and outside of the summer season, May 1 through October 31)	\$250.00/month
or	\$3,000.00/year
Recreational lakefront mobile home sites	
(Used six (6) months or less per year during the summer season, May 1 through October 31)	\$210.00/month
or	\$2,520.00/year
Residential non-lakefront mobile home sites	
(Used more than six (6) months per year and outside of the summer season, May 1 through October 31)	\$240.00/month
or	\$2,880.00/year
Recreational non-lakefront mobile home sites	
(Used six (6) months or less per year during the summer season, May 1 through October 31)	\$200.00/month
or	\$2,400.00/year
Long-term camping sites, lakeside, per month	\$299.00/ <u>month</u>

Long-term camping sites, second-row, per month	\$286.00/ month
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(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

400. RENTAL RATES FOR SHORT-TERM CAMPING SITES WITHIN LAKEVIEW VILLAGE ADJACENT TO PONDEROSA STATE PARK. TABLE

Overnight camping, per night,	\$13.00 18.00/ night
(less than thirty (30) nights) (see Subsection 250.01. of this chapter).	
Overnight camping, per night, (thirty (30) nights or more, paid in advance) shall be at the same rate as established in Section IDAPA 26-01-20-375 of this chapter for long-term camping sites with additional days pro rated at the monthly rate.	
Reservations are available subject to the terms of Section 275- of this chapter.	

(7-1-94)()

(BREAK IN CONTINUITY OF SECTIONS)

450. SWIMMING AND BOATING WATER USE.

01. Swimming. In waters located in or adjacent to lands administered by the department, swimming is authorized only in areas plainly marked for swimming. Swimming shall be at an individual's own risk. (1-1-94)

02. Glass Containers. No glass containers are allowed on beaches or swim areas. The park manager may grant an exception to this provision in order to accommodate individuals with disabilities. (1-1-94)

03. Restricted Areas. ~~Boats~~ Vessels shall remain clear of ~~swimmers and designated~~ swimming areas. The director may regulate or exclude boating from areas of heavy swimming use. (1-1-94)()

04. Ramps and Docks. Within lands administered by the department, no boat camping is allowed tied up to or on loading docks next to boat ramps. The park manager may prohibit ~~boats~~ vessels from tying up to docks used by swimmers or water skiers. Docks for general public use may be used for ~~boat~~ vessel tie up and boat camping. ~~Section 200. of this chapter applies to boat campers. No fee may be charged boat campers unless they move from their boat to a campground and use campground facilities.~~ (1-1-94)()

05. Compliance With Laws. ~~Boats~~ Vessels operating on public waters administered by the department shall fully comply with the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code and the rules promulgated thereunder. The director may establish rules prohibiting the use of boat motors or to limit the horsepower capacity on those ~~crafts~~ vessels operating on waters administered by the department. (1-1-94)()

(BREAK IN CONTINUITY OF SECTIONS)

525. FIRES.

The use of fires shall be restricted to fire circles, grills or other places otherwise designated by the park manager. All fires shall be kept under control at all times, and shall be extinguished before checking out of the campground site or whenever fire is left unattended. Areas may be closed to open fires during extreme fire danger. ~~(1-1-94)~~()

(BREAK IN CONTINUITY OF SECTIONS)

600. PERSONAL SAFETY, FIREARMS.

No person may discharge firearms or any other projectile firing device, or otherwise purposefully or negligently endanger the life of any person or creature within any land administered by the department. All firearms brought onto lands administered by the department shall be unloaded; at all times and either out of sight, or in a vehicle, except when used for legal hunting, as authorized by the director or for exhibition; as authorized by the director. ~~(1-1-94)~~()

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

**26.01.34 - RULES GOVERNING THE ADMINISTRATION OF THE
RECREATIONAL VEHICLE ACCOUNT**

DOCKET NO. 26-0134-9601

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules are effective upon the conclusion of the 1997 Legislative Session, conditional upon approval by the legislature. Temporary rules, effective July 3, 1996, will remain in effect until replaced by the permanent rule.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a final rule. The action is authorized pursuant to Sections 67-4223(a) and (e), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule as adopted by the Idaho Park and Recreation Board on November 8, 1996 was identical to the proposed rule, which was published in the July 3, 1996 Idaho Administrative Bulletin, Vol No. 96-7, pages 82 through 89.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Rinda Just, Deputy Attorney General, P. O. Box 83720, Boise ID 83720-0010, (208) 334-4120 (relay service is available by calling 1-800-377-1363 (voice) or 1-800-377-3529 (TDD)).

Dated this 18th day of November, 1996

Rinda Just, Deputy Attorney General
P. O. Box 83720
Boise, ID 83720-0010
Phone: (208) 334-4120 (relay service is available
by calling 1-800-377-1363 (voice) or
1-800-377-3529 (TDD)).

**IDAPA 26
TITLE 01
Chapter 34**

**RULES GOVERNING THE ADMINISTRATION OF THE
RECREATIONAL VEHICLE ACCOUNT**

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-7, July 3, 1996,
Pages 82 through 89.**

**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 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION
26.01.38 - RULES GOVERNING THE ADMINISTRATION OF THE STATE TRUST FOR
OUTDOOR RECREATION ENHANCEMENT (STORE) AND THE RECREATION
AND ENERGY CONSERVATION PATHWAYS (RECP) PROGRAMS

DOCKET NO. 26-0138-9701

NOTICE OF PROPOSED AND TEMPORARY RULE-MAKING

EFFECTIVE DATE: These temporary rules will be effective from November 11, 1996 until replaced by permanent rules following the conclusion of the 1998 legislative session.

SUBJECT: Temporary and permanent Rules Governing the Administration of the State Trust for Outdoor Recreation Enhancement (STORE) and the Recreation and Energy Conservation Pathways (RECP) Programs.

ACTION: The proposed action, under Docket No. 26-0138-9701, involves the addition of a new chapter (Chapter 38) to the administrative rules of the Idaho Department of Parks and Recreation. The new chapter establishes a process for the granting of state and federal moneys to state and local governmental entities for purposes of enhancing public outdoor recreation opportunities. Temporary rules are necessary to enable the department to immediately begin accepting grant applications for RECP funds.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency had adopted temporary rules and initiated a proposed rule-making. The temporary and proposed rule-making is authorized pursuant to Sections 67-4223, and 67-4249, 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. The request must be made within fourteen (14) days of the date of publication of this notice in the Administrative Bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later.

Any hearing sites will be accessible to the physically disabled. Interpreters for persons with hearing impairments and Braille or taped information for persons with visual impairments can be provided upon five days' notice. For arrangements, contact Rinda Just, Deputy Attorney General, at (208) 33-4120 (relay service is available by calling 1-800-377-1363 (voice) or 1-800-377-3529 (TDD)).

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rule:

IDAPA 26, Title 01, Chapter 38 provides for the definition of terms used in the chapter; establishes the allocation of STORE and RECP funds; sets forth eligibility requirements for applicants; establishes project time limitations; sets out eligibility criteria and matching share requirements; addresses requirements for the acquisition of real property and structures; establishes the funding cycle and related application time requirements; sets out the process for selecting projects; establishes procedures for disbursing grant funds; requires sponsors have control and tenure over property to be developed with grant assistance; provides for project changes, cost increases, and time extensions; prohibits conversion of grant assisted projects from outdoor recreation use without prior approval of the park and recreation board; sets out requirements for management of grant assisted projects; and mandates compliance with applicable federal statutory requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rinda Just, Deputy Attorney General, at the address and telephone below.

Anyone may submit written comment regarding the proposed rules. All written comments and data concerning the proposed rule must be directed to Rinda Just, Deputy Attorney General, at the address below, and must be postmarked or delivered on or before January 24, 1997.

Dated this 15th day of November, 1996

Rinda Just, Deputy Attorney General
P. O. Box 83720, Boise, ID 83720-0010

Phone: (208) 334-4120 (relay service is available by calling 1-800-377-1363 (voice)
or 1-800-377-3529 (TDD)).

TEXT OF DOCKET NO. 26-0138-9701

IDAPA 26
TITLE 01
Chapter 38

**RULES GOVERNING THE ADMINISTRATION OF THE STATE TRUST FOR
OUTDOOR RECREATION ENHANCEMENT (STORE) AND THE RECREATION
AND ENERGY CONSERVATION PATHWAYS (RECP) PROGRAMS**

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-4223 and Section 67-4249, Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the department and its programs. (11-8-96)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter shall be cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26, Title 01, Chapter 38, "Rules Governing the Administration of the State Trust for Outdoor Recreation Enhancement and the Recreation and Energy Conservation Pathways Program." (11-8-96)T

02. Scope. This chapter establishes procedures for the administration of the State Trust for Outdoor Recreation Enhancement (STORE) program and the Recreation and Energy Conservation Pathways (RECP) program, including requirements for project application, eligibility, review, award and management. (11-8-96)T

002. WRITTEN INTERPRETATIONS.

This agency has written interpretations of these rules, in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules, or documentation of compliance with IDAPA 26.01.01.150, "Rules of Administrative Procedure of the Idaho Park and Recreation Board." In addition, Participation Manuals and Internal Procedures Manuals referred to in this chapter provide additional interpretation of these rules. These documents are available for public inspection and copying in the central office of the agency. (11-8-96)T

003. APPEALS.

Any applicant who may be adversely affected by a final decision, ruling, or direction of the director may appeal such decision, ruling or direction as outlined under IDAPA 26.01.01.250, "Rules of Administrative Procedure of the Idaho Park and Recreation Board." (11-8-96)T

004. -- 005. (RESERVED).

006. CITATION.

The official citation of this chapter is IDAPA 26.01.38.000 et seq. For example, the citation for this section is IDAPA 26.01.38.006. (11-8-96)T

007. PURPOSE.

The purpose of these rules is to provide guidelines for the administration of the STORE and RECP programs which enhance Idaho's local and state park and outdoor recreation opportunities. (11-8-96)T

008. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: (11-8-96)T

01. Acquisition. The gaining of rights of public use by purchase or donation of fee or less than fee interests in real property. (11-8-96)T

02. Applicant. An eligible public entity which solicits a grant of funds from IDPR for a project or is responsible for administering the grant or funding of an approved application or completed project. (11-8-96)T

03. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. (11-8-96)T

04. Development. The act of physically improving an area or constructing facilities necessary to increase its ability to serve outdoor recreation purposes. (11-8-96)T

05. Director. The director and chief administrator of IDPR or the designee of the director. (11-8-96)T

06. Evaluation Committee. Representatives from the governor's office, the legislature, the board, Idaho communities, and the private sector that ranks projects based on established criteria, and assists IDPR staff in making funding recommendations to the Board. The committee is established pursuant to section 62-4247A, Idaho Code. (11-8-96)T

07. Fiscal Year. The state accounting year from July 1 through June 30. (11-8-96)T

08. Force Account. The matching share that is provided through use of applicant's staff, equipment and materials when such contributions are verifiable from the records, and are necessary and reasonable for proper and efficient completion of the project. (11-8-96)T

09. IDPR. The Idaho Department of Parks and Recreation. (11-8-96)T

10. Participation Manual and Internal Procedures Manuals. A compilation of state procedures, rules, and instructions that have been assembled in manual form and which have been approved by the board for dissemination to the public and public entities that may wish to participate in grant programs of IDPR. (11-8-96)T

11. Planning. The development of documents and programs to identify and propose actions for managing recreational resources and the preparation and review of designs and specifications for such resources. (11-8-96)T

12. Project. The undertaking which is or may be funded in whole or in part with funds administered by IDPR. (11-8-96)T

13. Project Selection Process. The overall objective decision-making process by which IDPR selects projects for funding. (11-8-96)T

14. RECP. The Recreation and Energy Conservation Pathways Program. (11-8-96)T

15. Retroactive Cost. Costs incurred after receipt of application but prior to the execution of the project contract. (11-8-96)T

16. Scope Element. A specific item; for example, one (1) facility or amenity, listed on a project application or project agreement which is a part of the whole. (11-8-96)T

17. SCORP/SCORTP. Statewide Comprehensive Outdoor Recreation Plan/Statewide Comprehensive Outdoor Recreation and Tourism Plan. (11-8-96)T

18. STORE. State Trust for Outdoor Recreation Enhancement. (11-8-96)T

011. -- 024. (RESERVED).

025. APPLICABLE REQUIREMENTS.

Grant administration is subject to all applicable state and federal statutes, rules, regulations, ordinances and requirements. (11-8-96)T

026. -- 039. (RESERVED).

040. APPLICABILITY OF RULES.

These rules shall apply to both the STORE and RECP programs unless otherwise specified herein. (11-8-96)T

041. -- 054. (RESERVED).

055. STORE FUND ALLOCATION.

01. Administrative costs. Up to fifteen percent (15%) of the STORE fund interest income appropriated to the IDPR each year may be used by the IDPR to defray administrative costs of the STORE program. (11-8-96)T

02. Overruns and Emergencies Holdback. Ten percent (10%) of the total allocation may be held back for needed cost overruns, and emergency needs. (11-8-96)T

03. Allocation to Rural Areas. To assure that the needs of rural areas are met, twenty percent (20%) of STORE fund interest income remaining after the deduction of administrative costs and overruns and emergency holdbacks will be dedicated for use by local public entities serving populations of five thousand (5,000) or less. Public entities serving populations of five thousand (5,000) or more and all state agencies may compete for the total remaining allocation. (11-8-96)T

04. Rural Applications in Excess of 20%. If the cumulative request of the local public entities serving populations of five thousand (5,000) or less exceeds the twenty percent (20%) of fund interest income allocated to rural applications, then unsuccessful rural applicants may compete for the total remaining allocation. (11-8-96)T

05. Project Requests Insufficient. The board is not required to distribute all available funds in a given year. IDPR staff may recommend, and the board determine, to reject projects with the evaluation scores so low as to be noncompetitive. (11-8-96)T

056. -- 069. (RESERVED).

070. RECP FUND ALLOCATION.

01. Administrative Costs. RECP funds allocated to IDPR may be used for program staff, travel and general administrative expenses of the RECP program. (11-8-96)T

02. Project Request Insufficient. IDPR is not required to distribute all available funds in a given year. IDPR staff may recommend, and the board determine, to reject projects with the evaluation scores so low as to be noncompetitive. (11-8-96)T

071. -- 084. (RESERVED).

085. ELIGIBLE APPLICANTS.

01. STORE. The state of Idaho and any of its subdivisions legally authorized to provide public recreation facilities may apply for and receive grant funds. (11-8-96)T

02. RECP. The state of Idaho and any of its subdivisions legally authorized to provide energy efficient public bicycle and pedestrian pathways are eligible to receive or apply for RECP grant funds. (11-8-96)T

086. -- 099. (RESERVED).

100. PROJECT TIME LIMITATIONS.

Unless otherwise specified within an individual contract, all projects shall be completed by the applicant within twenty-four (24) months of the contract signing. (11-8-96)T

101. -- 114. (RESERVED).

115. STORE ELIGIBLE PROJECTS AND AVAILABLE GRANT SHARE.

The applicant's matching share may include local funds, acceptable state or federal funds, force account, or donation of privately owned lands, goods or services. (11-8-96)T

01. Capital Improvements. Up to fifty percent (50%) of the cost to renovate and revitalize time worn public outdoor recreation facilities, public natural areas and school outdoor sports facilities and playgrounds. Funds may be used for structural repairs to recreation facilities such as painting, roofing, upgrading rest rooms and showers, sodding, lighting, and purchasing costly maintenance equipment such as mowers, vehicles and irrigation equipment. (11-8-96)T

02. New Development. Up to fifty percent (50%) of the cost to develop new public outdoor recreation facilities, public natural areas and school outdoor sports facilities and playgrounds. (11-8-96)T

03. Real Property Acquisition. Up to fifty percent (50%) of the cost to acquire real property for outdoor recreational purposes see Sections 205 and 235 of this chapter). (11-8-96)T

04. Donated Property Acquisition. Up to one hundred percent (100%) of the total matching value of donated property when the match is used to develop new public outdoor recreation facilities, public natural areas and school outdoor sports facilities and playgrounds within a two year period. At a minimum the value of the donated property shall meet or exceed fifty percent (50%) of the project's value at completion. (11-8-96)T

05. Recreational Assessments and Planning. Up to fifty percent (50%) of the cost for recreation needs assessment, planning or program advertising initiated by the STORE evaluation committee. (11-8-96)T

06. Participation In IRRP. Up to fifty percent (50%) of the cost for rural communities to participate in the Idaho Rural Recreation Program (IRRP). (11-8-96)T

07. Education and Law Enforcement. Up to fifty (50%) percent of the costs to education and law enforcement agencies for recreation projects related to the provision of alternative activities (to crime and delinquency) for youth and young adults. (11-8-96)T

116. -- 129. (RESERVED).

130. STORE INELIGIBLE PROJECTS.

01. No Direct Benefit. Acquisition or facility development which does not contribute directly to general public outdoor recreation facilities or activities. (11-8-96)T

02. Maintenance. Costs to maintain facilities. (11-8-96)T

131. -- 144. (RESERVED).

145. RECP ELIGIBLE PROJECTS AND APPLICANT'S MATCHING SHARE.

01. Matching Share. RECP requires a minimum applicant match of 20%. The applicant's share can be either local funds, acceptable state or federal funds, force account, or donation of privately owned lands, goods or services. (11-8-96)T

02. Permissible Uses. An applicant may use RECP funds for the following projects provided they

- enhance energy efficiency or energy conservation: (11-8-96)T
- a. Construction of urban pedestrian/bicycle paths and corridors; (11-8-96)T
 - b. Restoration and improvements to existing pedestrian/bicycle paths; (11-8-96)T
 - c. Provision of features which facilitate the access and use of pedestrian/bicycle paths by persons with disabilities; (11-8-96)T
 - d. Acquisition of easements for pedestrian/bicycle paths, or corridors; (11-8-96)T
 - e. Acquisition of fee simple title to property for pedestrians/bicycle paths, or corridors from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means; (11-8-96)T
 - f. Design and engineering costs related to a project limited to 12% of the project. (11-8-96)T
03. Donated Land. The program may match up to the value of land donated from a private owner for a pedestrian/bicycle path provided the funds will be used for development of the path and that the path will contribute to energy efficiency (see Section 220 of this chapter). (11-8-96)T

146. -- 159. (RESERVED).

160. RECP INELIGIBLE PROJECTS.

- Examples of uses for which an applicant may not use RECP funds: (11-8-96)T
- 01. Construction of Path Items or Facilities. Construction of path items or facilities not related to energy efficiency such as rest rooms, or landscaping; (11-8-96)T
 - 02. Property Acquired. Property acquired through condemnation; (11-8-96)T
 - 03. General Project. General project planning; (11-8-96)T
 - 04. Administrative Expenses. Administrative expenses of the applicant; (11-8-96)T
 - 05. Appraisal Costs. Appraisal costs except for appraisals related to donated properties. (11-8-96)T

161. -- 174. (RESERVED).

175. WAIVER OF RETROACTIVITY.

- 01. Written Application. IDPR may grant permission to a applicant to proceed prior to normal processing of an application through a written waiver of retroactivity. This shall not be construed as a qualitative approval of the proposed project. Should the project subsequently be approved, the costs incurred shall be eligible for assistance. A written application must be made to IDPR requesting a waiver of retroactivity. The waiver must be approved by a majority of the evaluation committee. (11-8-96)T
- 02. Conditions of Waiver. A waiver shall be granted only if program moneys are available and only if an emergency situation warrants it. (11-8-96)T
- 03. Limitations. (11-8-96)T
 - a. Retroactive development costs must be specifically requested in the project application. (11-8-96)T
 - b. Costs incurred by the applicant prior to issuance of a waiver of retroactivity by IDPR are not eligible for reimbursement. (11-8-96)T

04. Provision of Funds. The department may not provide funds to applicants to initiate projects until contracts are formally approved. (11-8-96)T

176. -- 189. (RESERVED).

190. PARK AND SCHOOL DEVELOPMENT PROJECTS.

School projects may be eligible for STORE and RECP funding, provided the following criteria are met: (11-8-96)T

01. Design and Location. The project must be clearly designed and located to meet identified needs for general public recreation; (11-8-96)T

02. Outdoor Recreation and Education Use. The project may be used by school districts for outdoor education, physical education, and school athletics; (11-8-96)T

03. Access Not Restricted. General public recreation use is not unreasonably restricted by scheduled school activities (see Subsection 670.02.c. of this chapter); (11-8-96)T

04. Consistent With Program Goals. The project must be consistent with the goals of the STORE and RECP programs. (11-8-96)T

191. -- 204. (RESERVED).

205. ACQUISITION OF PRIVATELY OWNED LANDS.

01. Fee Purchase. The cost of acquiring privately owned real property may be matched when the transfer of title to the applicant has not been accomplished prior to the execution of the project contract, unless such action has been previously approved by IDPR under the waiver of retroactivity procedure (see section 175 of this chapter). The STORE program shall not reimburse the cost of real property that is acquired by condemnation unless the condemnation is done for the convenience of and approval of the seller. (11-8-96)T

02. Less Than Fee Purchase. Purchase of less than fee interest, such as easements and development rights, shall be considered and shall be subject to the following conditions: (11-8-96)T

a. The interest cannot be revocable; (11-8-96)T

b. The value can be supported through standard appraisal techniques; and (11-8-96)T

c. Recreation can be demonstrated as the primary purpose of the donation. (11-8-96)T

206. -- 219. (RESERVED).

220. DONATED REAL PROPERTY AS MATCHING SHARE.

01. Generally. The value of privately owned donated real property may be used as a portion of or as all of the applicant's matching share of an approved project when the transfer of title to the applicant has not been accomplished prior to the execution of the project contract (unless the donation had been previously approved by IDPR under the waiver of retroactivity procedure, see section 175 of this chapter). (11-8-96)T

02. Limitations. The donations shall consist of real property which would normally qualify for program funding. (11-8-96)T

a. If the donation does not adjoin the tract being acquired or is not being developed in whole or as part of an acceptable public recreation area, then it shall stand on its own merits in order to be considered an eligible donation. The project shall be within the jurisdiction of the applicant. (11-8-96)T

b. The amount of the donation that may be matched is the value of the land donation up to the limit of the local agency's share required to develop the project. The maximum reimbursed by IDPR shall never exceed the

cash expended on the project. (11-8-96)T

03. Appraisal Required. The value of the donation shall be established by an appraisal report prepared under the provision of Section 355 of this chapter. (11-8-96)T

04. Less than Fee Donation. Donations of less than fee interest, such as easements and development rights, shall be considered and shall be subject to the following conditions: (11-8-96)T

a. The interest cannot be revocable; (11-8-96)T

b. The value can be supported through standard appraisal techniques; and (11-8-96)T

c. Recreation can be demonstrated as the primary purpose of the donation. (11-8-96)T

221. -- 234. (RESERVED).

235. ACQUISITION OF PUBLICLY OWNED LANDS.

01. Purchase. The value of land to be acquired by the applicant from another public entity is eligible for matching assistance provided the land has not been in recreation use, and provided that the seller agency is required by law to be reimbursed for the land. (11-8-96)T

02. Donation. The value of land donated to the applicant from another public entity is eligible for matching assistance provided the land has not been in recreation use (see Section 220 of this chapter). (11-8-96)T

236. -- 249. (RESERVED).

250. ACQUISITION OF STRUCTURES.

01. Support Facilities. Structures which are acquired, are proposed to be retained, and are incidental to the land, are eligible for STORE funding if they are to be used primarily for support facilities for outdoor recreation activities. Applicants may receive 50% matching funds to purchase the structure. If the structure is donated, an applicant may use its value to leverage 100% matching funds which must be used for development of the project (see Subsection 115.04 of this chapter). The anticipated use shall be clearly identified in the project application so that IDPR may exercise reasonable judgment in determining the eligibility of the structure for funding assistance. (11-8-96)T

02. Incidental Structures. Structures which are proposed to be retained and which do not enhance recreation use are considered incidental and are not eligible for STORE grant assistance. (11-8-96)T

03. RECP Funds. RECP funds can be used to acquire structures which are necessary to enhance energy efficiency pathway activities. Example: an abandon railroad trestle that connects a pathway that is being developed. The anticipated use shall be clearly identified in the project application so that IDPR may exercise reasonable judgment in determining the eligibility of the structure for funding assistance. (11-8-96)T

251. -- 264. (RESERVED).

265. ENCUMBRANCES.

Property rights obtained with STORE or RECP funds must be free of all reservations or encumbrances which would limit the use of the site disproportionate to the public benefit. (11-8-96)T

266. -- 279. (RESERVED).

280. ACQUISITION COSTS EXCEEDING FAIR MARKET VALUE.

An approved appraisal is an acceptable estimate of property value (see Section 355 of this chapter). The negotiation between a willing seller and a willing buyer may set a donation value that is higher than the appraisal, and this marketplace value can be considered along with the appraised value in establishing the reasonable limits of

assistance. If the applicant believes that the negotiated value is a better indication of market value, yet it is higher than the appraised value, a detailed and well documented statement of this difference shall be submitted, together with a formal request so that IDPR may exercise reasonable judgment in determining the eligibility of the structure for funding assistance. (11-8-96)T

281. -- 294. (RESERVED).

295. ACQUISITIONS INVOLVING COMPATIBLE MULTIPLE USES.

Non-recreation uses, such as timber management, grazing, and other natural resource uses, may be carried out on project lands if they are clearly compatible with and secondary to recreation use and are approved by IDPR prior to execution of the project contract. (11-8-96)T

296. -- 309. (RESERVED).

310. ACQUISITIONS INVOLVING NON-RECREATION USE.

01. Limited Non-Public Use. Lands acquired with STORE or RECP funds are immediately dedicated to public use. In the interim period between acquisition and planned development, the public cannot be permanently denied use. In some instances during this period, the temporary continuation of non-public uses of these areas may be appropriate if not at the expense of public use. Continuation of existing non-public uses shall be approved by IDPR. When approved by IDPR, the use shall be phased out within three (3) years from the date of the acquisition. (11-8-96)T

02. Life Estates. Life estates, whereby an owner is allowed to use the property to the end of his/her life, is an allowable use provided the following conditions are met: (11-8-96)T

- a. The life estate shall not totally limit public use of the site; (11-8-96)T
- b. The value of the life estate is established through acceptable appraisal techniques; and (11-8-96)T
- c. The life estate provisions are approved by IDPR. (11-8-96)T

311. -- 324. (RESERVED).

325. DONATED SERVICES, MATERIALS AND EQUIPMENT AS MATCHING SHARE.

01. Generally. Donated services, materials and equipment are eligible for reimbursement. Allowable rates shall be agreed upon by IDPR prior to initiation of construction and shall be in accordance with current state rules. Partial reimbursement on projects involving such donations shall be limited to the amount of actual cash outlay by the applicant. (11-8-96)T

02. Excess Value. Donated services above the needs for a project are not eligible for further funding assistance. (11-8-96)T

03. Requirements. Donated services may be furnished by professional and technical personnel, consultants, and other skilled or unskilled labor. The services shall be an integral and necessary part of an approved project. Rates for donated services shall be consistent with those paid for similar work in other activities of the state or local government. In those instances in which the required skills are not found in the applicant's organization, rates shall be consistent with those paid for similar work in the labor market. (11-8-96)T

326. -- 339. (RESERVED).

340. FORCE ACCOUNT AS MATCHING SHARE.

All or a portion of the applicant's share can be provided through force account (i.e., use of applicant's staff and equipment) when such contributions are verifiable from the applicant's records, are not included as contributions for any other grant program, and are necessary and reasonable for proper and efficient accomplishment of the project. (11-8-96)T

341. -- 354. (RESERVED).

355. APPRAISAL REQUIREMENTS.

Real estate appraisals are required for all land to be acquired or donated. The appraisal shall be prepared and paid for by the applicant. The type of appraisal to be used shall be determined by the cost of the property and difficulty of the appraisal assignment. All appraisals shall be done according to "Uniform Appraisal Standards for Federal Land Acquisitions." (11-8-96)T

356. -- 369. (RESERVED).

370. APPRAISAL REVIEWS.

IDPR shall review appraisals as necessary. Any appraisal report that does not meet the basic content requirements or use correct analysis procedures shall be corrected to the satisfaction of IDPR. All costs shall be paid by the applicant. (11-8-96)T

371. -- 384. (RESERVED).

385. REVENUE FEASIBILITY STUDIES.

At the discretion of the director, a feasibility report may be required prior to funding consideration by the board. Specifically, it shall provide the director with detailed financial information and data which shall be incorporated in staff recommendations to the board. This report shall be paid for by the applicant. (11-8-96)T

386. -- 399. (RESERVED).

400. TECHNICAL REVIEW.

At the discretion of the director, a technical report prepared by a licensed, certified engineer may be required prior to funding consideration by the board. This report shall be paid for by the applicant. (11-8-96)T

401. -- 414. (RESERVED).

415. FUNDING CYCLE.

01. Generally. A funding cycle shall be held at a minimum of once every two (2) years. However, subject to the level of funding, the board may reschedule a funding cycle through formal action at any regular or special meeting. (11-8-96)T

02. Procedure. The funding cycle shall consist of the following: (11-8-96)T

a. Notification to begin a funding cycle shall be made no less than ninety (90) days before applications are due; (11-8-96)T

b. The evaluation committee meeting shall be held within one hundred twenty (120) days of the application due date; (11-8-96)T

c. Recommendations shall be formulated by IDPR staff within thirty (30) days following the evaluation committee meeting and shall be made to the board no later than the next regularly scheduled meeting; (11-8-96)T

d. Subject to the level of funding, the board may suspend through formal action at any regular or special meeting the evaluation committee meeting and may elect to adopt staff recommendations; (11-8-96)T

03. Fees. At the discretion of the director, fees may be charged for the application process. When charged, fees shall be assessed equally on all applicants. (11-8-96)T

416. -- 429. (RESERVED).

430. APPLICATION PROCEDURE.

01. Initial Review. Participation manuals are available to guide applicants in preparing projects for funding consideration. Materials submitted for consideration shall be reviewed by IDPR staff for completeness and for project eligibility. Once all application materials are submitted and a project is determined to be potentially eligible under criteria established in the project selection process, the evaluation committee shall review and score it. (11-8-96)T

02. Eligible Projects. Full application materials shall be submitted to IDPR for final review by the evaluation committee (see Section 460 of this chapter). Eligible projects shall be ranked according to the project selection process (see Section 445 of this chapter), and approved by the board (see Section 475 of this chapter). Projects not meeting control and tenure requirements will be rejected (see Section 535 of this chapter). (11-8-96)T

431. -- 444. (RESERVED).

445. PROJECT SELECTION PROCESS.

01. Generally. The procedures outlined in the project selection process through the SCORTP process are for the purpose of defining criteria which a proposed project shall meet in order to be eligible for funding and to establish priorities on the basis of which competing eligible projects can be rated objectively. The intent is to ensure that available funds are used to fund those projects which most nearly satisfy the intent of the STORE legislation, meet the requirements of the RECP and the recreational needs of the people of Idaho. (11-8-96)T

02. Requirements. Requirements for the SCORTP can be found at Idaho Code section 67-4223 (h). (11-8-96)T

03. Availability. Copies of the SCORTP and the project selection process criteria used in prioritizing those projects submitted for assistance may be obtained from IDPR. Typically, this criteria is provided in all application guidelines. (11-8-96)T

04. Subject to The Level of Funding. The board may elect to suspend the project selection process through formal action at any regular or special meeting. (11-8-96)T

446. -- 459. (RESERVED).

460. EVALUATION COMMITTEE.

The committee shall rank projects based on its review of the application. It shall rate all projects based on the selected criteria found in the project selection process. The evaluation committee includes members as identified in Idaho Code section 67-4247. (11-8-96)T

461. -- 474. (RESERVED).

475. BOARD REVIEW AND APPROVAL.

The board reviews the priority list established by the evaluation committee as provided by IDPR staff and shall consider it in approving projects. (11-8-96)T

476. -- 489. (RESERVED).

490. PROCEEDING ON THE PROJECT.

After project approval, IDPR staff shall assist the applicant in meeting program requirements including providing information on the steps and required documentation for donation and development projects along with financial responsibilities and allowable costs. The applicant shall complete work on the project according to the scope elements in the project contract (see Section 520 of this chapter). (11-8-96)T

491. -- 504. (RESERVED).

505. DISBURSEMENT OF FUNDS.

01. Authorization. Except as otherwise provided herein, the director shall authorize disbursement of funds allocated to a project on a reimbursement basis. This means that the applicant shall initially incur all project costs and then seek reimbursement through IDPR. (11-8-96)T

02. Documentation.

a. Reimbursement may not be made by IDPR until deed, title insurance and appraisal requirements are satisfied on all projects. (11-8-96)T

b. Reimbursement may be made on development or combination acquisition and development projects once construction shows evidence and reasonable progress toward the completion of all scope elements and program requirements. (11-8-96)T

03. Partial Reimbursement. Partial reimbursement shall not be made for projects where the applicant's matching share is less than fifteen thousand dollars (\$15,000). When reimbursement is granted prior to project completion, the applicant shall receive a reimbursement for percentage of eligible costs up to the percentage of matching funds (normally 50%) identified in the project contract less a fifteen percent (15%) hold back. When the project has been completed and receives final approval from IDPR, the applicant shall be paid the fifteen percent (15%) hold back. If multiple payments are to be incurred as part of the project, the final payment may be used as the fifteen percent (15%) hold back. (11-8-96)T

04. Request for Reimbursement. Reimbursement shall be requested by applicants on voucher forms provided by IDPR and shall include all required documentation. The amount of reimbursement shall never exceed the cash expended on the project. (11-8-96)T

506. -- 519. (RESERVED).

520. PROJECT CONTRACT.

For every funded project, a project contract shall be executed. The project contract shall be prepared by IDPR staff subsequent to approval of the project. Upon execution by the applicant, the parties shall thereafter be bound by the project contract terms. The applicant may not proceed with the project until the project contract has been executed. (11-8-96)T

521. -- 534. (RESERVED).

535. CONTROL AND TENURE.

The applicant shall maintain adequate control and tenure of the area developed or acquired. In the event that use may later prove to be incompatible with public uses of the site, the site shall be declared converted and the applicant required to mitigate any change from the intended use of the property as outlined in the project contract (see Section 640 of this chapter). (11-8-96)T

536. -- 549. (RESERVED).

550. APPLICABILITY.

All requirements apply to each area or facility, regardless of the extent of assistance. When development assistance is given to a project limited to less than a complete recreational property, all lands immediately adjacent to that development which are designated as recreational property shall be identified as being within the project boundary and shall be subject to program guidelines. The project area will be determined by the Supervisor of Outdoor Recreation Programs in cooperation with the applicant prior to the grant award. (11-8-96)T

551. -- 564. (RESERVED).

565. APPLICANT COMMITMENT.

An appropriate document from the applicant's governing body evidencing commitment to the project and to program requirements (ordinance, resolution, etc.) shall be submitted to IDPR prior to IDPR project approval. (11-8-96)T

566. -- 579. (RESERVED).

580. RESTRICTION ON TITLE.

Land donated in fee or developed with these funds shall be dedicated to outdoor recreation use in perpetuity by a recorded "Deed of Right to Use Land for Public Recreation Purposes." This deed shall be executed and recorded by the applicant after it has taken title to the property and before it applies for reimbursement. (11-8-96)T

581. -- 594. (RESERVED).

595. RECORDS.

01. Records Held by IDPR. The records maintained by IDPR relative to any grant project are public records and will be managed as specified under the Idaho Public Records Act, Idaho Code section 9-337, et seq. and IDAPA 26.01.01.300. (11-8-96)T

02. Records Held by Applicant. Applicants are required to make project records available to the public pursuant to the Idaho Public Records Act, Idaho Code section 9-337, et seq. (11-8-96)T

596. -- 609. (RESERVED).

610. PROJECT AMENDMENTS, COST INCREASES AND TIME EXTENSIONS.

01. Amendments. The project contract may be amended by execution of a project amendment. All amendment requests shall be made in writing and shall include a detailed justification. Applicants are expected to complete projects as originally proposed and evaluated. However, amendments for minor changes in scope may be requested. Cost increases of twenty-five percent (25%) or more or changes in project elements which change the total project cost by twenty-five percent (25%) or more shall require that the project be presented as a totally new proposal and compete through the PROJECT SELECTION PROCESS (see Sections 430 through 475 of this chapter), during a current funding cycle. Should the revised project not receive enough points to be funded, the applicant shall be required to complete the scope of the project as originally proposed at its expense or return any funds reimbursed so that the project may be canceled and the funds reallocated. This section does not apply to SCORTP projects. (11-8-96)T

02. Cost Increases On Development Projects. For cost increase requests on development projects to be considered, all of the following requirements shall be met: (11-8-96)T

a. The increase, or any portion thereof, is to be used only for costs incurred on elements specified in the project agreement; and (11-8-96)T

b. The applicant has initiated implementation of the project in a timely manner and has had little control over the condition causing the cost overrun. (11-8-96)T

03. Basis for Cost Increase. Cost increase requests for development projects are based on the total approved costs. Cost increase requests for acquisition projects are based on a parcel-by-parcel determination. (11-8-96)T

04. Extensions of Time. If unforeseen circumstances prevent the project from being completed within the two (2) year period, the applicant may request an extension of time. Requests must be in writing and must provide an explanation of reasons for the request. An extension of time may be granted provided the circumstances preventing completion of the project are beyond the control of the applicant. All such extension requests shall be made no later than ninety (90) days prior to the end of the two (2) year period. (11-8-96)T

05. Avoidable Delays. Project delays that are avoidable may result in loss of funding with the applicant being required to return any funds reimbursed so that the project can be canceled. (11-8-96)T

611. -- 624. (RESERVED).

625. CONTRACTING AND BIDDING PROCEDURE.

The applicant shall write the project bid specifications, secure all contractual agreements and leases, announce a call for bids for the project according to the applicant's bidding procedures, award the contract, and provide specifications and project control. All local, state and federal permits required for the construction or development of projects must be legally acquired by the applicant before program funds can be expended. (11-8-96)T

626. -- 639. (RESERVED).

640. CONVERSION TO OTHER USES.

01. Conversion Prohibited. Property acquired or developed with program assistance shall not be converted to other than public outdoor recreation uses without prior approval of the park and recreation board (see Idaho Code section 67-4248). (11-8-96)T

02. Conversion Costs. IDPR shall require the applicant to deposit with IDPR a service fee of two and five tenths percent (2.5%) of the current appraised value of the converted property. The service fee shall cover IDPR's administrative costs relating to the conversion. The service fee shall not exceed three thousand five hundred dollars (\$3,500) for each converted tract of property. Any incidental costs exceeding the service fee shall be paid by the applicant. (11-8-96)T

641. -- 654. (RESERVED).

655. MANAGEMENT OF FACILITY AFTER PROJECT COMPLETION.

The applicant shall maintain a project review system to identify development and operation problems that affect the project, environmental damage of land, or deterioration of facilities which would be the key to the success of the project. Failure to implement a project review system and to correct problems may result in a conversion to other use. (11-8-96)T

656. -- 669. (RESERVED).

670. OPERATION AND MAINTENANCE RESPONSIBILITY.

The applicant shall make all arrangements for operation, maintenance and management of the completed project. (11-8-96)T

01. Facility Use Requirements. Entrance to and use of the facility and project area shall not be restricted except for uses clearly hazardous or incompatible with public use. Special use regulations regarding the safety of users, use hours, or seasonal use for the protection of the project area, fish, wildlife, livestock, and the general environment may be established by the applicant. IDPR may require the applicant to impose rules or regulations if necessary for the best interest of the public or the project. (11-8-96)T

02. Public Use. (11-8-96)T

a. Property shall be open to entry and use by all persons regardless of race, color, national origin, age, disability, religion or gender. (11-8-96)T

b. Facilities shall be kept open for public use at reasonable hours and times of the year based on intended use. (11-8-96)T

c. Special events may be scheduled in a project area as determined by the applicant, with the board reserving the right to alter the scheduling to best meet the needs of users. (11-8-96)T

03. User Fees, Charges and Income. (11-8-96)T

a. User or other types of fees may be charged in connection with facilities developed with program funds, provided that the fees and charges are commensurate with the value of recreation services or opportunities

furnished and are in the prevailing range of public fees and charges for the particular activity involved. Discrimination on the basis of residence, including preferential reservation or membership systems and annual permit systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence. (11-8-96)T

b. Fees collected from use of the facilities shall be used for facility operation and maintenance costs. (11-8-96)T

c. Non-recreational income that accrues to an outdoor recreation area, including income from land management practices, shall derive from use which is consistent with, and complementary to, the intended outdoor recreational use of the area. Gross non-recreational income that accrues during the project period established in the project contract shall be used to reduce the total cost of the project. Gross non-recreational income that accrues subsequent to the project completion date identified in the project contract shall be used solely to offset the expense of operation and maintenance of the facility. (11-8-96)T

04. Maintenance Standards. Maintenance standards shall be adopted by the applicant in the planning process. Normal wear and tear are expected and are acceptable. Facilities shall be maintained and operated in a condition equivalent to that existing when the facility was completed with program funds. (11-8-96)T

671. -- 684 (RESERVED).

685. PERMANENT PROJECT SIGNS.

Permanent public acknowledgment of program assistance at project sites is required on at least one prominently placed area identification sign. The program symbol established and provided by IDPR shall be used for such acknowledgment at the project site entrance or other appropriate locations. The applicant may desire to provide a more detailed identification. IDPR staff shall approve the applicant's park sign prior to its construction to ensure proper designation is included. (11-8-96)T

686. -- 699. (RESERVED).

700. ARCHITECTURAL BARRIERS.

Applicants shall assure that persons with disabilities are not precluded from the use of program assisted recreational facilities. Facilities must be designed to meet American with Disabilities Act (ADA) standards. (11-8-96)T

701. -- 714. (RESERVED).

715. UNIFORM RELOCATION COMPLAINT PROCEDURE.

The two (2) appeal procedure recommended by the National Park Service shall be an appeal to the director and then to the board for resolution. (see IDAPA 26.01.01.250, "Rules of Administrative Procedure of the Idaho Park and Recreation Board") (11-8-96)T

716. -- 729. (RESERVED).

730. CIVIL RIGHTS COMPLAINT PROCEDURE.

An opportunity is provided for filing civil rights complaints. A written complaint shall be filed with the director within one hundred eighty (180) days from the date the alleged discrimination occurred. Within ten (10) working days of IDPR receiving the complaint, the complainant shall be notified of action that has been or shall be taken to resolve the complaint. An investigation shall be conducted by the deputy director or his designee within thirty (30) working days of IDPR's receipt of the complaint. The director or director's designee shall send a written response to the complainant regarding the results of the investigation within thirty (30) working days of the time the investigation began. If dissatisfied with the results of the investigation, the complainant may submit a written request for reconsideration to the director within ten (10) days of the receipt of resolution. The complainant may also file a complaint with the Idaho Human Rights Commission and The Office of Equal Opportunity. Addresses are available from IDPR. (11-8-96)T

731. -- 999. (RESERVED).

IDAPA 27 - IDAHO STATE BOARD OF PHARMACY
27.01.01 - RULES GOVERNING THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-9602
NOTICE OF PENDING RULES

ACTION: This action, under Docket No. 27-0101-9602, concerns the final adoption of amendments to the rules governing the Idaho State Board of Pharmacy, IDAPA 27.01.01.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has pending a final rule. The action is authorized pursuant to Idaho Code Section 54-1717. The pending rule amendments may be rejected, amended or modified by concurrent resolution of the legislature. The effective date of all rule amendments in IDAPA 27.01.01 is July 1, 1997.

DESCRIPTIVE SUMMARY: The text of the proposed rules is published in full in Volume 96-11 of the Administrative Bulletin at pages 158 through 162. The following is a summary in nontechnical language of the substance of the final rule and reasons for adoption.

The proposed changes include various differing subject matters. First, Rule 253 will allow pharmacists to provide certain home health nurses with specified noncontrolled emergency medications for use in emergency situations. Second, Rule 253 will allow pharmacists to appoint designees to restock properly maintained emergency kits. Third, Rule 191 will allow pharmacists with a physical disability to apply for inactive license status and will alter the licensing of preceptors to preceptor sites. Fourth, Rule 257 will allow a 34 day supply of drugs to be delivered to nursing home facilities in lieu of the current 8 day supply and will allow for return credit in appropriate situations. Fifth, Rule 154 requires that new or remodeled pharmacies provide an area for patient counseling as to the use, side effects or other issues relating to dispensed medication. The final change, Rule 134, will require pharmacists to attend some of their continuing education requirements at live programs without increasing the number of hours required for pharmacists.

ASSISTANCE ON TECHNICAL QUESTIONS: Contact Richard K. Markuson, Executive Director, Idaho State Board of Pharmacy, telephone (208) 334-2356.

DATED this 22nd day of November, 1996.

Val Middleton, Chairman of the Board
Idaho State Board of Pharmacy
280 N. 8th Street, Suite 204
Boise, Idaho 83702
(208) 334-2356 / Fax: (208) 334-3536

IDAPA 27
TITLE 01
Chapter 01

RULES GOVERNING IDAHO STATE BOARD OF PHARMACY

There are no substantive changes
from the proposed rule text.

The original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996,
Pages 158 through 162.

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 37 - DEPARTMENT OF WATER RESOURCES
37.01.02 - ENVIRONMENTAL AUDIT PROTECTION RULES
DOCKET NO. 37-0102-9601
NOTICE OF VACATION OF RULE-MAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rule-making previously initiated under this docket. The action is authorized pursuant to Sections 9-810 and 42-1805(8), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the vacation:

Because the 1996 Idaho Legislature did not act to approve or extend the temporary/proposed rule adopted by the agency on December 28, 1995, the temporary rule expired on March 15, 1996, at the conclusion of the legislative session pursuant to Section 67-5226(3), Idaho Code. The proposed rulemaking proceeding, however, did not expire by operation of statute and is vacated now because it duplicates Docket No. 37-0102-9602.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact L. Glen Saxton at (208)327-7900.

DATED this 8th day of November, 1996.

Karl J. Dreher, Director
Department of Water Resources
1301 N. Orchard St.
Boise, Idaho 83706
Phone: (208)327-7900
Fax: (208)327-7866

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
37.01.02 - ENVIRONMENTAL AUDIT PROTECTION RULES

DOCKET NO. 37-0102-9602

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized by Sections 9-810 and 42-1805(8), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 96-5, pages 88 through 90. Both the proposed rules and the pending rules incorporate by reference the substantive provisions of the Environmental Audit Protection Rules of the Idaho Department of Health and Welfare, IDAPA 16.01.10, Rules 010 through 018. Effective July 1, 1996, the State Board of Health and Welfare adopted its proposed Environmental Audit Protection Rules, with revisions, as pending rules in response to public comment in accordance with Section 67-5227, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact L. Glen Saxton at (208)327-7900.

DATED this 8th day of November, 1996.

Karl J. Dreher, Director
Department of Water Resources
1301 N. Orchard St.
Boise, Idaho 83706
Phone: (208)327-7900
Fax: (208)327-7866

IDAPA 37
TITLE 01
Chapter 02

RULES GOVERNING ENVIRONMENTAL AUDIT PROTECTION RULES

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 96-11, November 6, 1996, Pages 88 through 90.

**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 39 - DEPARTMENT OF TRANSPORTATION
39.03.17 - OVERSIZE PERMITS FOR MOBILE/MODULAR HOMES
DOCKET NO. 39-0317-9701

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: This temporary rule will be effective January 1, 1997 (1-1-97).

ACTION: The action, under Docket No. 39-0317-9701, concerns the temporary and proposed amendment of rules governing the movement of vehicles or loads which are in excess of the sizes or weights allowed by code, IDAPA 39, Title 03, Chapter 17, Rules Governing Oversize Permits for Manufactured Homes, Modular Buildings and Office Trailers.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule and has proposed rule-making. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

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

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

The hearing site(s) will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days notice. For arrangements contact the undersigned at (208) 334-8810.

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

This amended rule is being promulgated to allow home manufacturers to tow 16' wide homes on their own axles, therefore conferring an economic benefit on the manufacturing industry and the State. It also incorporates safety factors for the traveling public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Reggie Phipps, at (208) 334-8418.

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 January 22, 1997.

DATED this 26th day of November, 1996.

Linda L. Emry
P.O. Box 7129
Boise, Idaho 83707
Phone: (208) 334-8810
FAX: (208) 334-8195

TEXT OF DOCKET NO. 39-0317-9701

101. INSURANCE REQUIREMENTS.

The permittee or the driver of the vehicle towing overwidth manufactured homes and office trailers shall be required to carry evidence of general liability insurance in the permitted vehicle written by a company licensed in Idaho showing coverage in the minimum amounts of five hundred thousand dollars (\$500,000) when hauling permittee's

own manufactured home. When hauling for hire permittee must carry a minimum amount of seven hundred and fifty thousand dollars (\$750,000) ~~IPUC~~ insurance coverage, and have proper PUC or ICC authority. ~~(8-25-94)(1-1-97)T~~

(BREAK IN CONTINUITY OF SECTIONS)

200. MANUFACTURED HOMES AND OFFICE TRAILERS BEING TOWED.

01. Connection Device. A ball hitch coupler. (10-2-89)

02. Length. Not in excess of eighty (80) feet including tongue. (10-2-89)

~~03. Grandfather Rights. Manufactured homes having a basic width of fourteen (14) feet and having an overall width not exceeding seventeen (17) feet at the eave with extension to the left not exceeding six (6) inches shall be considered to have a grandfather right to exceed an overall width of fourteen (14) feet if manufactured prior to March 1, 1985. Housing units manufactured prior to January 1, 1980, and having a basic width exceeding fourteen (14) feet mounted on manufactured home axles shall be considered to have a grandfather right for issuance of a special permit under the economic emergency provisions of Rule 39.03.10., Section 400.03. (8-25-94)~~

~~034. Width. Shall be limited to a maximum of sixteen (16) fourteen (14) feet at the base and shall not exceed eighteen (18) sixteen (16) feet overall width including the eaves. unless the mobile home qualifies for the grandfather rights established in Section 200.03. of this rule. The eave extension to the left shall not exceed one (1) foot ~~(8-25-94)(1-1-97)T~~~~

** Determination of manufactured home or office trailer width shall be exclusive of such appurtenances as clearance lights, door handles, window fasteners, door and window trim, moldings and load securement devices up to but not in excess of three (3) inches on each side of load. (1-1-97)T

04. Eaves. The eaves may extend up to sixteen (16) inches as long as the eighteen (18) feet maximum overall width limitation is not exceeded. (1-1-97)T

05. Weight. The maximum allowable load for any vehicle tire operated on any public highway shall be in accordance with Code of Federal Regulations, Title 24, Chapter 20, Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Subpart J, (CFR Title 24). ~~(8-25-94)(1-1-97)T~~

06. Running Gear Assembly - General. The entire system (frame, drawbar, and coupling mechanism, running gear assembly including brake systems, axles and lights) shall be in accordance with CFR Title 24, Code of Federal Regulations title 24, Chapter 20, Subpart J, for the year the manufactured home was built. In addition thereto, all tires used in transportation of manufactured homes under this category shall be in accordance with Federal Motor Carrier Safety Regulations, part 393. ~~(8-25-94)(1-1-97)T~~

07. Construction. Construction shall be in accordance with CFR Title 24, Federal HUD Manufactured Home Construction and Safety Standards Title 24, Chapter 20, Subpart J, for the year the manufactured home was built. ~~(8-25-94)(1-1-97)T~~

08. Axles. All axles shall be in accordance with CFR Title 23, Code of Federal Regulations Title 24, Chapter 20, Subpart J, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have a minimum of four (4) axles. ~~(8-25-94)(1-1-97)T~~

09. Brakes. Brakes shall be in accordance with CFR Title 24, Code of Federal Regulations Title 24, Chapter 20, Subpart J, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have brakes on a minimum of three (3) axles. ~~(8-25-94)(1-1-97)T~~

10. Lights. The unit shall have stop lights, turn signals and tail lights that meet the requirements of

Federal Motor Carrier Safety Regulations ~~Standards~~, part section 393

~~(1-1-90)~~(1-1-97)T

11. Safety Chains. Two (2) safety chains shall be used, one (1) each on right and left sides of, but separate from, the coupling mechanism connecting the tow vehicle and the manufactured home while in transit. Chain shall be three eighths (3/8) inch diameter steel. ~~capable of passing a minimum break test load of sixteen thousand two hundred (16,200) pounds.~~ Chains shall be strongly fastened at each end to connect the tow vehicle and manufactured home and assure that in the event of a coupling failure the manufactured home will track behind the tow vehicle.

~~(8-25-94)~~(1-1-97)T

201. VEHICLES FOR TOWING MANUFACTURED HOMES AND OFFICE TRAILERS.

01. Towing Vehicle. Tow vehicles for manufactured homes and office trailers shall comply with the following minimum requirements:

Manufactured Homes and Office Trailers Width	Tire Width	Drive Axle Tire Rating	GVW	Min. Unladen Weight	Rear Axle Rating
Over 8' to 10'	7.00"	6 Ply	None	6,000#	None
Over 10' to 12'	8.00"	8 Ply	35,000#	8,000#	15,000#
Over 12'	8.25"	10 Ply	35,000#	12,000#	15,000#

~~(8-25-94)~~(1-1-97)T

02. Brakes. Shall be in accordance with Federal Motor Carrier Safety Regulations part 393. (8-25-94)

03. Rear Axle. Towing vehicle shall have a minimum of a single axle with dual mounted tires.

(8-25-94)

04. Hitch Assembly. Shall meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (8-25-94)

05. Horsepower Requirement. When towing a manufactured home or office trailer a minimum speed of ~~twenty-five fifteen~~ (25) mph must be maintained. ~~(8-25-94)~~(1-1-97)T

06. Two-Way Radio. ~~See Rule 39.03.12, Section 200.~~

~~(8-25-94)~~(1-1-97)T

a. On all movements requiring an escort vehicle, both the towing unit and the escort vehicle(s) shall be equipped with two-way radio equipment, licensed under Federal Communications Commission regulations adequate to provide reliable voice communication between the drivers thereof at all times during the movement of the escorted load. Transmitting and receiving capabilities of the radio equipment used shall be adequate to provide the required communication over a minimum distance of one-half (1/2) mile separation under conditions normally encountered along the proposed route. (1-1-97)T

b. Radio communication shall be open and monitored between escort vehicle(s) and oversize load at all times during movement. (1-1-97)T

07. Operator Requirements. ~~Shall be familiar with traffic laws, be properly authorized to operate tow vehicles and have experience and skill in these areas. Operators of vehicles towing manufactured homes, modular buildings and office trailers over ten (10) feet wide at the base shall have a class A or B Commercial Driver's License (CDL) as appropriate.~~ (8-25-94)(1-1-97)T

08. ~~Special Safety Equipment. Eight (8) flares, first aid kit and two (2) red flags each on a three (3) foot staff.~~ Speed Limit Requirements. Vehicles towing manufactured homes, modular buildings and offices, shall be limited to a maximum of sixty (60) miles per hour. ~~(8-25-94)~~(1-1-97)T

(BREAK IN CONTINUITY OF SECTIONS)

300. ~~VEHICLE HAULING~~ A MANUFACTURED HOME, MODULAR BUILDING, OR OFFICES BEING HAULED.

01. Length. Not in excess of eighty (80) feet. (10-2-89)

02. Width. Not in excess of sixteen (16) feet at the base and eighteen (18) feet overall. ~~(10-2-89)~~(1-1-97)T

03. Eaves. The eaves may extend up to sixteen (16) inches as long as the eighteen (18) foot maximum overall width limitation is not exceeded. (1-1-97)T

03. ~~Weight. The maximum allowable load for any vehicle tire operated on any public highway shall be in accordance with Code of Federal Regulations, Title 24, Chapter 20, Subpart J.~~ (8-25-94)

301. HAULING EQUIPMENT FOR A MANUFACTURED HOME, MODULAR BUILDING OR OFFICE.

014. Hauling Equipment. Vehicles used to haul manufactured homes, modular buildings and office trailers shall be combinations designed to meet the requirements of Federal Motor Carrier Safety Regulations for vehicles engaged in interstate commerce. Such vehicles shall be of structural capacity to safely accommodate the loading at all times. (8-25-94)

025. Lights. The unit shall have stop lights, turn signals and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (8-25-94)

036. Securing Loads. A minimum of four (4) steel, three fourths (3/4) inch diameter bolts will be used to directly connect the main support members of the modular building, manufactured home or office trailer to the support frame of moving equipment. Two (2) bolts each shall be located not less than twelve (12) feet from the forward and rear ends of the modular building, manufactured home or office trailer. Each of the four (4) bolts shall be at least four (4) feet apart. Equivalent methods of fastening, such as chains or binders, may be used as alternatives. (8-25-94)

~~3021. -- 399.~~ (RESERVED).

400. GENERAL PROVISIONS.

01. Paneling of Open Sides of Multi-Section ~~m~~Modular ~~b~~Buildings, ~~m~~Manufactured ~~h~~Homes or ~~o~~Office ~~t~~Trailers. Shall be rigid material, or six (6) mil plastic sheathing (or stronger) backed by a grillwork to prevent billowing and fully enclosed open sides of section in transit. (8-25-94)

02. Interior Loading. If the manufactured home or office trailer is to transport furnishings or other loose objects they shall be secured in position for safe travel. (8-25-94)

03. ~~Manufactured Home or Office Trailer Width. Determination of manufactured home or office trailer width shall be exclusive of such appurtenances as clearance lights, door handles, window fasteners, door and window trim, moldings and load securement devices up to but not in excess of three (3) inches on each side of load.~~ (8-25-94)

034. Construction. Modular buildings shall be constructed in accordance with the Uniform Building Code as applies to design and construction requirements that will affect overall structural strength and roadability. Manufactured homes and offices shall be constructed in accordance with Federal HUD Manufactured Home Construction and Safety Standards. (8-25-94)

045. Oversize Manufactured Homes or Office Trailers. Oversize manufactured homes or office trailers must be transported under authority of this rule. Rule 39.03.16 does not apply to the transport of manufactured homes or office trailers. (8-25-94)

056. Manufactured Homes. This rule applies only to manufactured homes and does not apply to individual components utilized in the manufacturing of manufactured homes (ie. frames, suspension, etc.). Permits may be issued to authorize transport of components for manufactured homes or office trailers under Rule 39.03.16. (8-25-94)

06. Signs. All manufactured homes, modular buildings and office trailers whether hauled or towed shall be required to display an oversize load sign, even if no escort vehicles are required. The sign shall meet the following dimensions: eighteen (18) inches high by seven (7) feet wide, letter height ten (10) inches, letter type standard series C, stroke width one and five-eighths (1 5/8) inch, black letters on yellow background. (1-1-97)T

07. Warning Flags. All manufactured homes, modular buildings and office trailers whether hauled or towed shall be required to display flags on all four corners. The flags may be red or fluorescent orange. (1-1-97)T

08. Warning Lights. All manufactured homes, modular buildings and offices whether hauled or towed shall be required to display two (2) flashing or rotating amber lights (visible from five hundred (500) ft.) on the back of the manufactured home, modular building or office. (1-1-97)T

09. Permits. Annual permits will allow travel on the following routes at the following dimensions:

<u>Route</u>	<u>Base Width</u>	<u>Overall Width</u>	<u>Height</u>	<u>Overall Length</u>
<u>Red</u>		<u>12' 6"</u>	<u>15' 6"</u>	<u>110'</u>
<u>Black</u>	<u>14'</u>	<u>16'</u>	<u>15' 6"</u>	<u>110'</u>
<u>Double Black</u>	<u>16'</u>	<u>18'</u>	<u>15' 6"</u>	<u>110'</u>

The double black routes are the interstate and 4 lane highways

**The routes referred to above are on the Escort Vehicle and Travel Time Requirements Map.

**When exceeding the above maximum dimensions allowed for a route, movement will be allowed only by single trip permit.

**Manufactured homes, modular buildings and offices exceeding sixteen (16) feet (at the base) being towed on their own axles, will be required to submit for approval a traffic control plan, that lists at a minimum the following information: date of move, routes of travel, turnouts for traffic relief, and dimensions of load. (1-1-97)T

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.60 - RULES GOVERNING OUTDOOR ADVERTISING
DOCKET NO. 39-0360-9701
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: This temporary rule will be effective December 1, 1996 (12-1-96).

ACTION: The action, under Docket No. 39-0360-9701, concerns the temporary and proposed amendment of rules governing guidelines for the control of outdoor advertising signs, IDAPA 39, Title 03, Chapter 60, Rules Governing Outdoor Advertising.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule and has proposed rule-making. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

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

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

The hearing site(s) will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five (5) days notice. For arrangements contact the undersigned at (208) 334-8810.

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

This amended rule is being promulgated to further ensure the safety of the traveling public in and around interchange control areas by prohibiting the erection of signs that create visual distractions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Bill Fowler, at (208) 334-8518.

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 January 22, 1997.

DATED this 26th day of November, 1996.

Linda L. Emry
P.O. Box 7129
Boise, Idaho 83707
Phone: (208) 334-8810
FAX: (208) 334-8195

TEXT OF DOCKET NO. 39-0360-9701

300. DISPLAYS LOCATED WITHIN ZONED OR UNZONED INDUSTRIAL, BUSINESS OR COMMERCIAL AREAS.

01. Size of Signs. Within zoned and unzoned commercial, business, or industrial areas, and pursuant to the directive of Section 40-312, Idaho Code, no advertising display shall exceed the following size limits: (12-26-90)

- a. Maximum area - one thousand (1000) square feet; (12-26-90)
- b. Maximum height - thirty (30) feet; (12-26-90)
- c. Maximum length - fifty (50) feet. (12-26-90)

02. Dimensions. All dimensions include border, trim, cutouts, and extensions, but exclude supports and decorative bases. Sign face area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire advertising device including border, trim, cutout, and ex-tension, but excluding supports and decorative bases. (12-26-90)

03. Spacing of Advertising Displays. Within zoned and unzoned commercial, business, or industrial areas, as defined in Section 010 herein and pursuant to directive of Section 40-1912, Idaho Code, the following spacing regulations shall apply: (12-26-90)

a. Advertising displays on interstate, primary freeway and primary highways may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or to obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. (12-26-90)

b. Advertising displays on interstate, primary freeway and primary highways may not be located within five hundred (500) feet of any of the following which are adjacent to the highway: public parks; public forests; public playgrounds; scenic areas designated as such by the Department or other State agencies having and exercising such authority. (12-26-90)

c. In a case where the highway passes beneath a railroad overpass or beneath a highway grade separation structure where no traffic connection between the crossing highways is provided, no advertising display may be located on the road passing beneath the structure within a distance of five hundred (500) feet from the nearest edge of the overhead route. (12-26-90)

d. Measurement between signs or from a sign to another feature shall be made horizontally along the pavement edge nearest the signs, between points directly opposite the signs or other features. The point of the sign nearest to the highway shall be used to determine the measurement point. (12-26-90)

e. Two (2) sign faces will be permitted at a single location, arranged side by side, back to back, or in a V-type configuration, but shall be considered as one (1) sign for spacing regulation. The combined face area of two (2) signs erected side by side shall not exceed one thousand (1000) square feet facing in any one (1) direction. (12-26-90)

f. Signs erected by public agencies or officers and on-premise signs, as defined in Section 010 of this rule, shall not be counted nor shall measurements be made from them for determining compliance with spacing requirements. (12-26-90)

g. Spacing on interstate and primary freeway highways between advertising displays along each side of the highway shall be a minimum of five hundred (500) feet. (12-26-90)

h. No advertising display on interstate and primary freeway highways shall be erected or maintained within one thousand (1000) feet of an interchange or rest area ~~unless there is an intervening building or structure in which case an advertising display may be placed up to on or on the roof of the intervening building.~~ The minimum spacing between displays as set forth herein for interstate and primary freeway highways shall govern the actual location of any sign display permitted within this zone. No advertising display subject to this regulation shall be permitted along any interstate or primary freeway highways within the actual "interchange area," defined as commencing or ending at the beginning or ending of pavement widening at the exit or entrance to the main traveled way of the interstate or primary freeway. ~~(12-26-90)~~(12-1-96)T

i. The location of signs on primary highways shall conform to the following minimum spacing criteria, to be applied to each side of the primary highway as follows: minimum spacing between signs will be one hundred (100) feet within any urban area; and minimum spacing between signs outside of any urban area shall be one hundred (100) feet provided the number of signs shall not exceed the length of the area measured along the centerline of the highway divided by two hundred and fifty (250) feet; two (2) signs will be permitted at a single location, either double faced, V-type, or back to back, but shall be considered to be one (1) sign for the purpose of spacing regulation. A sign structure may contain one (1) or more advertisements per facing but the maximum area per facing shall not exceed one thousand (1000) square feet but shall be considered one (1) sign for the purpose of spacing regulation.
(12-26-90)

j. Where intersections are more than five hundred (500) feet apart, no off-premise advertising display will be permitted within one hundred (100) feet from the right-of-way line of the intersecting road unless buildings or structures control cross vision; then advertising displays may be permitted up to and on top of the intervening structures.
(12-26-90)

k. When intersections are five hundred (500) feet or less apart, off-premise advertising displays will be permitted a minimum of fifty (50) feet from the right-of-way line of the intersecting road; however, all advertising displays between fifty (50) feet and one hundred (100) feet from the right-of-way line of the intersecting road must have the lower extremities of the advertising display (excluding posts) not less than fourteen (14) feet above the traveled way of the roads affected by the intersection for visibility under the signs by road users. Advertising displays may be permitted within one hundred (100) feet of the intersecting road's right-of-way when buildings or structures control cross vision; but such displays must not be located so as to cause greater restriction to vision than the existing buildings or structures.
(12-26-90)

l. Alleys, undeveloped rights-of-way, private roads and driveways shall not be regarded as intersecting streets, roads or highways.
(12-26-90)

m. Advertising structures may not be located within five hundred (500) feet of the point of pavement widening at the entrance or exit to a rest area, weight checking station, port of entry or other State-operated facility for the use of motorists.
(12-26-90)

04. Lighting. (12-26-90)

a. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
(12-26-90)

b. Section 40-1910, Idaho Code, prohibits advertising structures which are visible from any interstate, primary freeways or primary highway and display any red or blinking intermittent light likely to be mistaken for a warning or danger signal.
(12-26-90)

c. Section 40-1910, Idaho Code, prohibits advertising displays which include any illumination of such brilliance and so positioned as to blind or dazzle the vision of travelers on adjacent interstate, primary freeways and primary highways.
(12-26-90)

IDAPA 45 - IDAHO HUMAN RIGHTS COMMISSION
45.01.01- RULES GOVERNING PRACTICE BEFORE THE HUMAN RIGHTS COMMISSION

DOCKET NO. 45-0101-9601
NOTICE OF PENDING RULES

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5906(12), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Pursuant to Section 67-5227, Idaho Code, the proposed rules have been amended in response to public comment to remove Subsection 45.01.01.300.22 from the proposed rule, regarding sworn testimony. The remaining sections are renumbered accordingly.

The original text of the proposed rules was published in the November 6, 1996 Idaho Administrative Bulletin, Volume 96-11, pages 166 through 175.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Daniel L. Steckel at (208) 334-2873.

DATED this 27th day of November, 1996

DANIEL L. STECKEL, Deputy Attorney General
Idaho Human Rights Commission
P.O. Box 83720, Boise, Idaho 83720-0040
(208) 334-2873 phone; (208) 334-2664 fax

IDAPA 45
TITLE 01
Chapter 01

RULES GOVERNING PRACTICE BEFORE THE HUMAN RIGHTS COMMISSION

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

**Only those sections that have changed from the original proposed text are
explained in the descriptive summary of this notice.**

**The complete original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996,
Pages 166 through 175.**

**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 49 - IDAHO CERTIFIED SHORTHAND REPORTERS BOARD
49.01.01 - RULES GOVERNING IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 49-0101-9601

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective January 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3107, Idaho Code.

DESCRIPTION SUMMARY: The following is a concise explanation statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 96-11, pages 178 through 186.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sheri Schneider at 334-2517.

DATED this November 25, 1996.

Sheri Schneider
Board President
550 W. State St.
P.O. Box 83720
Boise, ID 83720-0017

IDAPA 49
TITLE 01
Chapter 01

RULES GOVERNING IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-11, November 6, 1996,
Pages 178 through 186.**

**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 52 - IDAHO STATE LOTTERY COMMISSION
52.01.02 - GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION
DOCKET NO. 52-0102-9601

NOTICE OF PENDING AND AMENDMENT OF TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective December 1, 1996. These proposed rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rules become final and effective on July 1, 1997, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become 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(1) and 67-5226, Idaho Code, notice is hereby given that the Idaho Lottery Commission has adopted a pending/temporary rule. The action is authorized pursuant to Section 67-7714, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of 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.

The Gaming Rules of the 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 devices, equipment or material for bingo and raffle operations. Changes in the proposed rule and the text of the pending/temporary rule are the results of public hearings.

The original text of the proposed rules was published in the September 4, 1996, Administrative Bulletin, Volume 96-9, pages 244 through 263.

This text has been modified in accordance with Idaho Code Section 67-5227 and, therefore, has been republished with this Notice.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: 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 the amendments to the law previously described.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rules contact Pat Stewart at (208) 334-2277.

DATED this 15th day of November, 1996

Pat Stewart, Idaho State Lottery
1199 Shoreline Lane, Ste.100
Boise, ID 83702,
Phone: (208) 334-2277
Fax: (208) 334-2391

IDAPA 52
TITLE 01
Chapter 02

GAMING RULES OF THE IDAHO STATE LOTTERY COMMISSION

There are substantive changes
from the proposed rule text.

Due to the number of changes made to the proposed rule before its
adoption as a pending rule, this rule is being
republished in its entirety in this Bulletin following this notice.

The original text was published in the
Idaho Administrative Bulletin, Volume 96-9, September 4, 1996,
Pages 244 through 263.

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

TEXT OF DOCKET NO. 52-0102-9601

**IDAPA 52
TITLE 01
Chapter 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)F(12-1-96)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)F(12-1-96)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)F(12-1-96)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)F(12-1-96)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)F(12-1-96)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)~~(12-1-96)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)~~(12-1-96)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)~~(12-1-96)T

007. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

As used in these rules, the following words have the following definitions:

~~(7-1-96)~~(12-1-96)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)~~(12-1-96)T

02. Bingo. (see section 67-7702(1), Idaho Code):

~~(7-1-96)~~(12-1-96)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)~~(12-1-96)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 players 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)~~(12-1-96)TT

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)~~(12-1-96)T

03. Bingo Advisory Board or Board. A board established in 1995, consisting 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)~~(12-1-96)T

04. Blackout. A game where all numbers are covered on a card. This game is also referred to as coverall.

~~(7-1-96)~~(12-1-96)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)~~(12-1-96)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~~

~~06. Card Minding Machines. Individual computers that allow players to monitor multiple bingo cards through a centralized 'caller' computer. (12-1-96)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~~

~~087. Charitable Organization. Any organization that meets the following criteria established by: (See Section 67-7702(3), Idaho Code). (7-1-96)T(12-1-96)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~~

~~e. 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~~

~~098. Commission. The Idaho State Lottery Commission as defined in Section 67-7404, Idaho Code. See Section 67-7702(4). (7-1-96)T(12-1-96)T~~

~~1009. Concessions. Food items offered to players at bingo games. (7-1-96)T(12-1-96)T~~

~~110. Director. The director of the Idaho State Lottery. See Section 67-7407, Idaho Code. (7-1-96)T(12-1-96)T~~

~~121. 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(12-1-96)T~~

~~132. Duck Race. A charitable raffle as defined in 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 Anet 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(12-1-96)T~~

~~143. 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(12-1-96)T~~

~~154. Electronic Gambling 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(12-1-96)T~~

165. Gaming. ~~Gaming means gambling as defined in 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(12-1-96)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~~

e. ~~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~~

176. 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(12-1-96)T~~

187. 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 occasions.~~

~~(7-1-96)T(12-1-96)T~~

198. License. A permission issued by the director of the Idaho State Lottery to:

~~(7-1-96)T(12-1-96)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(12-1-96)T~~

b. Suppliers. Vendors, distributors or manufacturers of gaming supplies.

~~(7-1-96)T(12-1-96)T~~

2019. 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(12-1-96)T~~

240. 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(12-1-96)T~~

221. 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(12-1-96)T~~

232. Organization. A charitable organization or a nonprofit organization. See Section 67-7702(8), Idaho Code.

~~(7-1-96)T(12-1-96)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~~

253. 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(12-1-96)T

264. 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(12-1-96)T

275. 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(12-1-96)T

26. Sessions. A period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization. (12-1-96)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~~

297. Special Committee. Persons (including officers and directors, if so designated) listed on an organizations 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(12-1-96)T

~~3028. Tracking. The documentation of sales by sequentially numbered paper in bingo games or numbered tickets in raffles. (7-1-96)T(12-1-96)T~~

~~3429. U-Pick Ems. A game where players select their own numbers on a two (2) 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(12-1-96)T~~

320. Vendor. Any manufacturer or distributor as defined in these rules. (7-1-96)T(12-1-96)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)F

01. Independent Panel. An independent judging panel must be selected or there must be objective criteria for determining the winner; (7-1-96)F

02. Entry Criteria. Criteria for entries must be defined and publicized; (7-1-96)F

03. Contact Person. A contact person with address and phone number must be available; and (7-1-96)F

04. Consolation Prizes. No consolation prizes may be awarded in lieu of the advertised prize(s). (7-1-96)F

05. Reimbursement Clause. A reimbursement clause must exist in case the minimum amount of entries is not received for the event. (7-1-96)F

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)F

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)F

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)F

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)F

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 ~~DB~~--Conduct of Bingo Games

3100. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS (Rule 3100).

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(12-1-96)T

3101. NUMBER OF SESSIONS PER WEEK (Rule 3101).

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(12-1-96)T

3102. POSTING OF LICENSE AND HOURS (Rule 3102).

The organizations 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(12-1-96)T

3103. MEMBERS OF SPECIAL COMMITTEE IN ATTENDANCE--TRAINING OF EMPLOYEES (Rule 3103).

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(12-1-96)T

3104. EMPLOYEES INELIGIBLE TO PLAY (Rule 3104).

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(12-1-96)T

3105. MINORS (Rule 3105).

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. Bingo operators may Minors shall not be allowed minors to work in a bingo game or session as per local house rules. (7-1-96)T(12-1-96)T

3106. TRACKING REQUIREMENTS (Rule 3106).

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(12-1-96)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(12-1-96)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(12-1-96)T

04. Late Players. Packets sold to late players must have the previously played games sheets removed and voided. (7-1-96)T(12-1-96)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(12-1-96)T

06. Documentation. All paper must be tracked as either sold, damaged, donated, 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(12-1-96)T

3107. DUTIES OF BINGO CALLER AND EMPLOYEES OR VOLUNTEERS (Rule 3107).

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(12-1-96)T

02. During Play. After selecting each number the bingo caller ~~should~~ shall: (7-1-96)T(12-1-96)T

a. 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~~ shall activate the number or if not, the operator ~~should~~ shall manually activate each number on the board. (7-1-96)T(12-1-96)T

b. 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(12-1-96)T

3108. DETERMINING WINNERS (Rule 3108).

01. Winning Cards. Winners are determined when the announced pattern of squares is covered on a players(s') card. ~~The winning card must contain the last number called.~~ (7-1-96)T(12-1-96)T

02. Players Responsibility. It is the players 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(12-1-96)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~~ shall be secured so that it can be continued ~~should~~ if the bingo be invalid. (7-1-96)T(12-1-96)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~~ must 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(12-1-96)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(12-1-96)T

3109. CARDS (Rule 3109).

01. Hard Cards. Charitable or nonprofit 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 or nonprofit 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 fund-raising projects that it is sponsoring. No hard cards shall be reserved for any players, with the exception of Braille cards. (7-1-96)T(12-1-96)T

02. Braille Cards. Braille cards are allowed in any bingo game by individuals who need them.

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

03. Two (2) Part Disposable Cards. Two (2) part disposable cards may be used in 'U-Pick-Em games, if: (7-1-96)T(12-1-96)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(12-1-96)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(12-1-96)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 operators daily bingo records. (7-1-96)T(12-1-96)T

3110. LIMITS ON PRIZE PAYOUT RATIOS AND ADMINISTRATIVE EXPENSES (Rule 3110).

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(12-1-96)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(12-1-96)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)F(12-1-96)T

04. Donated Cash Funds Prohibited. Donated cash may not be offered as prizes in bingo games nor deposited into the separate bingo account.

(7-1-96)F(12-1-96)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)F

3111. PAYMENT OF EXPENSES, WINNINGS, AND CHARITABLE CONTRIBUTIONS (Rule 3111).

~~All expenses should shall 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)F(12-1-96)T

3112. MINIMUM CHARITABLE OR NONPROFIT DONATION (Rule 3112).

~~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)F(12-1-96)T

3113. MAXIMUM PRIZES (Rule 3113).

~~Maximum prizes are defined in Section 67-7708, Idaho Code.~~

(7-1-96)F(12-1-96)T

~~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)F

~~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)F

3114. -- 3119. (RESERVED).

3120. ACCOUNTING AND REPORTING REQUIRED (Rule 3120).

~~Every organization conducting bingo games, whether licensed or unlicensed, must comply with the accounting requirements of Sections 3121 through 3126.~~

(7-1-96)F(12-1-96)T

3121. SEPARATE BANK ACCOUNT AND LIMITATIONS ON USE (Rule 3121).

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)F(12-1-96)T

02. Disbursements Use of Funds. ~~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 All disbursements must be documented as defined in Section 67-7709(1), Idaho Code, and by these rules.~~ (7-1-96)T(12-1-96)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

3122. GENERAL LEDGER (Rule 3122).

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(12-1-96)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(12-1-96)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(12-1-96)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(12-1-96)T

3123. ANNUAL REPORT (Rule 123323).

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(12-1-96)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

- e. ~~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

~~h02. Information Required by Forms. The nightly reports, receipts, winner records, and payouts must be documented and kept with the organization's permanent records for three (3) years. Any further information required by the forms prescribed by the State Lottery pursuant to statute and rule.~~ (7-1-96)T(12-1-96)T

~~023. 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 organizations license year.~~ (7-1-96)T(12-1-96)T

3124. RECORDS OF PRIZE DISBURSEMENTS (Rule 3124).

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 A 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(12-1-96)T

3125. ACCOUNTING OF REVENUES AND EXPENSES (Rule 3125).

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. All funds must be deposited in a separate bank account for bingo funds.~~ (7-1-96)T(12-1-96)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 shall include the payees name and address, date, and an authorized signature from the licensed organization.~~ (7-1-96)T(12-1-96)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(12-1-96)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(12-1-96)T

3126. INSPECTION OF BOOKS (Rule 3126).

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)F(12-1-96)T~~

~~3127. -- 3199. (RESERVED).~~

Subchapter ~~EC~~--Conduct of Raffles

4200. REQUIREMENTS FOR ORGANIZATIONS CONDUCTING RAFFLES (Rule 4200).

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)F(12-1-96)T~~

4201. LIMITATION ON ANNUAL NUMBER OF RAFFLES (Rule 4201).

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)F(12-1-96)T~~

4202. MAXIMUM PRIZES (Rule 4202).

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)F(12-1-96)T~~

4203. REQUIREMENTS FOR DONATION TO CHARITY--LIMITATION ON EXPENSES (Rule 4203).

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)F(12-1-96)T~~

4204. GENERAL LEDGER AND RECORDKEEPING (Rule 4204).

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)F(12-1-96)T~~

4205. ANNUAL RAFFLE REPORT (Rule 4205).

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)F~~

- ~~01. Number of Raffle Events. The number of raffle events conducted or sponsored by the organization;~~ ~~(7-1-96)F~~
- ~~02. Locations and Dates. The location and date at which each raffle event was conducted;~~ ~~(7-1-96)F~~
- ~~03. Gross Revenues. The gross revenues of each raffle event;~~ ~~(7-1-96)F~~
- ~~04. Prizes. The fair market value of each prize given at each raffle event;~~ ~~(7-1-96)F~~
- ~~05. Amounts Paid. The amounts paid in cash prizes at each raffle event.~~ ~~(7-1-96)F~~
- ~~06. Charitable or Nonprofit Contributions. The amounts paid to the charitable or nonprofit organizations and the dates of payments; and~~ ~~(7-1-96)F~~
- ~~07. Accounting. An accounting of all gross revenues and the disbursements required by statute and these rules; and~~ ~~(7-1-96)F~~
- ~~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)F(12-1-96)T~~

407206. INDEPENDENT AUDIT OF LARGE RAFFLES (Rule 407206).

Every charitable or non-profit 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 organizations license year. (7-1-96)T(12-1-96)T

42087. -- 4299. (RESERVED).

Subchapter FD--Licensing and License Fees for Organizations Conducting Bingo Games and/or Raffles

5300. APPLICATION (Rule 5300).

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(12-1-96)T

5301. LICENSE FEES (Rule 5301).

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(12-1-96)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(12-1-96)T

5302. INFORMATION TO BE PROVIDED IN APPLICATION (Rule 5302).

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 organizations 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(12-1-96)T

02. Proper Identification. The application must list the name, address, date of birth, drivers 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, drivers 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(12-1-96)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)F~~(12-1-96)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 organizations good corporate standing in the state. See Section 67-7711(2)(c)(ii), Idaho Code. ~~(7-1-96)F~~(12-1-96)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)F~~(12-1-96)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)F~~(12-1-96)T

07. License Year and Fiscal Year. Organizations may apply for the license to coincide with the organization's fiscal year. ~~(7-1-96)F~~(12-1-96)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)F~~(12-1-96)T

~~5303.~~ MULTIPLE CHAPTERS LICENSED TOGETHER (Rule ~~303503~~).

Different chapters of an organization may apply for and share one (1) raffle license so long as the information required in Subsections ~~5302.01~~ through ~~5302.06~~ 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)F~~(12-1-96)T

~~5304.~~ COMPENSATION OF CERTAIN PERSONS AND CONTRACTS WITH CERTAIN PERSONS PROHIBITED (Rule ~~5304~~).

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 organizations 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 organizations 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)F~~(12-1-96)T

~~5305.~~ APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR LICENSE (Rule ~~5305~~).

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)F~~(12-1-96)T

~~5306.~~ SUSPENSION OR REVOCATION OF LICENSE--CIVIL AND CRIMINAL PENALTIES (Rule ~~5306~~).

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)F~~(12-1-96)T

~~5307.~~ EXEMPTION FROM LICENSING AND LICENSING FEES (Rule ~~5307~~).

See Section 67-7713, Idaho Code.

~~(7-1-96)F~~(12-1-96)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)F(12-1-96)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)F(12-1-96)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. This information is available by contacting the Idaho Lottery.

(7-1-96)F(12-1-96)T

5308. RULES AND FORMS (Rule 5308).

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)F(12-1-96)T

5309. -- 5399. (RESERVED).

Subchapter ~~GE~~--Vendors and Vendors* Licenses and Fees

6400. VENDOR'S LICENSE REQUIRED (Rule ~~400600~~).

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 vendors 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)F(12-1-96)T

6401. LICENSE FEES (Rule 6401).

Each initial application for a vendors license must be accompanied by a two hundred dollar (\$200) non-refundable 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)F(12-1-96)T

6402. INFORMATION TO BE PROVIDED IN APPLICATION (Rule 6402).

01. Identification of Applicants. The application for initial license and for renewal of a license shall list the name, address, date of birth, drivers 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, drivers 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)F(12-1-96)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)F(12-1-96)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)F(12-1-96)T

6403. APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR ISSUANCE OF LICENSE (Rule 6403).

The Idaho State Lottery has fifteen (15) days to approve, deny or dismiss an application for a vendors 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)F(12-1-96)T~~

6404. SUSPENSION OR REVOCATION OF LICENSE (Rule 6404).

Any licensed vendor found in violation of statute or these vendors' rules or any conditions of its license may face suspension of the vendors license and activities taken pursuant to the vendors license or license revocation. See also Section 700 through 704. ~~(7-1-96)F(12-1-96)T~~

6405. GAMING DEVICES, EQUIPMENT OR MATERIALS (Rule 6405).

Gaming devices, equipment, and materials include but are not limited to: ~~(7-1-96)F(12-1-96)T~~

01. Number Selectors. Number selection machines, manual mixing drums, or computerized random selectors. ~~(7-1-96)F(12-1-96)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)F(12-1-96)T~~

03. Miscellaneous. Daubers, raffle tickets, record keeping materials and other items used in the operation of bingo and/or raffles. ~~(7-1-96)F(12-1-96)T~~

6406. CARD MANUFACTURERS STANDARDS (Rule 6406).

Card manufacturers ~~should~~ shall follow these recommended standards for paper cards: ~~(7-1-96)F(12-1-96)T~~

01. Quality of paper. The paper ~~should~~ shall 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)F(12-1-96)T~~

02. Free Space. Manufacturer's perm numbers ~~should~~ shall be displayed in the free space square. ~~(7-1-96)F(12-1-96)T~~

03. Random Assignment of Numbers. Numbers printed on the card should shall be randomly assigned. ~~(7-1-96)F(12-1-96)T~~

04. Serial Numbers. Each set of cards ~~should~~ shall be comprised of cards bearing the same serial number. No serial number ~~should~~ shall be duplicated by a manufacturer in a given year. ~~(7-1-96)F(12-1-96)T~~

05. Packet Assembly. Cards assembled in books or packets ~~should~~ shall be glued, not stapled. ~~(7-1-96)F(12-1-96)T~~

06. Labeling. A label ~~should~~ shall 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)F(12-1-96)T~~

07. Packing Slips. A packing slip inside each case ~~should~~ shall list the same information as listed on the label. ~~(7-1-96)F(12-1-96)T~~

407. NUMBER SELECTORS (Rule 407).

All number selectors must conform with manufacturers standards. Electronic random selectors must interact with players. Auto daubing systems are prohibited. ~~(12-1-96)T~~

64078. -- 6499. (RESERVED).**Subchapter ~~HE~~--Suspension, Revocation or Denial of a License****7500. SUSPENSION, REVOCATION OR DENIAL OF LICENSE (Rule 7500).**

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)F(12-1-96)T

7501. GROUNDS FOR SUSPENSION, REVOCATION OR DENIAL OF LICENSE (Rule 7501).

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)F(12-1-96)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)F

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)F

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)F

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)F

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)F

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)F

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)F

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)F

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)F

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~~

7502. COMPLAINT AGAINST AND INVESTIGATION OF LICENSEES (Rule 7502).

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(12-1-96)T~~

7503. PROCEDURE UPON FINDING OF REASONABLE CAUSE (Rule 7503).

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(12-1-96)T~~

7504. CONDUCT OF HEARING IN CONTESTED CASE (Rule 7504).

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(12-1-96)T~~

7505. -- 999. (RESERVED).

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