

IDAHO ADMINISTRATIVE BULLETIN

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IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE
02.06.38 - RULES GOVERNING THE PLUM CURCULIO QUARANTINE
DOCKET NO. 02-0638-9701

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 28, 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 rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 22-1905 and 22-1915, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than April 16, 1997.

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

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

This rule establishes the Plum curculio as a pest of concern to the Idaho fruit industry and sets forth areas under quarantine. It also regulates certain fruit and soil from quarantined areas. Restrictions governing the movement of regulated fruit and soil are listed. Acceptable treatments and the certification process for entry of fruit and soil from quarantined areas is explained.

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:

The adoption of IDAPA 02.06.38 will confer benefits to the fruit industry. The Plum curculio is a weevil known to infest many types of fruit. This insect is not currently known to be established in Idaho, but is established in our neighboring state of Utah. In order to prevent the introduction of the Plum curculio in the state and ensure a continuing and viable export market for Idaho grown fruit, the Department finds it necessary to make this rule effective immediately.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Roger Vega or Michael E. Cooper at 332-8620.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before April 23, 1997.

DATED this 28th Day of January, 1997

Mike Everett
Deputy Director
Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701-0790
Phone: 332-8500
Fax: 334-4623

TEXT OF DOCKET NO. 02-0638-9701

IDAPA 02
TITLE 06
Chapter 38

02.06.38 - RULES GOVERNING THE PLUM CURCULIO QUARANTINE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-1905 and 22-1915, Idaho Code. (1-28-97)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is Rules Governing the Plum Curculio Quarantine. (1-28-97)T

02. Scope. This chapter has the following scope: This quarantine will restrict the shipment of regulated articles from regulated areas into Idaho. (1-28-97)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-28-97)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (1-28-97)T

004. DEFINITIONS.

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-1904, Idaho Code. (1-28-97)T

005. FINDINGS.

The adoption of IDAPA 02.06.38 will confer benefits to the fruit industry. The Plum curculio is a weevil known to infest many types of fruit including those listed in Subsection 150.01 of this rule. This insect is not currently known to be established in Idaho, but is established in our neighboring state of Utah. In order to prevent the introduction of the Plum curculio in the state and ensure a continuing and viable export market for Idaho grown fruit, the Department finds it necessary to make this rule effective immediately. (1-28-97)T

006. -- 049. (RESERVED).

050. PEST.

Plum curculio, *Conotrachelus nenuphar* (Coleoptera: Curculionidae), is a native weevil found throughout the eastern United States, and Canada and in limited areas of Utah. It is a common and serious pest of all stone fruits and, to a lesser extent, of apple and pear. The larvae live within the fruit of their host plants. (1-28-97)T

051. -- 099. (RESERVED).

100. AREA UNDER QUARANTINE.

In the eastern United States and Canada, all states and provinces east of and including Manitoba, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas. In Utah, Box Elder County. (1-28-97)T

101. -- 149. (RESERVED).

150. ARTICLES AND COMMODITIES COVERED.

01. Fresh Fruit of all Plants Listed Below: (1-28-97)T

- | | | |
|-----|---|------------|
| a. | Apple (<i>Malus</i> spp.) | (1-28-97)T |
| b. | Apricot (<i>Prunus persica</i>) | (1-28-97)T |
| c. | Cherry, black (<i>P. serotina</i>) | (1-28-97)T |
| d. | Cherry, choke (<i>P. virginiana</i>) | (1-28-97)T |
| e. | Cherry, pin (<i>P. pensylvanica</i>) | (1-28-97)T |
| f. | Cherry, sand (<i>P. pumila</i>) | (1-28-97)T |
| g. | Cherry, sour (<i>P. cerasus</i>) | (1-28-97)T |
| h. | Cherry, sweet (<i>P. avium</i>) | (1-28-97)T |
| i. | Crabapple (<i>Malus</i> spp.) | (1-28-97)T |
| j. | Hawthorn or haw (<i>Crataegus</i> spp.) | (1-28-97)T |
| k. | Nectarine (<i>Prunus persica nectarina</i>) | (1-28-97)T |
| l. | Peach (<i>P. persica</i>) | (1-28-97)T |
| m. | Pear (<i>Pyrus communis</i>) | (1-28-97)T |
| n. | Plum, American (wild) (<i>Prunus alleghaniensis</i>) | (1-28-97)T |
| o. | Plum, beach (<i>P. maritima</i>) | (1-28-97)T |
| p. | Plum, European (<i>P. domestica</i>) | (1-28-97)T |
| q. | Plum, Japanese (<i>P. salicina</i>) | (1-28-97)T |
| r. | Prune (<i>P. spp.</i>) | (1-28-97)T |
| s. | Quince (<i>Cydonia oblonga</i>) | (1-28-97)T |
| 02. | Soil. Soil or other growing medium within the drip zone of plants producing or which have produced fruit as listed in Section 150.01. | (1-28-97)T |

151. -- 199. (RESERVED).

200. RESTRICTIONS.

01. Certification Required. Articles and commodities covered which are produced in or shipped from the area under quarantine are prohibited entry into the state of Idaho unless each lot or shipment is accompanied by a certificate issued by and bearing the original or facsimile signature of the authorized agricultural official of the state from which the article or commodity is shipped evidencing compliance with Subsections 200.03, 200.04, 200.06 or 200.07. No certificate is required for commodities meeting the requirements of Subsections 200.02 or 200.05.
(1-28-97)T

02. Reshipments in Original Containers from Area Under Quarantine of Commodities Grown Outside Thereof. Commodities in original unopened containers, each bearing labels or other identifying marks evidencing origin outside the area under quarantine, may be reshipped to this state from any point within the area under quarantine.
(1-28-97)T

03. Repacked Commodities Admissible from Area Under Quarantine if Certified Grown Outside Thereof. Provided each lot or shipment is certified by an authorized agricultural official to have been grown outside the area under quarantine and that continued identity has been maintained while within the area under quarantine, the commodities may be repacked and shipped by common carrier from any point within the area under quarantine to this state. The certificate shall set forth the state in which commodities were grown, point of repacking and reshipment, amount and kind of commodities comprising the lot or shipment, and the names and addresses of the shipper and consignee. (1-28-97)T

04. Apples Exposed to Controlled Atmosphere (CA) Storage Admissible Under Certificate. Apples which are exposed to controlled atmosphere (CA) storage for a continuous period of ninety (90) days, during which period the temperature within the storage room is maintained at thirty-eight degrees Fahrenheit (38° F), three point three degrees Celsius (3.3° C) or less, may be admitted into Idaho provided said storage room or building is approved by the proper authorities in the state of origin as a controlled atmosphere facility and further provided each lot or shipment of such apples to Idaho is accompanied by a certificate, as stated in Subsection 200.01, evidencing compliance with the minimum requirements of this section. (1-28-97)T

05. Solid Frozen Fruits Exempt. No restrictions are placed by this rule on the entry into this state of fruits which upon arrival are frozen solid and which are under refrigeration to assure their solid frozen state. (1-28-97)T

06. Shipments from Cold Storage at Thirty-two Degrees Fahrenheit (32° F) Zero Degrees Celsius (0° C). Commodities covered which are held in cold storage for a continuous period of forty (40) days or more, during which period the temperature within the storage room is maintained at thirty-two degrees Fahrenheit (32° F) zero degrees Celsius (0° C) or less, may be admitted into Idaho provided each lot or shipment is accompanied by a certificate, as stated in Subsection 200.01, evidencing compliance with the minimum requirements of this paragraph. (1-28-97)T

07. Soil or Growing Media When Certified. Soil or growing media specified in Subsection 150.02 is admissible when certified as treated at origin in a manner approved by the Director. (1-28-97)T

200. -- 249. (RESERVED).

250. VIOLATIONS.

Any person violating any provision of these rules shall be subject to the penalty provisions of Title 22, Chapter 19, Idaho Code. (1-28-97)T

251. -- 999. (RESERVED).

**NOTICE OF PUBLIC REVIEW OF THE WATER QUALITY STUDY
SUBMITTED TO THE BIG PAYETTE LAKE
WATER QUALITY COUNCIL**

AUTHORITY: In compliance with Title 67, Chapter 52, Idaho Code, notice is hereby given that the Big Payette Lake Water Quality Council will accept the comprehensive, scientifically-based study of water quality and begin development of a Lake Management Plan. The action is authorized by Section 39-6611, Idaho Code.

PUBLIC MEETING SCHEDULE: Public meetings will be held as follows:

Council meeting to accept the study:

April 7, 1997, 7 p.m., Legion Hall below City Hall, 216 Park Street, McCall, Idaho.

Regularly scheduled open, public Council meeting:

June 2, 1997, 7 p.m., Legion Hall below City Hall, 216 Park Street, McCall, Idaho.

Workshops:

June 11, 1997, 7 p.m. to 9 p.m., Payette Lake Middle School, 111 Samson Trail, McCall, Idaho.

**June 18, 1997, 7 p.m. to 9 p.m., Division of Environmental Quality Conference Center,
1410 N. Hilton, Boise, Idaho.**

The workshops are scheduled to 1) briefly describe the findings of the study, 2) receive oral comments on the study, and 3) receive oral recommendations on actions to be considered for inclusion in the Lake Management Plan.

DESCRIPTIVE SUMMARY: The Big Payette Lake Water Quality Council (Council) was created by state statute in 1993. The purpose of the Council is to study the condition of the Big Payette Lake and its watershed and prepare a Lake Management Plan for submission to the state legislature. On April 7, 1997, the Council will accept for review a comprehensive, scientifically-based study of water quality in the lake. This study will form the basis of the Council's preparation of a Lake Management Plan. For the 90-day period from April 7 to July 7, 1997, the Council wishes to have wide critical review of this technical study and welcomes comments and suggestions to the Council. Written comments will be accepted as described below and oral comments will be accepted at the above-listed meetings and workshops. Following the close of the comment period on the study, the Council will prepare and submit for public review a Lake Management Plan. While preliminary versions of this Plan will be available as early as June 1997, the draft final Lake Management Plan will be available for public review in September 1997. In September and October 1997, the Council will hold additional public workshops and a public meeting to receive comment on the Lake Management Plan. The final Lake Management Plan will be submitted to the state legislature not later than January 1, 1998.

Copies of the study are available for review at the public libraries in McCall, Lewiston, and Weiser; the Division of Environmental Quality (DEQ) Cascade Satellite Office; and the DEQ Boise and Lewiston Regional Offices.

Copies of the study may be purchased at MAIL BOXES and MORE, 502 N. 3rd Street, McCall, Idaho and Mail Boxes, Etc., 305 E. Park Street, McCall, Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the study, or for additional information, contact Dewey Worth of the DEQ Cascade Satellite Office at (208)382-6808.

Anyone may submit written comments regarding this study. All written comments must be received by the undersigned on or before July 7, 1997.

Dated this 2nd day of April, 1997

Peter T. Johnson, Chairman
Big Payette Lake Water Quality Council
P.O. Box T
McCall, Idaho 83638

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO
DOCKET NO. 16-0101-9603

NOTICE OF PENDING AND TEMPORARY RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 1998 Idaho State Legislature for final approval. The temporary rule is effective March 1, 1997. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Fifty-fourth Idaho Legislature unless prior to that date the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending/temporary rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code, and mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 60 Fed. Reg. 54,990, 54,993 (1995) and 61 Fed. Reg. 30,570-75 (1995).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending/temporary rule. There was no change between the text of the proposed rule and the text of the pending/temporary rule.

The Department of Health and Welfare, Division of Environmental Quality (Department) received no public comments concerning the proposed rule. The rule has been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 96-11, November 6, 1996, pages 67 through 70. The rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706.

The rule was adopted by the Department because the rule responds to the needs of the regulated community while protecting the public health and environment. In addition, the rule maintains consistency with federal programs.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule complies with deadlines in amendments to governing law.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Tim Teater at (208)373-0502.

DATED this 2nd day of April, 1997

Paula Junae Saul, Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255

IDAPA 16
TITLE 01
Chapter 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

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 67 through 70.

This rule has been adopted as Final by the Agency and is now pending review by the 1998 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 16-0102-9702

NOTICE OF TEMPORARY RULE

EFFECTIVE DATE: The temporary rule is effective March 1, 1997.

AUTHORITY: In compliance with Section 67-5226(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code. In addition, promulgation of this rule circumvents federal promulgation of state water quality standards pursuant to 33 U.S.C. Section 1313(c) (Section 303(c) of the Clean Water Act).

DESCRIPTIVE SUMMARY: The following is a concise statement of the supporting reasons for adopting the temporary rule:

This rule has been adopted in response to the United States Environmental Protection Agency's (EPA) disapproval of the standards for Lindsay Creek (CB-210) and West Fork of Blackbird Creek (SB-4211). Prior to adoption of this rule, these two water bodies lacked beneficial uses protective of fishable/swimmable goals of the Clean Water Act. In order to maintain these goals, these waters should have at least one aquatic life use protection and one recreation use protection. Lindsay Creek lacked recreation protection and West Fork of Blackbird Creek lacked aquatic life protection. State adoption of these uses will prevent federal promulgation to designate these uses to these waters.

The Department of Health and Welfare, Division of Environmental Quality (Department) has determined that the following uses should be designated in the water quality standards in addition to those uses currently designated:

Lindsay Creek - secondary contact recreation (IDAPA 16.01.02.120.01.ii).

West Fork Blackbird Creek - cold water biota, salmonid spawning (IDAPA 16.01.02.130.01.n).

Upon the Department's recommendation, the Board of Health and Welfare has adopted the referenced designated uses as a temporary rule. The Legislative Service's Office has imposed a moratorium on proposed rules which prohibits agencies from publishing proposed rules until May 1997. The Department intends to publish this rule as a proposed rule in the May 1997 issue of the Idaho Administrative Bulletin inviting the public to comment on the rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule protects public health and complies with deadlines in federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Mark Shumar at (208)373-0502.

DATED this 2nd day of April, 1997.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

TEXT OF DOCKET NO. 16-0102-9702

120. CLEARWATER BASIN.

The waters found within the Clearwater hydrologic basin are designated for use as follows:

(7-1-93)

01. Designated Uses Within Clearwater Basin - Table B.
 Legend:

~~(7-1-93)~~(3-1-97)T

- # Protected for General Use
- * Protected for Future Use
- X Use Protected Above Mining Impact Area

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
a. CB-10	SNAKE RIVER - Salmon River to slackwater	#	#	#			#	#	#
b. CB-120	SELWAY RIVER - source to Lochsa River	#	#	#		#	#	#	#
c. CB-121	LOCHSA RIVER - source to Selway River	#	#	#		#	#	#	#
d. CB-130	MIDDLE FORK OF CLEARWATER RIVER - Lochsa Selway Confluence to S.F. Confluence	#	#	#		#	#	#	#
e. CB-131	AMERICAN RIVER - source to Red River	#	#	#		#	#	#	#
f. CB-1311	BIG ELK CREEK - source to mouth	#	#	#		#	#	#	
g. CB-1312	RED RIVER - source to American River	#	#	#		#	#	#	#
h. CB-132	S.F. CLEARWATER RIVER - confluence American-Red Rivers to mouth		#	#		#	#	#	#
i. CB-1321	THREE MILE CREEK - source to mouth		#	#		#		#	
j. CB-1322	COTTONWOOD CREEK - source to mouth (Idaho Co.)		#	#		#		#	
k. CB-140	CLEARWATER RIVER - S.F. and M.F. Confluence to N.F. Confluence	#	#	#		#	#	#	#
l. CB-141	LAWYERS CREEK - source to mouth		#	#		#	#	#	
m. CB-142	JIM FORD CREEK - source to mouth		#	#		*	#	#	
n. CB-1421	GRASSHOPPER CREEK - source to mouth	#	#	*		*	#	#	

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
o. CB-143	OROFINO CREEK - source to mouth		#	#		#	#	#	
p. CB-144	N.F. CLEARWATER RIVER - source to backwater of Dworshak	#	#	#		#	#	#	#
q. CB-145	DWORSHAK RESERVOIR	#	#	#		#	#	#	#
r. CB-1451	REEDS CREEK - source to mouth	#	#	#		#	#	#	
s. CB-1452	ELK CREEK - source to Dworshak Reservoir	#	#	#		#	#	#	
t. CB-146	N.F. CLEARWATER RIVER - Dworshak Dam to mouth	#	#	#		#	#	#	#
u. CB-150	CLEARWATER RIVER - North Fork to slackwater	#	#	#		#	#	#	#
v. CB-151	BIG CANYON CREEK - source to mouth		#	#		#	#	#	
w. CB-152	COTTONWOOD CREEK - source to mouth (Nez Perce Co.)		#	*		*	#	#	
x. CB-153	POTLATCH RIVER - source to Bovill	#	#	#		#	#	#	#
y. CB-154	POTLATCH RIVER - Bovill to mouth	#	#	#		#	#	#	
z. CB-1541	LITTLE BEAR CREEK - source to mouth		#	*		*		#	
aa. CB-155	LAPWAI CREEK - source to Winchester Lake	#	#	#		#	#	#	
bb. CB-1551	WINCHESTER LAKE	#	#	#		*	#	#	#
cc. CB-156	LAPWAI CREEK - Winchester Lake to mouth		#	#		*	#	#	
dd. CB-160	PALOUSE RIVER - source to Princeton	#	#	#		#	#	#	
ee. CB-170	PALOUSE RIVER - Princeton to Ida-Wash border		#		#		*	#	
ff. CB-171	S.F. PALOUSE RIVER - source to Ida-Wash border		#					#	

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
gg. CB-1711	COW CREEK - source to Ida-Wash border		#					#	
hh. CB-1712	PARADISE CREEK - source to Ida-Wash border		#					#	
ii. CB-210	LINDSAY CREEK - source to mouth		#	#				#	#
jj. CB-20	LOWER GRANITE DAM POOL - both Clearwater and Snake Arms	#	#	#			#	#	

02. Clearwater Hydrologic Basin - Map B. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

130. SALMON BASIN.

The waters found within the Salmon hydrologic basin are designated for use as follows: (7-1-93)

01. Designated Uses Within Salmon Basin - Table C. ~~(7-1-93)~~(7-1-97)T

Legend:

- # Protected for General Use
- * Protected for Future Use
- X Use Protected Above Mining Impact Area

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
a. SB-10	SALMON RIVER - source to East Fork Salmon	#	#	#		#	#	#	#
b. SB-20	SALMON RIVER - E.F. Confluence to Pahsimeroi River	#	#	#		#	#	#	#
c. SB-110	YANKEE FORK - source to mouth	#	#	#		#	#	#	#
d. SB-120	EAST FORK OF SALMON - source to mouth	#	#	#		#	#	#	#
e. SB-130	THOMPSON CREEK - source to mouth		#	#		#		#	
f. SB-140	SQUAW CREEK - source to mouth		#	#		#		#	

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
g. SB-210	PAHSIMEROI RIVER - source to mouth	#	#	#		#	#	#	#
h. SB-30	SALMON RIVER - Pahsimeroi to Lemhi River	#	#	#		#	#	#	#
i. SB-310	LEMHI RIVER - source to mouth	#	#	#		#	#	#	#
j. SB-40	SALMON RIVER - Lemhi River to Middle Fork Salmon	#	#	#		#	#	#	#
k. SB-410	NORTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
l. SB-420	PANTHER CREEK - source to Blackbird Creek	#	#	#		#	#	#	#
m. SB-421	BLACKBIRD CREEK - source to mouth			*				#	
n. SB-4211	WEST FORK OF BLACKBIRD CREEK - source to mouth			※ #		#		#	
o. SB-430	PANTHER CREEK - Blackbird Creek to mouth		#	#				#	
p. SB-440	MIDDLE FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
q. SB-441	BIG CREEK - source to mouth	#	#	#		#	#	#	#
r. SB-4411	MONUMENTAL CREEK - source to mouth	#	#	#		#	#	#	#
s. SB-50	SALMON RIVER - Middle Fork to South Fork	#	#	#		#	#	#	#
t. SB-510	SOUTH FORK OF SALMON RIVER - source to mouth	#	#	#		#	#	#	#
u. SB-511	EAST FORK OF SOUTH FORK SALMON RIVER - source to mouth	#	#	#		#	#	#	#
v. SB-5111	JOHNSON CREEK - source to mouth	#	#	#		#	#	#	#
w. SB-512	SECESH RIVER - source to mouth	#	#	#		#	#	#	#

Map Code	Waters	DESIGNATED USES							
		Domestic Water Supply	Agricultural Water Supply	Cold Water Biota	Warm Water Biota	Salmonid Spawning	Primary Contact Recreation	Secondary Contact Recreation	Special Resource Water
x. SB-60	SALMON RIVER - South Fork to Little Salmon River	#	#	#			#	#	#
y. SB-610	LITTLE SALMON RIVER - source to mouth	#	#	#		#	#	#	#
z. SB-611	RAPID RIVER - source to mouth	#	#	#		#	#	#	#
aa. SB-70	SALMON RIVER - Little Salmon River to Whitebird Creek	#	#	#			#	#	#
bb. SB-710	WHITEBIRD CREEK - source to mouth	#	#	#		#	#	#	
cc. SB-80	SALMON RIVER - Whitebird Creek to mouth	#	#	#			#	#	#
dd. SB-810	ROCK CREEK - source to mouth (Johns Creek)		#	#		#	#	#	

02. Salmon Hydrologic Basin - Map C.

(7-1-93)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.18 - IDAHO LAND REMEDIATION RULES

DOCKET NO. 16-0118-9701

NOTICE OF TEMPORARY RULE

EFFECTIVE DATE: This temporary rule is effective February 14, 1997.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized by Sections 39-105, 39-107, 39-4405, and 39-7210, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the temporary rule.

Under Docket No. 16-0118-9601, the Department of Health and Welfare (Department) published a proposed rule in the Idaho Administrative Bulletin, Volume 96-11, November 6, 1996, pp. 73 through 85. The purpose of the rule proposal was to create a new rule chapter to implement the provisions of the Idaho Land Remediation Act, Title 39, Chapter 72, Idaho Code. The Idaho Land Remediation Act became effective on February 15, 1997; therefore, the Department adopted this rule as a temporary rule with an effective date of February 14, 1997.

The proposed rule, which has been adopted as a pending rule under Docket No. 16-0118-9601, imposes a nonrefundable application fee as allowed by the Idaho Land Remediation Act. Because Section 67-5226(2), Idaho Code, provides that a temporary rule shall not impose a fee unless the Governor finds that the fee is necessary to avoid immediate danger, Subsection 020.02.e of the pending rule, which does not meet this requirement, has been removed from this temporary rule.

The rule responds to the state Legislature's goal of fostering the remediation, transfer, reuse, or redevelopment of sites, or groups of sites, based on risk to human health and the environment where releases or threatened releases of hazardous substances or petroleum exist. The Idaho Land Remediation Rules establish a state voluntary program for the remediation of hazardous substance or petroleum contaminated sites that will encourage innovation and cooperation between the state, local communities, and interested persons and will promote the economic revitalization of property. The rule provides administrative procedures for an expedited remediation process by eliminating the need for adversarial enforcement actions and delays in remediation plan approvals. Risk-based methodologies will be used to determine site-specific risk-based remediation standards based on current and future land use of the property. Certificates of completion will be issued by the state to property owners upon satisfactory implementation of voluntary remediation workplans, and protection from state liability will be provided to lenders consistent with federal policy.

The rule was adopted by the Department because the rule responds to the needs of the regulated community while protecting the public health and environment.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule complies with deadlines in governing law.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Steve Manning at (208)373-0502.

DATED this 2nd day of April, 1997.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

TEXT OF DOCKET NO. 16-0118-9701

IDAPA 16
TITLE 01
Chapter 18

16.01.18 - IDAHO LAND REMEDIATION RULES

000. LEGAL AUTHORITY.

Pursuant to the provisions of Sections 39-105, 39-107, 39-4405, 39-7210, Idaho Code, the Department of Health and Welfare has the authority to promulgate and adopt rules to carry out the purposes of the Idaho Land Remediation Act, Sections 39-7201 to 39-7210, Idaho Code. (2-14-97)T

001. TITLE AND SCOPE.

01. Title and Scope. These rules shall be cited as IDAPA 16.01.18, Rules of the Idaho Department of Health and Welfare, Title 01, Chapter 18, Idaho Land Remediation Rules, and shall be applicable to eligible persons who wish to enter into a voluntary remediation agreement with the state to minimize risk of harm to public health and the environment and to restore the economic viability of contaminated real property. (2-14-97)T

02. Intent. The Idaho Land Remediation rules have been adopted with the purpose of fostering the remediation, transfer, reuse, or redevelopment of sites or groups of sites based on risk to human health and the environment where releases or threatened release of hazardous substances or petroleum exists. It is also the intent of these rules to establish a voluntary program for the remediation of hazardous substance or petroleum contaminated sites that will encourage innovation and cooperation between the state, local communities, and interested persons and will promote the economic revitalization of property. It is intended that this program will provide for an expedited remediation process by eliminating the need for many adversarial enforcement actions and delays in response action plan approvals. (2-14-97)T

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(16)(b)(iv), Idaho Code, the Department of Health and Welfare may have written statements which pertain to the interpretation of the rules of this chapter. If available, such written statements can be inspected and copied at cost at the Division of Environmental Quality, Department of Health and Welfare, 1410 N. Hilton, Boise, Idaho 83706. (2-14-97)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal final agency actions authorized under these rules pursuant to IDAPA 16.05.03, Rules of the Department of Health and Welfare, Title 05, Chapter 03, Rules Governing Contested Case Proceedings and Declaratory Rulings. (2-14-97)T

004. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

For the purpose of the rules contained in Title 01, Chapter 18, the following definitions and abbreviations apply. (2-14-97)T

- 01. Act. Idaho Land Remediation Act, Title 39, Chapter 72, Idaho Code. (2-14-97)T
- 02. Applicant. A person who submits an application to participate in the voluntary remediation program under the Idaho Land Remediation Act, Title 39, Chapter 72, Idaho Code. (2-14-97)T
- 03. Board. The Idaho Board of Health and Welfare. (2-14-97)T

04. Department. The Idaho Department of Health and Welfare. (2-14-97)T
05. Director. The Director of Idaho Department of Health and Welfare or his authorized agent. (2-14-97)T
06. Hazardous Substance. Has the meaning set forth in Section 101(14) of the Comprehensive Environmental, Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 (14), as amended. (2-14-97)T
07. Natural Background Level. The level of any constituent in the affected media within a specified area as determined by representative measurements of the quality of that media unaffected by human activities. (2-14-97)T
08. Person. Any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties. (2-14-97)T
09. Petroleum. Includes petroleum asphalt and crude oil or any part of petroleum asphalt or crude oil that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). (2-14-97)T
10. Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, or other closed receptacles containing any hazardous substance or petroleum. (2-14-97)T
11. Remediation. Remediation means any of the following: (2-14-97)T
- a. Actions necessary to prevent, minimize, or mitigate damages to the public health or welfare or to the environment, which may otherwise result from a release or threat of a release; or (2-14-97)T
- b. Actions consistent with a permanent remedy taken instead of, or in addition to, removal actions in the event of a release or threatened release of a hazardous substance or petroleum into the environment to eliminate the release of hazardous substances or petroleum so that the hazardous substances or petroleum do not migrate to cause substantial danger to present or future public health or welfare or the environment; or (2-14-97)T
- c. The cleanup or removal of released hazardous substances or petroleum from the environment. (2-14-97)T
12. Site. A parcel of real estate for which an application has been submitted under Section 39-7204, Idaho Code. (2-14-97)T

011. -- 019. (RESERVED).

020. APPLICATION TO PARTICIPATE.

01. Application Required. In order to participate in the voluntary remediation program as established by the Idaho Land Remediation Act and these rules, a person shall submit an application to the Department. (2-14-97)T
02. Contents of Application. The application shall be on a form provided by the Department. The application shall include, or be accompanied by, the following: (2-14-97)T
- a. Identification of the applicant and the applicant's relationship to the site; (2-14-97)T
- b. Identification of the owner or operator of the site, if different than Subsection 020.02.a. of these rules; (2-14-97)T

- c. General information pertaining to the site, including the assessors's parcel number(s), site name, and location; (2-14-97)T
 - d. An environmental assessment that conforms to ASTM Standard Practice E 1527, Environmental Site Assessments: Phase I Environmental Site Assessment Process, as amended, or equivalent; (2-14-97)T
 - e. Other background information as requested on the application form provided by the Department as necessary to determine eligibility to participate in the voluntary remediation program. (2-14-97)T
03. Application Processing Procedure. (2-14-97)T
- a. Not more than thirty (30) days after receiving an application the Department shall determine if the applicant is eligible to participate in the voluntary remediation program and notify the applicant of the Department's decision. If the Department fails to comply with this subsection, the applicant shall be considered eligible for the purposes of these rules. (2-14-97)T
 - b. As specifically set forth in the Department's application form, an application may be rejected for the reasons set forth in Section 39-7204(4), Idaho Code. (2-14-97)T
 - c. Rejection of an application for any of the reasons set forth in Section 39-7204(4)(a), Idaho Code, or Section 39-7204(4)(b), Idaho Code, is a final agency action. (2-14-97)T

021. VOLUNTARY REMEDIATION AGREEMENTS.

01. Negotiation of Voluntary Remediation Agreement. If the Department accepts an application pursuant to Section 39-7204, Idaho Code, the applicant may enter into a voluntary remediation agreement with the Department. The Department shall not evaluate a voluntary remediation work plan until the voluntary remediation agreement is signed by the applicant and the Director. (2-14-97)T
02. Contents of Agreement. The voluntary remediation agreement shall include the following: (2-14-97)T
- a. A provision for the Department's oversight including access to site and pertinent site records; (2-14-97)T
 - b. A timetable for the Department to do the following: (2-14-97)T
 - i. Reasonably review and evaluate the adequacy of the work plan; (2-14-97)T
 - ii. Make a determination concerning the approval or rejection of the work plan; (2-14-97)T
 - iii. Identify, to the extent possible, permits or approvals required to initiate and complete a voluntary remediation work plan. (2-14-97)T
 - c. A provision to modify the voluntary remediation agreement and voluntary remediation work plan based upon unanticipated site conditions; (2-14-97)T
 - d. An estimation of costs the Department may incur associated with performing all of the tasks, duties and services related to the relevant application or voluntary remediation program activities, as specified in Subsection 021.04 of these rules; (2-14-97)T
 - e. A mechanism and schedule for the payment of all actual reasonable costs incurred by the Department in the review and oversight of the work plan; (2-14-97)T
 - f. A requirement that the applicant shall comply with any applicable zoning authorities or other local, state, or federal law, in implementing the voluntary remediation work plan; (2-14-97)T

- g. Any other conditions considered necessary by the Department or the applicant concerning the effective and efficient implementation of these rules. (2-14-97)T
03. Reimbursement of Costs Included in Agreement. (2-14-97)T
- a. The voluntary remediation agreement shall include a provision for the payment and accounting of reasonable oversight costs incurred by the Department in connection with the person's application and participation in the voluntary remediation program. (2-14-97)T
- b. Costs incurred by the Department for oversight of voluntary remediation actions will be reimbursed in the following manner, which shall be specified in the voluntary remediation agreement. (2-14-97)T
- i. The applicant shall deposit two thousand five hundred dollars (\$2,500) with the Department. (2-14-97)T
- ii. The unused portion of the deposit will be returned to the applicant within sixty (60) days of Department issuance of a certificate of completion. (2-14-97)T
- iii. Should funding be required for costs incurred in excess of the initial two thousand five hundred dollars (\$2,500) deposit, the Department will, in advance, notify the applicant of required successive deposits in the amount of two thousand five hundred dollars (\$2,500). (2-14-97)T
04. Oversight Costs. Oversight costs shall include the following: (2-14-97)T
- a. The review, processing and negotiation of the voluntary remediation agreement; (2-14-97)T
- b. The review, processing and negotiation of the voluntary remediation work plan; (2-14-97)T
- c. Conducting public hearing and dissemination of public notices; (2-14-97)T
- d. Oversight of work performed in accordance with the voluntary remediation work plan; (2-14-97)T
- e. Issuance of the certificate of completion; (2-14-97)T
- f. Issuance of a covenant not to sue; (2-14-97)T
- g. Administrative expenses associated with cost recovery activities. (2-14-97)T
05. Enforceability of Agreement. Upon signing of the voluntary remediation agreement by the Department and the applicant, the voluntary remediation agreement shall constitute a contract between the Department and the applicant enforceable in accordance with its terms, subject to: (2-14-97)T
- a. The Department's right to rescind the voluntary remediation agreement as provided in Section 39-7208, Idaho Code; and (2-14-97)T
- b. The applicant's right to terminate the voluntary remediation agreement under Subsection 021.06 of these rules. (2-14-97)T
06. Reasons for Which a Person May Terminate a Voluntary Remediation Agreement. An applicant may terminate the voluntary remediation agreement for any of the following reasons: (2-14-97)T
- a. The applicant decides to terminate the voluntary remediation agreement rather than submit additional or corrected information to the Department as provided in Section 39-7206(2)(b), Idaho Code; or (2-14-97)T
- b. The voluntary remediation work plan is modified or rejected as provided in Section 39-7206(5),

Idaho Code. (2-14-97)T

07. Effect of Termination of Agreement. The termination of a voluntary remediation agreement as provided in Section 39-7206, Idaho Code, shall not relieve the applicant from the obligation to comply with any applicable authorities regarding the contamination at the site, and the Department may initiate administrative or judicial action under applicable authorities. (2-14-97)T

022. VOLUNTARY REMEDIATION WORK PLAN.

01. Submittal of Proposed Voluntary Remediation Work Plan. An applicant whose application has been accepted by the Department may submit a proposed voluntary remediation work plan to the Department. The Department will evaluate the work plan according to the terms and conditions of a voluntary remediation agreement signed by the Department and the applicant. (2-14-97)T

02. Contents of Voluntary Remediation Work Plan. The voluntary remediation work plan shall include the following: (2-14-97)T

a. The current and reasonably anticipated future use of on-site ground and surface water; (2-14-97)T

b. The current and reasonably anticipated future uses of the site and immediately adjacent properties; (2-14-97)T

c. If a risk-based concentration is proposed as a remediation standard, the voluntary remediation work plan shall include an estimate of the human and environmental risk from releases or threatened releases of hazardous substances or petroleum at the site based upon the current use of the site and adjacent properties and reasonably anticipated future uses of the site. (2-14-97)T

d. Proposed remediation standards developed in accordance with Section 023 of these rules. (2-14-97)T

e. A proposed statement of work; (2-14-97)T

f. A schedule to accomplish the proposed statement of work. (2-14-97)T

03. Information Supporting the Voluntary Remediation Work Plan. Sufficient information to support the voluntary remediation work plan shall be submitted and may include the following: (2-14-97)T

a. Site assessment information including: (2-14-97)T

i. A legal description of the site and a map identifying the location and size of facilities and relevant features, such as property boundaries, surface topography, surface and subsurface structures, and utility lines; (2-14-97)T

ii. The physical characteristics of site facilities and contiguous areas, including the location of any surface water bodies and ground water aquifers; (2-14-97)T

iii. The location of any wells located on the site or on areas within one-half mile radius of the site and a description of the use of those wells; (2-14-97)T

iv. The operational history of the facility, including ownership, and the current use of the facility; (2-14-97)T

v. Information on the methods and results of investigations concerning the nature and extent of any releases or threatened releases of hazardous substances or petroleum that have occurred at the site and a map showing general areas of concentrations of these hazardous substances or petroleum; (2-14-97)T

vi. A site investigation sampling and analysis plan, and quality assurance project plan; (2-14-97)T

vii. Any sampling results or other data that characterizes the soil, air, ground water, surface water, or sediments on the site; and (2-14-97)T

viii. Available information on the environmental regulatory and compliance history of the site, including all applicable environmental permits. (2-14-97)T

b. Risk evaluation information including: (2-14-97)T

i. An evaluation of the data collected during the site investigation including identification of chemicals of potential concern; (2-14-97)T

ii. An exposure assessment of all potential pathways of exposure; (2-14-97)T

iii. A toxicity assessment estimating the toxicity of both carcinogens and non-carcinogens; (2-14-97)T

iv. Identify site conditions which may affect or limit migration of the contamination; and (2-14-97)T

v. A risk characterization that evaluates the uncertainties associated with the site investigation, the likelihood of exposures, and the toxicity of the contaminants. (2-14-97)T

04. Review and Evaluation of Work Plan. The Department shall review and evaluate the voluntary remediation work plan, provide public notice, accept public comments and may make the determination whether to hold public hearings in accordance with Section 39-7206, Idaho Code, and the voluntary remediation agreement. (2-14-97)T

a. For purposes of determining whether to hold a public hearing in accordance with Section 39-7206, Idaho Code, the Department will consider the following a significant number of requests for a public hearing: (2-14-97)T

i. Twenty-five (25) written requests from potentially affected persons; or (2-14-97)T

ii. One or more written requests from an organization representing twenty-five (25) or more potentially affected members. (2-14-97)T

b. The Department shall provide for a public comment period of at least thirty (30) days following publication of a public notice under Section 39-7206(3)(d), Idaho Code. (2-14-97)T

c. Pursuant to Section 39-7206, Idaho Code, the Department may approve, modify and approve, or reject a voluntary remediation work plan. (2-14-97)T

d. The Department may reject or approve with modification any voluntary remediation work plan that does not achieve the remediation standards developed and approved by the Department pursuant to Section 023 of these rules. (2-14-97)T

e. If the Department rejects a voluntary remediation work plan, the Department shall: (2-14-97)T

i. Notify the applicant and specify the reasons for rejection; (2-14-97)T

ii. Provide the applicant an opportunity according to the schedule in the voluntary remediation agreement to amend the work plan; and (2-14-97)T

iii. The applicant may appeal the Department's decision to reject the work plan as provided in Section 39-7206, Idaho Code. (2-14-97)T

f. If an applicant determines not to amend a rejected work plan to the satisfaction of the Department, the voluntary remediation agreement shall be terminated as provided in Subsection 021.06 of these rules. (2-14-97)T

05. Modification to an Approved Voluntary Remediation Workplan That Requires Additional Public Notice and Comment. After the close of the public comment period and the Department's approval of the voluntary remediation work plan, situations may arise that result in modification of an approved voluntary remediation work plan. Depending upon the significance of the modification, another opportunity for public notice and comment may be appropriate. (2-14-97)T

a. The Department need not provide for an additional public notice and comment period if the proposed modifications to the voluntary remediation work plan are limited to minor changes. A minor change to the voluntary remediation work plan is a change that does not fundamentally alter the overall remedial approach. (2-14-97)T

b. The Department shall provide for an additional public notice and comment period if the proposed modifications to the voluntary remediation work plan are fundamental. A fundamental change is a change that requires reconsideration of the remediation proposed in the approved voluntary remediation work plan. (2-14-97)T

023. REMEDIATION STANDARDS.

01. Voluntary Remediation Work Plan Must Achieve Health-Based and Environmental Remediation Standards. All hazardous substance or petroleum concentrations in media which exceed the health-based and environmental remediation standards shall be addressed through appropriate remediation and in accordance with the appropriate technical standards based upon the following: (2-14-97)T

a. Site characteristics; (2-14-97)T

b. Hazardous substances or petroleum; and (2-14-97)T

c. Technical guidance approved by the Department. (2-14-97)T

02. Establishment of Remediation Standards. The remediation standards utilized in these rules shall be no more stringent than applicable or relevant and appropriate federal and state standards and are consistent with 42 U.S.C. 9621, taking into consideration site specific conditions. An applicant who submits a voluntary remediation work plan for approval by the Department shall select and attain compliance with one or more of the following remediation standards when implementing a voluntary remediation work plan: (2-14-97)T

a. Attainment of a natural background level demonstrated by the collection and analysis of representative samples from environmental media of concern where contamination occurs. Evaluation of representative samples shall be conducted through the application of statistical tests specified in a voluntary remediation work plan. (2-14-97)T

b. An established state or federal generic numerical health standard which achieves an appropriate health-based level so that any substantial present or probable future risk to human health or the environment is eliminated or reduced to protective levels based upon present and reasonably anticipated future uses of the site. (2-14-97)T

c. Risk-based concentrations calculated for the hazardous substance or petroleum using site-specific risk assessment procedures. (2-14-97)T

d. An applicant may use a combination of standards from Subsections 023.02.a. through 023.02.c. to implement a voluntary remediation work plan. (2-14-97)T

024. IMPLEMENTATION OF VOLUNTARY REMEDIATION WORK PLAN.

01. Implementation. An approved voluntary remediation work plan shall be fully implemented by the applicant according to the terms and conditions of the voluntary remediation agreement, these rules and the Idaho Land Remediation Act. (2-14-97)T

02. Permits or Approvals Necessary for Implementation. The Department shall assist in the timely issuance of Department permits or approvals required to initiate and complete a voluntary remediation work plan.

(2-14-97)T

03. Progress Reports. An applicant implementing a voluntary remediation work plan shall submit periodic progress reports to the Department according to the terms and conditions of the voluntary remediation agreement.

(2-14-97)T

04. Voluntary Remediation Work Plan Completion Report. When the applicant believes the objectives of the voluntary remediation work plan have been achieved and successfully implemented, the applicant shall submit to the Department a voluntary remediation work plan completion report together with a request that the Department issue a certificate of completion.

(2-14-97)T

a. The voluntary remediation work plan completion report shall contain information sufficient for the Department to determine whether the voluntary remediation work plan objectives were achieved and the voluntary remediation work plan was successfully implemented.

(2-14-97)T

b. The Department shall, within thirty (30) days of the receipt of a voluntary remediation work plan completion report and a request for a certificate of completion, notify the applicant whether the voluntary remediation work plan has been successfully implemented.

(2-14-97)T

c. If the Department notifies the applicant that the voluntary remediation work plan has not been successfully implemented, the applicant shall do the following:

(2-14-97)T

i. Implement the voluntary remediation work plan to the satisfaction of the Department; and

(2-14-97)T

ii. Resubmit the voluntary remediation work plan completion report.

(2-14-97)T

d. If a voluntary remediation work plan completion report demonstrates that the voluntary remediation work plan has been successfully implemented, the Department shall certify such facts by issuing the applicant a certificate of completion. The applicant shall record the certificate of completion with the deed for the site on which the remediation took place.

(2-14-97)T

e. The Department may provide a certificate of completion conditioned upon continued monitoring, recordation or maintenance of institutional or engineering controls, or other continuing actions by the applicant.

(2-14-97)T

f. Decisions by the Department involving the voluntary remediation work plan completion reports required under this section are considered final agency actions.

(2-14-97)T

025. COVENANT NOT TO SUE.

01. Negotiation and Provision of Covenant. Within thirty (30) days of receipt of the Department's certificate of completion, the applicant may request the Department negotiate and provide a covenant not to sue as provided in Section 39-7207, Idaho Code. Any such covenant not to sue may be conditioned upon continuing monitoring, recordation or maintenance of institutional or engineering controls, or other continuing actions required of the applicant pursuant to an approved voluntary remediation work plan.

(2-14-97)T

02. Rescission of Covenant. The Department may rescind a covenant not to sue in accordance with Section 39-7208, Idaho Code. If the Department rescinds a covenant not to sue, it may initiate administrative or judicial action as provided in Sections 39-7207 and 39-7208, Idaho Code. The Department shall also notify the county in which the site exists of rescission of the covenant not to sue for purposes of determining ad valorem exemptions provided under Section 63-105II, Idaho Code.

(2-14-97)T

03. Continuing Compliance. During the implementation of an approved voluntary remediation work

plan, the Department shall not bring an action, including an administrative or judicial action for any liability for remediation relating to the release or threatened release of a hazardous substance or petroleum that is the subject of the voluntary remediation work plan, against a person who entered into a voluntary remediation agreement and who is implementing the voluntary remediation work plan in accordance with such agreement implementing the voluntary remediation work plan. (2-14-97)T

026. LENDER LIABILITY.

01. General Statement. Pursuant to Section 39-7209, Idaho Code, a person who maintains indicia of ownership primarily to protect a security interest in a site, as defined in Subsection 010.12 of these rules, and who does not participate in the management of the site, shall not be considered an owner or operator of that site, nor liable under any pollution control or other environmental protection law, rule or regulation, or otherwise responsible for any environmental contamination or response activity costs consistent with United States environmental protection agency policy, 60 Federal Register 63517, dated December 11, 1995, as amended. This Section 026 sets out the rules of the Board regarding lender liability pursuant to Sections 39-7209 and 39-7210(6), Idaho Code. (2-14-97)T

02. Definitions and Operative Provisions. (2-14-97)T

a. "Indicia of ownership" means evidence of a security interest, evidence of an interest in a security interest, or evidence of an interest in real or personal property securing a loan or other obligation, including any legal or equitable title or deed to real or personal property acquired through or incident to foreclosure or its equivalents. Evidence of such interests include, but are not limited to, mortgages, deeds of trust, liens, surety bonds and guaranties of obligations, title held pursuant to a lease financing transaction in which the lessor does not select initially the leased property (hereinafter "lease financing transaction"), legal or equitable title obtained pursuant to foreclosure, and their equivalents. Evidence of such interests also includes assignments, pledges or other rights to or other forms of encumbrance against property that are held primarily to protect a security interest. A person is not required to hold title or a security interest in order to maintain indicia of ownership. (2-14-97)T

i. A "holder" is a person who maintains indicia of ownership primarily to protect a security interest in a site. A holder includes the initial holder (such as a loan originator); any subsequent holder (such as a successor-in-interest or subsequent purchaser of the security interest on the secondary market); a guarantor of an obligation, surety, or any person who holds ownership indicia primarily to protect a security interest; or a receiver or other person who acts on behalf or for the benefit of a holder. (2-14-97)T

ii. A "borrower," "debtor" or "obligor" is a person who owns, leases, occupies or operates a site encumbered by a security interest. (2-14-97)T

b. "Primarily to protect a security interest" means that the holder's indicia of ownership are held primarily for the purpose of securing payment or performance of an obligation. (2-14-97)T

i. "Security interest" means an interest in a site, created or established for the purpose of securing a loan or other obligation. Security interests include, but are not limited to, mortgages, deeds of trust, liens, security interests under Article 9 of the Uniform Commercial Code, and title pursuant to lease financing transactions. (2-14-97)T

ii. "Primarily to protect a security interest" does not include indicia of ownership held primarily for investment purposes, nor ownership indicia held primarily for purposes other than as protection for a security interest. A holder may have other, secondary reasons for maintaining indicia of ownership, but the primary reason why any ownership indicia are held must be as protection for a security interest. (2-14-97)T

c. Participation in management defined. The term "participating in the management of a site" means that the holder is engaging in acts of site management, as defined herein. (2-14-97)T

i. Actions that are participation in management. Participating in the management of a site means actual participation by the holder in the management or operational affairs of the site by the holder, and does not include the mere capacity or ability to influence, or the unexercised right to control, site operations. A holder is participating in management, while the borrower is still in possession of the site encumbered by the security interest,

only if the holder either: (2-14-97)T

(1) Exercises decision making control over the borrower's environmental compliance, such that the holder has undertaken responsibility for the borrower's hazardous substance or petroleum handling or disposal practices; or (2-14-97)T

(2) Exercises control at a level comparable to that of a manager of the borrower's enterprise, such that the holder has assumed or manifested responsibility for the overall management of the enterprise encompassing the day-to-day decision making of the enterprise with respect to (1) environmental compliance or (2) all, or substantially all, of the operational (as opposed to financial or administrative) aspect of the enterprise other than environmental compliance. (2-14-97)T

ii. Actions that are not participation in management. (2-14-97)T

(1) Actions at the inception of the loan or other transaction. No act or omission prior to the time that indicia of ownership are held primarily to protect a security interest constitutes evidence of participation in management. A prospective holder who undertakes or requires an environmental inspection of the site or to comply or come into compliance (whether prior or subsequent to the time that indicia of ownership are held primarily to protect a security interest) with any applicable law or regulation, is not by such action considered to be participating in the site's management. Neither Section 39-7209, Idaho Code, or these rules require a holder to conduct or require an inspection to qualify for the exemption, and the liability of a holder cannot be based on or affected by the holder not conducting or not requiring an inspection. (2-14-97)T

(2) Loan policing and workout. Actions that are consistent with holding ownership indicia primarily to protect a security interest do not constitute participation in management. The authority for the holder to take such actions may, but need not, be contained in contractual or other documents specifying requirements for financial, environmental and other warranties, covenants, conditions, representations or promises from the borrower. Loan policing and workout activities cover and include all activities up to foreclosure and its equivalents. (2-14-97)T

(a) Policing the security interest or loan. A holder who engages in policing activities prior to foreclosure will remain within the exemption provided that the holder does not by such actions participate in the management of the site. Such actions include, but are not limited to, requiring the borrower to clean up the site during the term of the security interest; requiring the borrower to comply or come into compliance with applicable federal, state and local environmental and other laws, rules and regulations during the term of the security interest; securing or exercising authority to monitor or inspect the site (including on-site inspections) in which indicia of ownership are maintained, or the borrower's business or financial condition during the term of the security interest; or taking other actions to adequately police the loan or security interest (such as requiring a borrower to comply with any warranties, covenants, conditions, representations or promises from the borrower). (2-14-97)T

(b) Policing activities also include any activities taken by the holder to require a borrower to comply with a voluntary remediation work plan, or by agreement with the Department, to complete a voluntary remediation work plan, provided that the holder does not otherwise participate in the management of the site. (2-14-97)T

(c) Loan workout. A holder who engages in workout activities prior to foreclosure and its equivalents will remain within the exemption provided that the holder does not by such action participate in the management of the site. For purposes of this rule, "workout" refers to those actions by which a holder, at any time prior to foreclosure and its equivalents, seeks to prevent, cure or mitigate a default by the borrower or obligor, or to preserve, or prevent the diminution of, the value of the security. (2-14-97)T

d. Foreclosure on a site and post-foreclosure activities. (2-14-97)T

i. Foreclosure. Indicia of ownership that are held primarily to protect a security interest include legal or equitable title or deed to real or personal property acquired through or incident to foreclosure and its equivalents. "Foreclosure and its equivalents" includes purchase at foreclosure sale; acquisition or assignment of title in lieu of foreclosure; termination of a lease or other repossession; acquisition to a right to title or possession; an agreement in satisfaction of the obligation; or any other formal or informal manner (whether pursuant to law or under warranties, covenants, conditions, representations or promises from the borrower) by which the holder acquires title to or

possession of the secured property. The indicia of ownership held after foreclosure continue to be maintained primarily as protection for a security interest, provided that the holder undertakes to sell, re-lease or otherwise divest itself of the site, in a reasonably expeditious manner, using whatever commercially-reasonable means are relevant or appropriate with respect to the site, taking all facts and circumstances into consideration, and provided that the holder did not participate in management prior to foreclosure. (2-14-97)T

ii. Holding foreclosed property for disposition and liquidation. A holder, who did not participate in management prior to foreclosure and its equivalents, may sell, re-lease, liquidate, maintain business activities, wind up operations, undertake any response action under federal, state or local environmental laws, rules or regulations, undertake completion of an approved voluntary remediation work plan by agreement with the Department, and take measures to preserve, protect or prepare the secured asset prior to sale or other disposition, without voiding the exemption provided by Section 39-7209, Idaho Code, and these rules. (2-14-97)T

027. INSTITUTIONAL CONTROLS.

01. Purpose. (2-14-97)T

a. Institutional controls may be proposed by the applicant or the Department as an element of the voluntary remediation work plan. Institutional controls are measures undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances or petroleum at a site. Such measures may be used to assure both the continued protection of human health and the environment and the integrity of a cleanup action in at least the following circumstances: (2-14-97)T

b. Where a cleanup action results in residual concentrations of hazardous substances or petroleum which exceed risk-based health standards; or (2-14-97)T

c. When the Department determines such controls are required to assure the continued protection of human health and the environment or the integrity of the cleanup action. (2-14-97)T

02. Prohibition of Use. Institutional controls should not be used as a substitute for cleanup actions that would otherwise be technically possible. (2-14-97)T

03. Institutional Controls. For the purposes of this section, institutional controls may include: (2-14-97)T

a. Physical measures, such as fences and signs, to limit activities that may interfere with the cleanup action or result in exposure to hazardous substances at the site; and (2-14-97)T

b. Legal and administrative controls, such as zoning restrictions, restrictive covenants, or equitable servitudes used to ensure such measures are maintained. (2-14-97)T

04. Legal Use Restrictions. Institutional controls may be described in an equitable servitude, restrictive covenant, or similar legal mechanism executed by the property owner and recorded in the county in which the site is located. The use of such legal use restrictions may be addressed in the voluntary remediation agreement, the certificate of completion, or the covenant not to sue. (2-14-97)T

05. Legal Use Restriction Requirements. Where appropriate, the legal use restriction requirement should: (2-14-97)T

a. Prohibit activities on the site that may interfere with a cleanup action, operation and maintenance, monitoring, or other measures necessary to assure the integrity of the cleanup action and continued protection of human health and the environment; (2-14-97)T

b. Prohibit activities that may result in the release of a hazardous substance or petroleum which was contained as a part of the remediation; (2-14-97)T

c. Require notice to the Department of the owner's intent to convey any interest in the site.

Conveyance of title, easement, lease, or other interest in the property may be conditioned upon easement, lease, or other interest in the property for the continued operation, maintenance and monitoring of the cleanup action, and for continued compliance with this subsection; (2-14-97)T

d. Require notice and approval by the Department of any proposal to use the site in a manner which is inconsistent with the legal use restriction. (2-14-97)T

e. Grant the Department and its designated representatives the right to enter the property at reasonable times for the purpose of evaluating compliance with the voluntary remediation work plan and other required plans, including the right to take samples, inspect any remedial actions taken at the site, and to inspect records. (2-14-97)T

f. Contain other restrictions appropriate under the circumstances. (2-14-97)T

06. Compliance with Other Laws. It shall be the applicant's responsibility to comply with any applicable zoning authorities or other local, state, or federal law, in implementing the voluntary remediation work plan. (2-14-97)T

07. Financial Assurances. The Department may require the applicant to provide financial assurances, through a trust fund or other appropriate financial mechanism approved by the Department sufficient to cover all costs for ensuring the effectiveness of institutional controls or of operation and maintenance, including compliance monitoring and undertaking appropriate measures to ensure the integrity of institutional controls. (2-14-97)T

08. Removal of Restrictions. If the residual hazardous substances or petroleum remaining at the site are subsequently reduced in concentration such that risk-based health standards are met, then the owner may request the restrictive covenant or other restrictions be voided. The restrictive covenant or other restrictions may be removed, if the Department, after public notice and opportunity for comment, concurs. (2-14-97)T

028. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.01 - RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN

DOCKET NO. 16-0301-9701

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, 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) 39-106(l) and 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the January 1, 1997 Administrative Bulletin, Volume No. 97-1, pages 133 through 135.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 2nd day of April, 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 03
Chapter 01

RULES GOVERNING AID TO FAMILIES WITH DEPENDENT CHILDREN

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-1, January 1, 1997,
pages 133 through 135.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.03 - CHILD SUPPORT ENFORCEMENT MANUAL
DOCKET NO. 16-0303-9701
NOTICE OF TEMPORARY RULES

EFFECTIVE DATE: The temporary rule is effective January 1, 1997.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 56-203, Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking sets forth the definition and criteria for good cause for not suspending a license when an individual has not paid child support.

TEMPORARY RULE JUSTIFICATION: 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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Shannon Barnes at (208) 334-6515.

DATED this 2nd day of April, 1997.

Staci Welsh
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TEXT OF DOCKET NO. 16-0303-9701

605. GOOD CAUSE DETERMINATION IN LICENSE SUSPENSION PROCEEDINGS.

01. Definition. "Person" means an individual. (1-1-97)T
02. Res Judicata. No issues that have been previously litigated may be considered at the license suspension hearing. (1-1-97)T
03. Good Cause. A license suspension shall be denied or stayed if the obligor proves that one (1) of the following has resulted in a current inability to pay the child support obligation: (1-1-97)T
 - a. The obligor is physically disabled; (1-1-97)T
 - b. The obligor is experiencing the effects of an extended illness or accident; (1-1-97)T
 - c. The obligor is a student whose enrollment is a result of a referral from Vocational Rehabilitation, workman's compensation, or other competent authority working with disabled individuals; or (1-1-97)T
 - d. The obligor is incarcerated in any county or state facility, and proves that he or she has no assets. (1-1-97)T

04. Not Good Cause. Any factor not defined as good cause in Subsection 650.03 is not good cause for a denial or stay of a license suspension, including but not limited to the following: (1-1-97)T

- a. The obligor is unemployed, underemployed, or has difficulty maintaining consistent employment; (1-1-97)T
- b. The obligor is disabled but has not applied for disability or other benefits, or has been refused benefits; (1-1-97)T
- c. The obligor asserts that the child support obligation is too high; (1-1-97)T
- d. The obligor has been denied full visitation with the child or children; or (1-1-97)T
- e. The obligor alleges the obligee misuses the child support. (1-1-97)T

6056. -- 699. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-9701

NOTICE OF PENDING RULES AND AMENDMENT TO TEMPORARY RULES

EFFECTIVE DATE: The amendments to the temporary rules are effective September 22, 1996, December 1, 1996, and January 1, 1997. These rules have been adopted by the agency and will be submitted for review by the 1998 Idaho State Legislature. The pending rules become final and effective on July 1, 1998, 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted pending rules and amended temporary rules. The action is authorized pursuant to Section(s) 39-106(l) and 56-202(b), Idaho Code.

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

In response to public comment, the following changes were made:

Section 204. Adds that aliens receiving Food Stamps on August 22, 1996 must have their eligibility for Food Stamps redetermined using the new criteria between April 1, 1997 and August 31, 1997

Section 261. Adds that when a household applies for Food Stamps, it must be determined whether a member of the household quit their job or reduced their hours of work to less than thirty per week, without good cause, within the last sixty (60) days. Adds that this must also be determined when a new member enters the household.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the January 1, 1997 Administrative Bulletin, Volume 97-1, pages 136 through 164.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 2 day of April, 1997.

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IDAPA 16
TITLE 03
Chapter 04

RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

**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 97-1, Januray 1, 1997,
pages 136 through 164.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature
for final adoption.**

TEXT OF DOCKET NO. 16-0304-9701

204. CITIZENSHIP OR SATISFACTORY IMMIGRATION STATUS.

A person must be a U. S. resident to get Food Stamps. A person must be a U.S. citizen or qualified alien to get Food Stamps. Aliens getting Food Stamps on August 22, 1996 and meeting a category in Subsection 204.01 are qualified aliens eligible ~~through August 31, 1997.~~ for Food Stamps and must have their eligibility redetermined using the criteria in Subsection 204.02 between April 1, 1997 and August 31, 1997. All other aliens must meet a category in Subsection 204.02. (9-22-96)T

01. Eligible Immigration Status for Aliens Getting Food Stamps on August 22, 1996. (9-22-96)T

a. Permanent Alien. An alien lawfully admitted for permanent residence as an immigrant under sections 101(a)(20) and 101(a)(15) of the Immigration and Nationality Act. This includes: Amerasians admitted under Section 884(a)(1) of Public Law 100-202, aliens admitted under Section 245A with a class code of "W-16," "W-26," or "W-36." The alien is aged, or disabled, or married to a U.S. citizen, Section 244 of the Immigration and Nationality Act with a code of "Z-11." (6-1-94)

b. Permanent Resident Under Color of Law. An alien entering the United States before January 1, 1972 is lawfully admitted for permanent residence by the Attorney General, under Section 249 of the Immigration and Nationality Act. An alien entering the United States after January 1, 1972, and since residing in the United States, is lawfully admitted for permanent residence by the Attorney General, under Section 249 of the Immigration and Nationality Act. (6-1-94)

c. Refugees. An alien qualified for entry under Section 207 or 208 of the Immigration and Nationality Act. An alien granted asylum by the Attorney General under Section 208 of the Immigration and Nationality Act. (6-1-94)

d. Other Permanent Residents. An alien lawfully in the United States for urgent reasons, by order of the Attorney General. An alien lawfully in the United States, by order of the Attorney General, for reasons in the public interest under Section 212(d)(5) of the Immigration and Nationality Act. An alien lawfully in the United States, by an Attorney General grant of parole. (6-1-94)

e. Alien Subject to Persecution. An alien not deported under Section 243 of the Immigration and

Nationality Act. The Attorney General believes the alien would be subject to persecution due to race, religion, or political opinion. (6-1-94)

f. Special Agricultural Worker. Effective June 1, 1987. An alien granted temporary residence as a Special Agricultural Worker (SAW) under Section 210(a) of the Immigration and Nationality Act. (6-1-94)

g. Additional Special Agricultural Worker. An alien lawfully admitted for temporary residence as an additional special agricultural worker. Effective October 1, 1989, through September 30, 1993, under Section 210A(a) of the Immigration and Nationality Act. (6-1-94)

h. Disabled Alien. Effective November 7, 1988. An alien defined as aged, blind, or disabled under Section 1614(a)(1) of the Social Security Act. The alien must be lawfully admitted for permanent or temporary residence, under Section 245A(b)(1) of the Immigration and Nationality Act. (6-1-94)

02. Eligible Immigration Status for All Other Aliens. (9-22-96)T

a. Alien Eligible Up to Five (5) Years from Admission. An alien is an eligible alien for five (5) years from the date he obtained a status listed below. (9-22-96)T

i. Refugee admitted under Section 207 of the Immigration and Nationality Act. (9-22-96)T

ii. Asylee admitted under Section 208 of the Immigration and Nationality Act. (9-22-96)T

iii. Alien whose deportation is withheld under Section 243(h) of the Immigration and Nationality Act. (9-22-96)T

b. Alien Eligible with No Time Limit - An alien is an eligible alien with no time limit if he meets a requirement listed below. (9-22-96)T

i. A permanent resident alien admitted under the Immigration and Nationality Act who has forty (40) qualifying quarters of coverage under Title II of the Social Security Act. A qualifying quarter includes a quarter worked by the alien's parent while the alien was under age eighteen (18) and a quarter worked by the alien's spouse during marriage if the alien remains married to the spouse or the spouse is deceased. Any quarter after January 1, 1997 in which an alien received any Federal means tested benefit is not counted as a qualifying quarter. (9-22-96)T

ii. A veteran honorably discharged for a reason other than alienage and the veteran's spouse and unmarried dependent child. (9-22-96)T

iii. An active duty member of the U.S. Armed Forces who is not on active duty for training only and the member's spouse and unmarried dependent child. (9-22-96)T

(BREAK IN CONTINUITY OF SECTIONS)

261. VOLUNTARY JOB QUIT OR REDUCTION OF WORK.

When a Food Stamp household reports the loss of earned income, determine if a member of the household voluntarily quit a job or voluntarily reduced their work hours to less than thirty (30) hours a week. If the head of household voluntarily quit a job or reduced their work hours to less than thirty (30) hours a week, without good cause, the household is not eligible for Food Stamps. If a non-head of household voluntarily quit a job or voluntarily reduced their work hours to less than thirty (30) hours a week, without good cause, that person is not eligible for Food Stamps. When a household applies for Food Stamps, determine if a member voluntarily quit their most recent job or reduced their hours of work to less than thirty (30) hours per week, without good cause, in the last sixty (60) days. If a new member enters the household, determine if the head of household changes. Determine if the new household member voluntarily quit a job or reduced work hours without good cause in the last sixty (60) days. (9-22-96)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE
AGED, BLIND AND DISABLED (AABD)

DOCKET NO. 16-0305-9701

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective August 22, 1996 and January 1, 1997. These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section(s) 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(s) 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 Section(s) 39-106(l) and 56-202(b), Idaho Code.

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

In response to public comment, the following changes were made:

Section 102. Change to add an eligible alien status for a lawfully admitted alien who is credited with forty quarters of coverage under Social Security. A quarter of coverage is not credited if the alien received any federal means tested benefit.

Section 605. Changed to add an eligible alien status for a lawfully admitted alien who is credited with forty quarters of coverage under Social Security. A quarter of coverage is not credited if the alien received any federal means tested benefit.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the January 1, 1997, Administrative Bulletin, Volume No. 97-1, pages 165 through 180.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 1st day of January, 1997.

Staci Welsh
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IDAPA 16
TITLE 03
Chapter 05

RULES GOVERNING ELIGIBILITY FOR AID TO THE
AGED, BLIND AND DISABLED (AABD)

**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 97-1, January 1, 1997,
pages 165 through 180.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature
for final adoption.**

TEXT OF DOCKET NO. 16-0305-9701

102. CITIZENSHIP AND ALIENAGE.

The client must be a citizen or national of the United States or an eligible alien. The client must provide proof of citizenship or alien status. The client or legal guardian must sign a declaration, under penalty of perjury, attesting to his citizenship or alien status. (1-1-93)

01. Eligible Aliens Before August 22, 1996. An eligible alien is a legal alien, admitted to the United States for permanent residence. An eligible alien is a person lawfully living in the United States, under the color of the law. (8-22-96)T

02. Eligible Alien August 22, 1996 and Later. An eligible alien is one (1) of the following: (8-22-96)T

a. An alien is an eligible alien for five (5) years from the date he obtained a status in Subsections 102.02.a.i through 102.02.a.iv. (8-22-96)T

i. Refugee admitted under Section 207 of the Immigration and Nationality Act. (8-22-96)T

ii. Asylee admitted under Section 208 of the Immigration and Nationality Act. (8-22-96)T

iii. Alien Paroled into the U.S. for at least one (1) year under Section 212(d)(5) of the Immigration and Nationality Act. (8-22-96)T

iv. Alien whose deportation is withheld under Section 243(h) of the Immigration and Nationality Act. (8-22-96)T

b. An alien is an eligible alien indefinitely if he is one (1) of the following: (8-22-96)T

i. A veteran honorably discharged for a reason other than alienage and the veteran's spouse and unmarried dependent child. (8-22-96)T

ii. An active duty member of the U.S. Armed Forces who is not on active duty for training only and the member's spouse and unmarried dependent child. (8-22-96)T

c. An alien is an eligible alien with no time limit if he entered the US on or after August 22, 1996, and has forty (40) qualifying quarters of coverage under Title II of the Social Security Act. A qualifying quarter includes a quarter worked by the alien's parent while the alien was under age eighteen (18) and a quarter worked by the alien's spouse during marriage if the alien remains married to the spouse or is deceased. Any quarter after January 1, 1997 in which an alien received any Federal means tested benefit is not a qualifying quarter. (8-22-96)T

03. Verifying Alien Status. Alien status claimed by a client must be verified, through the INS automated Alien Status Verification Index (ASVI). If INS reports the alien's status cannot be verified through ASVI, secondary proof is required. Secondary proof is required before AABD can be denied, reduced, or stopped based on alien status. (1-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

605. CITIZENSHIP AND ALIENAGE REQUIREMENT.

The client must be a citizen or national of the United States, or an eligible alien. The client or legal guardian, if the client is under age eighteen (18), must sign a declaration, under penalty of perjury, attesting to citizenship or alien status. (1-1-93)

01. Eligible Aliens Before August 22, 1996. Eligible aliens are legal aliens admitted to the United States for permanent residence. Eligible aliens are also persons lawfully living in the United States, under color of the law. (See Subsections 605.01.a through 605.01.s.) (8-22-96)T

a. Aliens granted lawful temporary resident status under Sections 245A and 210 of the INA, if the individual is aged, blind or disabled using AABD criteria, under eighteen (18) years of age or a Cuban/Haitian Entrant. (1-1-93)

b. Aliens granted lawful temporary resident status under Section 210 of the INA. (1-1-93)

c. Aliens residing in the United States with knowledge and permission of the INS whose departure the INS does not enforce. (1-1-93)

d. Aliens admitted under Section 203(a)(7) of the INA. Ask for a copy of INS Form I-94 endorsed "Refugee-Conditional Entry". (1-1-93)

e. Aliens, including Cuban/Haitian entrants, paroled in the United States under Section 212(d)(5). Ask for a copy of INS Form I-94 stamped Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981. (1-1-93)

f. Aliens residing in the United States under an indefinite stay of deportation. Ask for an INS letter with this information or INS Form I-94 with this notation. (1-1-93)

g. Aliens residing in the United States under an indefinite voluntary departure. Ask for an INS letter or INS Form I-94 showing voluntary departure has been granted. (1-1-93)

h. Aliens and their families on whose behalf a relative petition has been approved, who are entitled to voluntary departure, and whose departure the INS does not enforce. Ask for a copy of INS Form I-94 or Form I-210 or a letter showing status. (1-1-93)

i. Aliens who have filed applications for change of status under Section 245 of the INA, the INS has accepted as "properly filed" and whose departure INS does not enforce. Ask for a copy of INS Form I-94 or I-181 or a passport appropriately stamped. (1-1-93)

j. Aliens granted stays of deportation by court order, statute or regulation, or by individual decision of

the INS under Section 106 of the INA or relevant INS instructions whose departure INS does not enforce. Ask for a copy of INS Form I-94 or a letter for INS or a copy of a court order establishing the alien's status. (1-1-93)

k. Aliens granted asylum under Section 208 of the INA. Ask for a copy of INS Form I-94 properly endorsed. (1-1-93)

l. Aliens admitted as refugees under Section 207 or Section 203(a)(7) of the INA. Ask for a copy of INS Form I-94 properly endorsed. (1-1-93)

m. Aliens granted voluntary departure under Section 242(b) of the INA whose departure the INS does not enforce. Ask for INS Form I-94 or Form I-120 bearing a departure date. (1-1-93)

n. Aliens granted deferred action status under INS Operations Instruction 1003.01(a)(ii) before June 15, 1984 or 242.1(a)(22) issued June 15, 1984 and later. Ask for a copy of INS Form I-210 or a letter showing departure has been deferred. (1-1-93)

o. Aliens residing in the United States under orders of supervision under Section 242 of the INA. Ask for a copy of Form I-220 B. (1-1-93)

p. Aliens who have entered and continuously resided in the United States since before January 1, 1972 or any date established by Section 249 of the INA. (1-1-93)

q. Aliens granted suspension of deportation under Section 244 of the INA and whose departure the INS does enforce. Ask for an order from an immigration judge showing deportation has been withheld. (1-1-93)

r. Aliens whose deportation has been withheld under Section 243(h) of the INA. Ask for an order from an immigration judge showing deportation has been withheld. (1-1-93)

s. Any other aliens living in the United States with the knowledge and permission of the INS and whose departure the INS does not enforce. This group includes permanent non-immigrants as established by Public Law 99-239, and persons granted Extended Voluntary Departure due to conditions in the alien's home country based on a decision of the Secretary of State. (1-1-93)

02. Ineligible Legal Aliens. Ineligible legal aliens are admitted to the U.S. for permanent residence. They are not eligible for Medicaid. Ineligible legal aliens are listed in Subsections 605.02.a and 605.02.b. (1-1-93)

a. Non-disabled alien admitted under INA Section 245. Legal aliens admitted for temporary or permanent residence under Section 245A of the INA, who are age eighteen (18) through sixty-four (64), not pregnant, and not blind or disabled under SSA criteria for blindness and disability. (1-1-93)

b. Special Agricultural Workers (SAW). Legal aliens admitted as Special Agricultural Workers under the Section 210 of the INA, who are age eighteen (18) through sixty-four (64), not pregnant, and not blind or disabled under SSA criteria for blindness and disability. (1-1-93)

03. Eligible Aliens August 22, 1996 and Later. An eligible alien is one (1) of the following: (8-22-96)T

a. An alien is an eligible alien for five (5) years from the date he obtained a status in Subsections 605.03.a.i through 605.03.a.iii. (8-22-96)T

i. Refugee admitted under Section 207 of the Immigration and Nationality Act. (8-22-96)T

ii. Asylee admitted under Section 208 of the Immigration and Nationality Act. (8-22-96)T

iii. Alien whose deportation is withheld under Section 243(h) of the Immigration and Nationality Act. (8-22-96)T

- b. An alien is an eligible alien indefinitely if he is one (1) of the following: (8-22-96)T
- i. A veteran honorably discharged for a reason other than alienage and the veteran's spouse and unmarried dependent child. (8-22-96)T
 - ii. An active duty member of the U.S. Armed Forces who is not on active duty for training only and the member's spouse and unmarried dependent child. (8-22-96)T
 - c. An alien is an eligible alien with no time limit if he entered the US on or after August 22, 1996, and has forty (40) qualifying quarters of coverage under Title II of the Social Security Act. A qualifying quarter includes a quarter worked by the alien's parent while the alien was under age eighteen (18) and a quarter worked by the alien's spouse during marriage if the alien remains married to the spouse or is deceased. Any quarter after January 1, 1997 in which an alien received any Federal means tested benefit is not a qualifying quarter. (8-22-96)T
04. Other Aliens. Aliens other than those listed in Subsections 605.02.a and 605.02.b are eligible only for treatment of an emergency medical condition, including emergency labor and delivery, if they would otherwise qualify for Medicaid. These aliens are not required to furnish a SSN or make a written declaration of their alien status. (1-1-93)
05. Verifying Immigration Status. The immigration status claimed by an alien applicant must be verified, through the INS automated Alien Status Verification Index (ASVI). Where INS reports the alien's status cannot be verified through ASVI, secondary proof is required. Secondary proof from INS is required before Medicaid can be denied, reduced, or stopped based on immigration status. (1-1-93)

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

DOCKET NO. 16-0309-9701

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, 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) 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 January 1, 1997, Administrative Bulletin, Volume No. 97-1, pages 182 through 184.

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

DATED this 1st day of January, 1997.

Staci Welsh
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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 97-1, January 1, 1997,
pages 182 through 184.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature for final adoption.**

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

DOCKET NO. 16-0309-9702

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, 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) 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 January 1, 1997, Administrative Bulletin, Volume 97-1, pages 185 and 186.

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

DATED this 2nd day of April, 1997.

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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 97-1, January 1, 1997,
pages 185 and 186.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature for final adoption.**

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

DOCKET NO. 16-0309-9703

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, 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 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 January 1, 1997, Administrative Bulletin, Volume 97-1, pages 187 through 193.

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

DATED this 2nd day of April, 1997.

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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 97-1, January 1, 1997,
pages 187 through 193.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature for final adoption.**

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

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective February 12, 1996 and February 1, 1997. These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, 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 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 Section(s) 56-202(b) and 56-203(g), Idaho Code.

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

In response to public comment, the following changes were made:

Subsection 150.01.i. Deletes sentence which states no payment will be made for transportation when the recipient is not in the vehicle.

Subsection 150.01.j. Deletes sentence which states no payment will be made for trips to pick up medication or other items.

Subsection 150.03.e. Clarifies that the definition of medically necessary emergency and non emergency ambulance services are for purposes of reimbursement.

Subsection 150.03.g. Changes effective date of licensure requirement to 2/1/97, instead of 2/12/96.

Subsection 150.04.d. Changes effective date of air ambulance services to 2/12/96, instead of 2/1/96.

Subsection 150.05.g. Adds provision that when both air and ground ambulances are involved in a transport, air ambulance may bill their base rate and for their medical team, and the ground ambulance may also bill their part of the trip as authorized by the Department or its designee.

Subsection 150.05.k. Changes so that round trips may be allowed when a recipient is an inpatient in a facility, not just in a hospital.

Subsection 150.05.l. Adds this section to pay for ambulance response and evaluation service, as authorized by the Department or its designee.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the January 1, 1997 Administrative Bulletin, Volume 97-1, pages 194 through 199.

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

DATED this 1st day of January 1997.

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IDAPA 16
TITLE 03
Chapter 09

RULES GOVERNING MEDICAL ASSISTANCE

**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 97-1,
January 1, 1997, pages 194 through 199.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature
for final adoption.**

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. Review of "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 or when eligibility for Medicaid is determined after the service was provided, or when a retrospective approval is required by the Department. (2-12-96)T

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

a. The Department will pay for necessary transportation for a Medicaid recipient to receive medical care or treatment from providers of Medicaid approved medical services. 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." (2-12-96)T

b. 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 salary for the attendant, if he is not a member of the recipient's family. The Department will not pay the meals or lodging costs for a salaried attendant once the recipient being escorted is admitted to an inpatient facility. The Department will pay the meals and lodging costs 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. (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

d. For any 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 Medicaid provider. In some cases, a referral from the recipient's primary care physician is also required. (2-12-96)T

e. If private vehicle transportation is used, the Department will pay for such transportation at rates established by the Department. The private carrier is responsible for providing all necessary insurance at no cost to the Department. (2-12-96)T

f. 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. (2-12-96)T

g. Reimbursement 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. (2-12-96)T

h. 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

i. 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

02. Preauthorization for Transportation to a Distant Point. Preauthorization of transportation 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: (2-12-96)T

a. 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

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

c. If applicable, that a referral has been made by the patient's attending physician. (2-12-96)T

d. 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)

e. The Department will only authorize meals when overnight travel to a distant point is required and cooking facilities are not available. The actual cost of the meals will be authorized up to the amount set by the Department. Meals and lodging costs will not be paid if the recipient and/or the attendant stays in a private home that is not a lodging facility. (2-12-96)T

03. Scope of Coverage and General Requirements for Ambulance Services. Medically necessary ambulance services 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: (2-12-96)T

a. If a Medicaid recipient is also a Medicare recipient, a provider must first bill Medicare for services rendered. (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. (2-12-96)T

c. For Medicare recipients, the Department will reimburse providers for deductible and co-insurance not to exceed the Medicaid allowed amount for the services billed. (2-12-96)T

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

e. Ambulance services are medically necessary when an emergency condition exists. For purposes of reimbursement, an emergency condition exists when a recipient manifests acute symptoms and/or signs which, by reasonable medical judgement of the Department or its designee, 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 transport by ambulance must be secured from the Department or its designee. For purposes of reimbursement, if 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. (2-12-96)T

f. 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. (2-12-96)T

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~~(2-1-97)T

h. Only local transportation by ambulance is covered. In exceptional situations where the ambulance transportation originates beyond the locality to which the recipient was transported, 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. (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: (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 emergency situations. Emergency air ambulance services must be authorized by the Department or its designee on a retrospective basis. ~~(2-1-96)T~~(2-12-96)T

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

05. Ambulance Reimbursement. (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. (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. (2-12-96)T

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

e. Reimbursement for waiting time will not be considered unless documentation 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. (2-12-96)T

f. 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. (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. The only exception to the preceding policy is in situations where medical personnel employed by a licensed air ambulance provider boards an ALS, ILS, or BLS ground ambulance at some point, and the air ambulance medical personnel also accompany and treat the recipient during the air ambulance trip. In this situation, the air ambulance provider may bill the appropriate base rate for the air ambulance trip, and may also bill the charges associated with their medical personnel and equipment as authorized by the Department or its designee. The ground ambulance provider may also bill for their part of the trip as authorized by the Department or its designee. (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, usually on a retrospective basis. (2-12-96)T

j. If an ambulance vehicle and crew have returned to a base station after having transported a recipient to a facility and the recipient's physician orders the recipient to be transferred from 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. (2-12-96)T

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

l. If a licensed transporting EMS provider responds to a recipient's location and upon examination and evaluation of the recipient, finds that their condition is such that no treatment or transport is necessary, the Department will pay for the response and evaluation service. This service requires authorization by the Department or its designee, usually on a retrospective basis. No payment will be made if the EMS provider responds and no evaluation is done, or the recipient has left the scene. No payment will be made for mileage, supplies or oxygen, nor will payment be made to an EMS provider who is licensed as a non-transporting provider. (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 PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, 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) 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the January 1, 1997, Administrative Bulletin, Volume No. 97-1, pages 200 and 201.

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

DATED this 2nd day of April, 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 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 97-1, January 1, 1997,
pages 200 and 201.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.09 - RULES GOVERNING THE FAMILY SELF SUPPORT PROGRAM FOR IDAHO RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN AND RECIPIENTS OF FOOD STAMPS

DOCKET NO. 16-0609-9701

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1998, 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) 39-1061, 56-202(b), and 56-209, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the January 1, 1997, Administrative Bulletin, Volume 97-1, pages 232 through 234.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5819.

DATED this 2nd day of April, 1997.

Staci Welsh
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
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**IDAPA 16
TITLE 06
Chapter 09**

RULES GOVERNING THE FAMILY SELF SUPPORT PROGRAM

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-1, January 1, 1997,
pages 232 through 234.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.09 - RULES GOVERNING THE FAMILY SELF SUPPORT PROGRAM FOR IDAHO RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN AND RECIPIENTS OF FOOD STAMPS

DOCKET NO. 16-0609-9702

NOTICE OF TEMPORARY RULES

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

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Sections 39-106, 56-202(b), and 56-209, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the temporary rule.

Section 006. Changed to allow expansion of work programs to counties not currently served as resources permit.

Section 423. Section was deleted; post-secondary (academic) programs will no longer be accepted to meet work programs requirements.

Section 424. Changed to allow self-initiated education or training to be accepted as meeting work requirements only when the program conforms with the requirements for the Job Skills training component as defined in Section 416. A 12 month limitation on training is imposed.

Section 515. Changed to delete a specific 30 day time period for conciliation of failure to participate. Allows a participant to establish good cause or to resolve the non-participation before the effective date of the sanction without penalty.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact Penny Robbe at (208) 334-5819.

DATED this 5th day of February, 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. 16-0609-9702

006. PROGRAM MANAGEMENT.

01. Geographic Availability. JOBS will be offered in ten (10) counties - Ada, Bannock, Bonneville, Bingham, Bonner, Canyon, Kootenai, Nez Perce, Payette and Twin Falls. JOBS will be offered in additional counties as resources allow. JSAP will serve clients in four (4) counties - Ada, Bannock, Canyon and Kootenai.

(10-1-92)(4-1-97)T

02. Services Only to Recipients. JOBS and JSAP services will not be available to AFDC and FS applicants. (1-29-91)
03. Services to Mandatory Recipients. JOBS and JSAP will serve mandatory recipients as resources are available. (1-11-94)
04. Recipients Exempt From JOBS Participation. AFDC recipients who have been determined exempt from JOBS participation may choose to volunteer and will be served as resources are available. Exempt Food Stamp Recipients may not volunteer for JSAP. (1-11-94)(4-1-97)T

(BREAK IN CONTINUITY OF SECTIONS)

423. (RESERVED). POSTSECONDARY EDUCATION.

~~Postsecondary education is a program of instruction offered by a recognized institution of higher education or an accredited vocational/technical school which directly prepares the participant for an occupation in demand in a recognized field and available in the labor market. No alternative training program for the occupation can be available. The program must qualify for financial aid. Postsecondary education will not include post graduate programs. JOBS participation in postsecondary education is restricted to a maximum of four (4) years if resources are available. The following criteria must be met:~~ (1-11-94)

01. ~~The participant must have no prior skills or training which would support self-sufficiency; and~~ (1-29-91)
02. ~~The participant must have had no prior deficiencies in satisfactory progress during earlier educational involvement; and~~ (1-11-94)
03. ~~Participant must be member of a target client group to receive funds for program costs or supportive services. Participants must apply for any applicable financial aid. FSS funds may be used for tuition, books and fees only if no other funds are available.~~ (1-11-94)
04. ~~Participants must maintain standards of good and satisfactory progress in accordance with Section 230.~~ (1-11-94)

424. SELF-INITIATED EDUCATION OR TRAINING.

A recipient in this component is enrolled and about to begin or is already attending a self-arranged education or vocational training program at the time he would otherwise begin participation in JOBS. Program funds cannot be used for tuition, books, fees, room and board. These programs may be approved as activities within the FSS program if they meet the following criteria: (1-11-94)

01. The Recipient and the Program. The recipient and the program must meet all of the qualifications noted for ~~postsecondary education or~~ job skills training in accordance with Sections 416 ~~and 423~~; and (1-11-94)(4-1-97)T
02. ~~The recipient must participate in assessment and in development of an employment goal to determine the appropriateness of the self-initiated plan to the individual~~ An Assessment Must Be Completed. An assessment must be completed and the Personal Responsibility Contract must reflect that the self initiated training is appropriate; and (1-11-94)(4-1-97)T
03. ~~The participant must be attending the program at least half-time as defined by the institution; and~~ (1-29-91)
03. Program Duration. The program duration must be less than twelve (12) months. (4-1-97)T

04. Satisfactory Progress. The participant must make satisfactory progress in accordance with Section 230.
(~~5-5-92~~)(4-1-97)T

05. Employment Acceptance. An individual will be required to accept employment consistent with the individual's employment goal which would support self-sufficiency. (~~1-11-94~~)(4-1-97)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. Conciliation is used to resolve issues of clients' participation, complaints about working conditions, worker's compensation coverage, and participants' complaints. (12-1-96)T

01. Required Conciliation. Staff must initiate conciliation prior to any determination of noncompliance without good cause. (12-1-96)T

02. Conciliation. Conciliation must begin within one (1) day of the date staff become aware of an apparent instance of noncompliance. (12-1-96)T

03. Time Frame. ~~Conciliation shall last no longer than thirty (30) days.~~ JOBS and 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 or to resolve the non-compliance. (~~12-1-96~~)(4-1-97)T

04. Days. Conciliation may be terminated at any time 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. (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 conciliation to avoid sanction. (12-1-96)T

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

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. 26-0138-9601

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules are effective upon the conclusion of the 1998 legislative session. Temporary rules, effective November 11, 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, and 67-4249, 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.

IDAPA 26, Title 01, Chapter 38 provides for the administration of the State Trust for Outdoor Recreation Enhancement and the Recreation and Energy Conservation Pathway grant programs. The rule provides 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.

Two sections of the pending rule have been changed from the version originally published. Section 205.01 was changed to correct a grammatical error in the last sentence and to clarify that property acquired by condemnation is reimbursable only if the condemnation was for the convenience of the seller and with the approval of the seller.

Section 280 was changed from the proposed rule to correct an error in the final sentence. The section concerns appraisals and acquisition cost. The final sentence was modified to delete an incorrect reference to structures and insert the correct reference to acquisitions.

The pending rules include typographical, transcriptional, and clerical corrections to a number of sections. Because the changes are not substantive, these sections are not being republished. The sections containing such corrections include sections: 000, 002, 003, 115, 175, 220, 250, 415, 595, 610 and 715.

Only the sections that have substantive changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-1, pages 294 through 308.

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

Dated this 13th day of February, 1997.

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)).
Fax: (208) 334-2690

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**

**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 original text was published in the Idaho
Administrative Bulletin, Volume 97-1, January 1, 1997,
Pages 294 through 308.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1998 Idaho State Legislature for final adoption.**

TEXT OF DOCKET NO. 26-0138-9701

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 with the 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

(BREAK IN CONTINUITY OF SECTIONS)

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~~ acquisition for funding assistance. (11-8-96)T

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