

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

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Volume 97-12

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE DOCKET NO. 07-0206-9701 NOTICE OF PENDING RULE.....	17
---	----

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY DOCKET NO. 08-0202-9701 NOTICE OF PENDING RULE.....	18
08.02.03 - RULES GOVERNING THOROUGHNESS DOCKET NO. 08-0203-9701 NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE.....	19

IDAPA 10 - BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY DOCKET NO. 10-0102-9701 NOTICE OF PENDING RULE.....	32
---	----

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.04.02 - RULES GOVERNING SIMULCASTING IDAHO STATE RACING COMMISSION DOCKET NO. 11-0402-9701 NOTICE OF PENDING RULE.....	33
11.04.03 - RULES GOVERNING GREYHOUND RACING IDAHO STATE RACING COMMISSION DOCKET NO. 11-0403-9701 NOTICE OF PENDING RULE.....	34
11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL (POST) DOCKET NO. 11-1101-9701 NOTICE OF TEMPORARY AND PROPOSED RULES	35
11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL (POST) DOCKET NO. 11-1101-9702 NOTICE OF TEMPORARY AND PROPOSED RULE.....	43
11.11.01 - RULES OF THE IDAHO PEACE OFFICER	

STANDARDS AND TRAINING COUNCIL (POST)

DOCKET NO. 11-1101-9703

NOTICE OF TEMPORARY AND PROPOSED RULES 64

IDAPA 15 - IDAHO COMMISSION ON AGING

15.01.01 - IDAHO SENIOR SERVICES PROGRAM

DOCKET NO. 15-0101-9701

NOTICE OF PENDING RULE..... 70

15.01.01 - IDAHO SENIOR SERVICES PROGRAM

DOCKET NO. 15-0101-9702

NOTICE OF PENDING RULE..... 87

15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAM

DOCKET NO. 15-0102-9701

NOTICE OF PENDING RULE..... 88

15.01.02 - RULES GOVERNING SENIOR HOMEMAKER PROGRAM

DOCKET NO. 15-0102-9702

NOTICE OF PENDING RULE..... 93

15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM

DOCKET NO. 15-0103-9701

NOTICE OF PENDING RULE..... 94

15.01.03 - RULES GOVERNING CARE COORDINATION FOR THE ELDERLY

DOCKET NO. 15-0103-9702

NOTICE OF PENDING RULE..... 102

15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS

DOCKET NO. 15-0120-9701

NOTICE OF PENDING RULE..... 103

15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES

DOCKET NO. 15-0121-9701

NOTICE OF PENDING RULE..... 109

15.01.30 - RULES GOVERNING SENIOR COMMUNITY SERVICES EMPLOYMENT PROGRAM

DOCKET NO. 15-0130-9701

NOTICE OF PENDING RULE..... 113

15.01.31 - RULES GOVERNING OLDER WORKER JOB TRAINING

PARTNERSHIP ACT (JTPA) PROGRAM

DOCKET NO. 15-0131-9701

NOTICE OF PENDING RULE..... 115

RULES GOVERNING OLDER WORKER JOB TRAINING
PARTNERSHIPACT (JTPA) PROGRAM**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIRE-
MENTS

DOCKET NO. 16-0102-9704	
NOTICE OF NEGOTIATED RULE-MAKING	117
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO	
DOCKET NO. 16-0304-9704	
NOTICE OF PENDING RULE	118
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO	
DOCKET NO. 16-0304-9706	
NOTICE OF TEMPORARY AND PROPOSED RULES	119
16.03.05 - RULES GOVERNING AID TO THE AGED, BLIND AND DISABLED	
DOCKET NO. 16-0305-9703	
NOTICE OF PENDING RULE	133
16.03.05 - RULES GOVERNING AID TO THE AGED, BLIND AND DISABLED	
DOCKET NO. 16-0305-9705	
NOTICE OF TEMPORARY AND PROPOSED RULES	134
16.03.06 - RULES GOVERNING REFUGEE RESETTLEMENT ASSISTANCE	
DOCKET NO. 16-0306-9701	
NOTICE OF PENDING RULE	143
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE PROGRAM	
DOCKET NO. 16-0309-9709	
NOTICE OF TEMPORARY AND PROPOSED RULES	144
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE	
DOCKET NO. 16-0309-9710	
NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE.....	151
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE	
DOCKET NO. 16-0309-9709	
NOTICE OF TEMPORARY AND PROPOSED RULES	153
16.03.20 - RULES GOVERNING ELECTRONIC BENEFIT TRANSFER (EBT) OF PUBLIC ASSISTANCE AND FOOD STAMPS	
DOCKET NO. 16-0320-9701	
NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE.....	160
RULES GOVERNING ELECTRONIC BENEFIT TRANSFER (EBT) OF PUBLIC ASSISTANCE AND FOOD STAMPS	
16.04.12 - RULES GOVERNING INDIVIDUAL AND FAMILY GRANT PROGRAM	
DOCKET NO. 16-0412-9701	
NOTICE OF TEMPORARY AND PROPOSED RULES	164
16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM	
DOCKET NO. 16-0412-9702	
NOTICE OF TEMPORARY AND PROPOSED RULES	165
16.06.07 - RULES GOVERNING JUVENILE JUSTICE SERVICES	
DOCKET NO. 16-0607-9701	
NOTICE OF PENDING RULE	170

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.03 - SECURITY FOR COMPENSATION
DOCKET NO. 17-0203-9702
NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE..... 171

IDAPA 20 - DEPARTMENT OF LANDS

20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT
DOCKET NO. 20-0201-9701
NOTICE OF PENDING RULE..... 177

20.03.02 - RULES GOVERNING EXPLORATION AND SURFACE MINING IN IDAHO
DOCKET NO. 20-0302-9701
NOTICE OF PENDING RULE..... 178

20.03.04 - THE REGULATION OF BEDS, WATERS AND AIRSPACE
OVER NAVIGABLE LAKES IN THE STATE OF IDAHO
DOCKET NO. 20-0304-9701
NOTICE OF PENDING RULE..... 180

20.06.02 - LICENSING AND CHECKSCALES OF THE IDAHO BOARD OF SCALING PRACTICES
ES
DOCKET NO. 20-0602-9701
NOTICE OF PENDING RULE..... 182

20.06.02 - GENERAL RULES, LICENSING, AND CHECK SCALES
OF THE IDAHO BOARD OF SCALING PRACTICES
DOCKET NO. 20-0602-9702
NOTICE OF PENDING RULE..... 183

20.06.03 - SCALING SPECIFICATIONS AND CHECK SCALING STANDARDS
OF THE IDAHO BOARD OF SCALING PRACTICES
DOCKET NO. 20-0603-9701
NOTICE OF PENDING RULE..... 184

20.06.03 - MEASUREMENT RULES FOR FOREST PRODUCTS
OF THE IDAHO BOARD OF SCALING PRACTICES
DOCKET NO. 20-0603-9702
NOTICE OF PENDING RULE..... 185

20.06.04 - FOREST PRODUCTS MEASUREMENT FOR THE PURPOSE OF PAYMENT
FOR LOGGING OR HAULING LOGGED FOREST PRODUCTS ONLY
DOCKET NO. 20-0604-9701
NOTICE OF PENDING RULE..... 186

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS
DOCKET NO. 24-0201-9701
NOTICE OF PENDING RULE..... 187

24.03.01 - RULES OF THE BOARD OF CHIROPRACTIC PHYSICIANS DOCKET NO. 24-0301-9701 NOTICE OF PENDING RULE.....	188
24.04.01 - RULES OF THE BOARD OF COSMETOLOGY DOCKET NO. 24-0401-9701 NOTICE OF PENDING RULE.....	189
24.06.01 - RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS DOCKET NO. 24-0601-9701 NOTICE OF PENDING RULE.....	190
24.08.02 - RULES OF THE IDAHO STATE BOARD OF MORTICIANS GOVERNING CREMATORIES IN IDAHO DOCKET NO. 24-0802-9701 NOTICE OF PENDING RULE.....	191
24.09.01 - RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS DOCKET NO. 24-0901-9701 NOTICE OF PENDING RULE.....	192
24.11.01 - RULES OF THE STATE BOARD OF PODIATRY DOCKET NO. 24-1101-9701 NOTICE OF PENDING RULE.....	193
24.11.01 - RULES OF THE BOARD OF PODIATRY DOCKET NO. 24-1101-9702 NOTICE OF PENDING RULE.....	194
24.12.01 - RULES OF THE BOARD OF PSYCHOLOGIST EXAMINERS DOCKET NO. 24-1201-9701 NOTICE OF PENDING RULE.....	195
24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS DOCKET NO. 24-1401-9701 NOTICE OF PENDING RULE.....	196
24.15.01 - RULES OF THE IDAHO COUNSELOR LICENSING BOARD DOCKET NO. 24-1501-9701 NOTICE OF PENDING RULE.....	197
24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS DOCKET NO. 24-1901-9701 NOTICE OF PENDING RULE.....	198
 <u>IDAPA 35 - STATE TAX COMMISSION</u>	
35.01.01 - INCOME TAX ADMINISTRATIVE RULES DOCKET NO. 35-0101-9701 NOTICE OF PENDING RULE.....	199
35.01.01 - INCOME TAX ADMINISTRATIVE RULES	

DOCKET NO. 35-0101-9702	
NOTICE OF PENDING RULE.....	202
35.01.01 - INCOME TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0101-9703	
NOTICE OF PENDING RULE.....	203
35.01.01 - INCOME TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0101-9704	
NOTICE OF PENDING RULE.....	204
35.01.01 - INCOME TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0101-9705	
NOTICE OF PENDING RULE.....	205
35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0102-9701	
NOTICE OF PENDING RULE.....	206
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9704	
NOTICE OF PENDING RULE.....	207
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9705	
NOTICE OF PENDING RULE.....	208
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9706	
NOTICE OF PENDING RULE.....	209
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9707	
NOTICE OF PENDING RULE.....	210
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9708	
NOTICE OF PENDING RULE.....	211
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9709	
NOTICE OF PENDING RULE.....	212
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9710	
NOTICE OF PENDING RULE.....	213
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9711	
NOTICE OF PENDING RULE.....	214
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9713	
NOTICE OF PENDING RULE.....	215

35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0104-9701	
NOTICE OF PENDING RULE.....	216
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0105-9701	
NOTICE OF PENDING RULE.....	217
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0105-9702	
NOTICE OF PENDING RULE.....	218
35.01.06 - HOTEL/MOTEL ROOM AND CAMPGROUND SALES TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0106-9701	
NOTICE OF PENDING RULE.....	219
35.01.07 - IDAHO KILOWATT HOUR TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0107-9701	
NOTICE OF PENDING RULE.....	220
35.01.09 - IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0109-9701	
NOTICE OF PENDING RULE.....	221
35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0110-9701	
NOTICE OF PENDING RULE.....	222
35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES	
DOCKET NO. 35-0111-9701	
NOTICE OF PENDING RULE.....	223
35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES	
DOCKET NO. 35-0111-9702	
NOTICE OF PENDING RULE.....	224
35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES	
DOCKET NO. 35-0111-9703	
NOTICE OF PENDING RULE.....	225
35.01.12 - IDAHO BEER TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0112-9701	
NOTICE OF PENDING RULE.....	226
35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES	
DOCKET NO. 35-0201-9701	
NOTICE OF PENDING RULE.....	227
35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES	
DOCKET NO. 35-0201-9702	
NOTICE OF TEMPORARY AND PROPOSED RULES	230

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.03.13 - WATER USE, MEASUREMENT AND ENFORCEMENT

DOCKET NO. 37-0313-9501

NOTICE OF VACATION OF NEGOTIATED RULEMAKING 232

37.03.13 - WATER USE, MEASUREMENT AND ENFORCEMENT

DOCKET NO. 37-0313-9701

NOTICE OF NEGOTIATED RULE MAKING 233

IDAPA 48 - IDAHO DEPARTMENT OF COMMERCE

48.01.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)

DOCKET NO. 48-0101-9701

NOTICE OF PENDING RULE..... 234

IDAPA 53 - IDAHO BARLEY COMMISSION

53.01.01 - RULES OF THE IDAHO BARLEY COMMISSION

DOCKET NO. 53-0101-9701

NOTICE OF PENDING RULE..... 235

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.03 - CONTRIBUTION RULES OF THE PUBLIC EMPLOYEE
RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0103-9701

NOTICE OF TEMPORARY RULES..... 236

Subjects Affected Index

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-9701

100. BASIC CURRICULUM..... 20

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL (POST)

DOCKET NO. 11-1101-9701

041. THE RECORDS SYSTEM..... 36

042. PROCEDURE..... 36

050. MINIMUM STANDARDS FOR EMPLOYMENT..... 36

055. TRAFFIC RECORD INVESTIGATION..... 38

056. CHARACTER AND REPUTATION..... 38

057. PHYSICAL - MEDICAL..... 39

073. ADVANCED AND SPECIALIZED COURSES..... 40

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL (POST)

DOCKET NO. 11-1101-9702

091. INTRODUCTION..... 44

092. GENERAL PROVISIONS..... 45

093. LAW ENFORCEMENT EXPERIENCE..... 46

095. THE BASIC AND PART-TIME BASIC CERTIFICATE..... 46

096. HIGHER CERTIFICATION..... 47

106. CAREER-LEVEL CERTIFICATION..... 48

107. RESERVE LEVEL I CERTIFICATION REQUIREMENTS..... 50

110. DETENTION OFFICER CERTIFICATION..... 53

111. GENERAL PROVISIONS..... 55

112. LAW ENFORCEMENT EXPERIENCE..... 55

113. EDUCATION AND TRAINING..... 55

114. THE LEVEL I CERTIFICATE..... 56

115. HIGHER CERTIFICATION..... 56

116. COMMUNICATIONS SPECIALIST CLASSIFICATION..... 57

117. CANINE TEAM CERTIFICATION..... 58

118. PATROL DOGS..... 59

119. DETECTION DOGS..... 61

120. -- 129. (RESERVED)..... 63

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL (POST)

DOCKET NO. 11-1101-9703

157. VOCATIONAL LAW ENFORCEMENT PROGRAM CERTIFICATION/RECERTIFICATION
STANDARDS..... 65

158. -- 169. (RESERVED)..... 69

IDAPA 15 - IDAHO COMMISSION ON AGING

15.01.01 - IDAHO SENIOR SERVICES PROGRAM

DOCKET NO. 15-0101-9701

002. WRITTEN INTERPRETATIONS..... 72

003. ADMINISTRATIVE APPEALS..... 72

010. DEFINITIONS.....	72
025. ACCOMMODATIONS.....	75
026. FEES AND CLIENT CONTRIBUTIONS.....	75
028. DISCLOSURE OF INFORMATION.....	76
029. DENIAL OF SERVICE.....	76
040. TERMINATION OF SERVICE.....	76
041. HOMEMAKER.....	77
042. CHORE.....	80
043. ADULT DAY CARE.....	81
044. RESPITE.....	82
056. CARE COORDINATION.....	83
15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAM	
DOCKET NO. 15-0102-9701	
001. TITLE AND SCOPE.....	89
002. WRITTEN INTERPRETATIONS.....	89
003. ADMINISTRATIVE APPEALS.....	89
010. DEFINITIONS.....	89
021. ADMINISTRATIVE REQUIREMENTS.....	90
022. PROVISION OF SERVICE REQUIREMENTS.....	91
031. INVESTIGATIVE REQUIREMENTS.....	91
032. SUPPORTIVE SERVICES AND CASE CLOSURE.....	92
15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM	
DOCKET NO. 15-0103-9701	
002. WRITTEN INTERPRETATIONS.....	96
003. ADMINISTRATIVE APPEALS.....	96
010. DEFINITIONS.....	96
020. ADMINISTRATIVE REQUIREMENTS.....	97
021. STAFFING.....	97
031. DESIGNATION OF AUTHORITY OF AAA.....	98
032. HANDLING OF COMPLAINTS.....	99
033. ACCESS.....	99
041. WRITTEN CONSENT.....	100
042. CONFIDENTIALITY.....	100
043. DISCLOSURE.....	101
15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS	
DOCKET NO. 15-0120-9701	
002. WRITTEN INTERPRETATIONS.....	104
003. ADMINISTRATIVE APPEALS.....	104
010. DEFINITIONS.....	104
034. AAA BUDGETS.....	105
042. CONTRACT MANAGEMENT REQUIREMENTS.....	105
052. AREA PLANS.....	108
055. AAA ASSESSMENTS OF PROVIDERS.....	108
056. REPORTING REQUIREMENTS.....	108
068. COLLECTION AND ACCOUNTABILITY OF PARTICIPANT CONTRIBUTIONS.....	108
15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES	
DOCKET NO. 15-0121-9701	
002. WRITTEN INTERPRETATIONS.....	110

003. ADMINISTRATIVE APPEALS.	110
010. DEFINITIONS.	110
011. NUTRITION SERVICES.	111
021. INFORMATION AND ASSISTANCE.....	112
023. TRANSPORTATION.	112
15.01.30 - RULES GOVERNING SENIOR COMMUNITY SERVICES EMPLOYMENT PROGRAM	
DOCKET NO. 15-0130-9701	
002. WRITTEN INTERPRETATIONS.	114
003. ADMINISTRATIVE APPEALS.	114
012. COORDINATION.	114
DOCKET NO. 15-0131-9701	
RULES GOVERNING OLDER WORKER JOB TRAINING PARTNERSHIPACT (JTPA) PROGRAM	
002. WRITTEN INTERPRETATIONS.	116
003. ADMINISTRATIVE APPEALS.	116
012. COORDINATION.	116

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO	
DOCKET NO. 16-0304-9706	
224. HEAD OF HOUSEHOLD FOR JSAP.	120
225. DESIGNATING NEW PRINCIPAL WAGE EARNER.	120
226. JOB SEARCH ASSISTANCE PROGRAM (JSAP).	120
227. EXEMPTIONS FROM JSAP FOR HOUSEHOLD MEMBERS NOT PARTICIPATING IN TAFI.	121
228. EXEMPTIONS FROM JSAP FOR HOUSEHOLD MEMBERS PARTICIPATING IN TAFI.....	122
229. PARTICIPANTS LOSING JSAP EXEMPT STATUS.	122
230. JSAP PROGRAM COMPONENTS.	122
231. ASSIGNMENT TO COMPONENT.	123
232. SUPPORTIVE SERVICES.	123
233. SUPPORTIVE SERVICES OVERPAYMENTS.	123
234. PARTICIPATION DEFERRAL.	123
235. FAILURE TO COMPLY.	123
236. GOOD CAUSE.	123
237. SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.	123
238. NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.	124
239. RIGHT TO APPEAL SANCTION.	124
240. JSAP SANCTION BEGINS.	124
241. ENDING SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.	124
242. CORRECTIVE ACTION.	125
243. -- 245. (RESERVED).	125
246. UNEMPLOYMENT INSURANCE (UI) REQUIREMENTS.	125
247. COMPARE UI REQUIREMENTS TO JSAP REQUIREMENTS.	125
248. SANCTIONS FOR FAILURE TO COMPLY WITH TAFI WORK OR UI REQUIREMENTS.	125
249. ENDING SANCTIONS FOR FAILURE TO COMPLY WITH UI REQUIREMENTS.	126
250. NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH UI REQUIREMENTS.	126
251 -- 253. (RESERVED).	126
254. ABAWD WORK REQUIREMENT.	129
255. REGAINING ELIGIBILITY.	130
256. EXEMPTIONS FROM THE ABAWD WORK REQUIREMENT.	130
262. HEAD OF HOUSEHOLD FOR VOLUNTARY QUIT OR REDUCTION OF WORK HOURS.	130
275. ENDING VOLUNTARY QUIT OR REDUCTION OF WORK HOURS PENALTY.	131

280. EXEMPTIONS FROM THE COOPERATION REQUIREMENT.....	132
16.03.05 - RULES GOVERNING AID TO THE AGED, BLIND AND DISABLED	
DOCKET NO. 16-0305-9705	
003. DEFINITIONS.....	134
407. BASIC ALLOWANCE.....	136
408. ROOM AND BOARD ALLOWANCES.....	137
409. LICENSED ADULT RESIDENTIAL CARE FACILITY ALLOWANCES.....	137
424. LICENSED ADULT FOSTER CARE HOME ALLOWANCES.....	137
429. SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITY ALLOWANCE.....	138
634. PERSON ENTITLED TO HOME AND COMMUNITY BASED SERVICES (HCBS).....	138
643. SPECIFIED LOW INCOME MEDICARE BENEFICIARY (SLMB).....	140
691. TREATMENT OF ASSETS TRANSFERRED TO A TRUST.....	141
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE PROGRAM	
DOCKET NO. 16-0309-9709	
160. LONG-TERM CARE.....	144
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE	
DOCKET NO. 16-0309-9710	
110. LABORATORY AND RADIOLOGY SERVICES.....	152
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE	
DOCKET NO. 16-0309-9709	
160. LONG-TERM CARE.....	153
16.06.20 - RULES GOVERNING ELECTRONIC BENEFIT TRANSFER (EBT) OF PUBLIC ASSISTANCE AND FOOD STAMPS	
010. DEFINITIONS.....	161
030. ABBREVIATIONS.....	162
100. DIRECT DEPOSIT.....	163
16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM	
DOCKET NO. 16-0412-9702	
000. LEGAL AUTHORITY.....	166
001. TITLE AND SCOPE.....	166
002. WRITTEN INTERPRETATIONS.....	166
003. ADMINISTRATIVE APPEAL.....	166
004. RULE AVAILABILITY.....	166
005. DEFINITIONS.....	166
006. ABBREVIATIONS.....	167
007. -- 199. (RESERVED).....	167
200. APPLICATIONS.....	167
201. -- 299. (RESERVED).....	167
300. DUPLICATION OF BENEFITS.....	167
301. -- 399. (RESERVED).....	168
400. ELIGIBLE CATEGORIES.....	168
401. -- 499. (RESERVED).....	168
500. GRANT PAYMENTS.....	168
501. MINIMUM GRANT PAYMENT.....	168
502. -- 599. (RESERVED).....	169
600. OVERPAYMENTS.....	169
601. -- 799. (RESERVED).....	169

800. AVAILABILITY OF FUNDS.....	169
801. -- 899. (RESERVED).....	169
900. CONFIDENTIALITY.....	169
901. -- 999. (RESERVED).....	169
 IDAPA 17 - INDUSTRIAL COMMISSION	
17.02.03 - SECURITY FOR COMPENSATION	
DOCKET NO. 17-0203-9702	
012. RULES GOVERNING INSURANCE COMPANIES.....	173
 IDAPA 35 - STATE TAX COMMISSION	
35.01.01 - INCOME TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0101-9701	
582. SPECIAL RULES -- FINANCIAL INSTITUTIONS (Rule 582).....	200
 35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES	
DOCKET NO. 35-0201-9701	
821. - 999. (RESERVED).....	229
 35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES	
DOCKET NO. 35-0201-9702	
310. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID (Rule 310).....	231
 IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO	
59.01.03 - CONTRIBUTION RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO	
DOCKET NO. 59-0103-9701	
026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (Rule 26).....	236
027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).....	237
028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).....	237
029. CITY OF IDAHO FALLS CLASS II CONTRIBUTION RATE (Rule 29).....	237
100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (Rule 100).....	238
101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (Rule 101).....	238

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE

DOCKET NO. 07-0206-9701

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2605, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 1997, Idaho Administrative Bulletin, Volume 97-10, pages 17 and 19.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joe Meyer, Bureau Chief, Plumbing Bureau, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho 83720-0068, (208) 334-3442.

DATED this 15th day of October, 1997.

Connie J Mumm
Division of Building Safety
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Boise, ID 83720-4801
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IDAPA 07
TITLE 02
Chapter 06

RULES CONCERNING UNIFORM PLUMBING CODE

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 17 through 19.**

**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 08 - STATE BOARD OF EDUCATION
08.02.02 - RULES GOVERNING UNIFORMITY
DOCKET NO. 08-0202-9701
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules are effective on April 1, 1997. These rules have been adopted by the State Board of Education and are now pending review by the 1998 Idaho State Legislature for final adoption. Unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code, the rule is effective April 1, 1997.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 33-105, 33-107(3), 33-116, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a non-technical and concise statement of the text of the rule:

The rule governs the misassignment of public school teachers.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 12 and 13.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the rule, contact Dr. Darrell Loosle, State Department of Education, (208) 332-6800.

DATED this 24th day of October, 1997.

Dr. Darrell K. Loosle
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State Department of Education
650 West State Street
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IDAPA 08
TITLE 02
Chapter 02

RULES GOVERNING UNIFORMITY

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997,
pages 12 and 13.**

**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 08 - STATE BOARD OF EDUCATION
08.02.03 - RULES GOVERNING THOROUGHNESS
DOCKET NO. 08-0203-9701

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: These rules are effective on April 1, 1997 (and July 1, 2000). These rules have been adopted by the State Board of Education and are now pending review by the 1998 Idaho State Legislature for final adoption. Unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code, the rule is effective April 1, 1997 (and July 1, 2000).

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 33-105, 33-107(3), 33-116, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the pending rule:

The rule addresses the graduation requirements for public school students in Idaho.

The pending rules are being adopted with one change from the proposed rule. The original text of the proposed rules was published in the June 4, 1997 Idaho Administrative Bulletin, Volume 97-6, pages 12 through 23. The change involves the inclusion of the two (2) Humanities credits that were inadvertently deleted from the text of the proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the rule, contact Dr. Darrell Loosle, State Department of Education, (208) 332-6800.

DATED this 24th day of October, 1997.

Dr. Darrell K. Loosle
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IDAPA 08
TITLE 02
Chapter 03

RULES GOVERNING THOROUGHNESS

**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 97-6, June 4, 1997,
pages 12 through 23.**

**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. 08-0203-9701

100. BASIC CURRICULUM.
(Section 33-118, Idaho Code)

01. Kindergarten. Kindergarten curriculum will be established at the local level. (Section 33-208, Idaho Code) (4-1-97)
02. Instructional Requirements. All schools will deliver a core of instruction and advisement programs (see Subsection 100.07, Guidance Programs) for each student in elementary schools, middle schools/junior high and high schools. (4-1-97)
- a. All students will meet standards established locally (at a minimum, the standards of the state) through rigorous accountability, which include challenging examinations, demonstrations of achievement, and other appropriate tests and measures. (4-1-97)
- b. The State Department of Education Curriculum Guides may be used voluntarily and are designed to assist school districts as they develop educational programs and exiting standards. Notwithstanding the above, the State Division of Vocational Education will prepare curriculum guides and instructional aids for vocational-technical education programs in the public schools. (Idaho Code 33-118) (4-1-97)
03. Core of Instruction Grades 1-12. Instruction is inclusive of subject matter, content and course offerings. Patterns of instructional organization are a local school district option. Schools will assure students meet locally developed standards with the state standards as a minimum.* (*This includes special instruction that allows limited English proficient students to participate successfully in all aspects of the school's curriculum and keep up with other students in the regular education program. It also includes special learning opportunities for accelerated, learning disabled students and students with other disabilities.) At appropriate grade levels, instruction will include but not be limited to the following: (4-1-97)
- a. Language Arts and Communication will include instruction in reading, writing, English, literature, technological applications, spelling, speech and listening. (4-1-97)
- b. Mathematics will include instruction in addition, subtraction, multiplication, division, percentages, mathematical reasoning and probability. (4-1-97)
- c. Science will include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (4-1-97)
- d. Social Studies will include instruction in history, government, geography, economics, current world affairs, citizenship, and sociology. (4-1-97)

04. Other Required Instruction. Other required instruction for all students and other required offerings of the school are: (4-1-97)
- a. Elementary Schools (Grades 1-6). (4-1-97)
 - i. The following section outlines other information required for all students, as well as other required offerings of the school:
 - Fine Arts (art and music)
 - Health (wellness)
 - Physical Education (fitness) (4-1-97)
 - ii. Additional instructional options as determined by the local school district. For example:
 - Languages other than English
 - Career Awareness (4-1-97)
 - b. Middle Schools/Junior High Schools. No later than the end of Grade eight (8) all students will develop parent-approved student learning plans for their high school and post-high school options. The learning plan will be developed by students and parents or guardians with advice and recommendation from school personnel. It will be reviewed annually and may be revised at any time. The purpose of a parent-approved student learning plan is to outline a course of study and learning activities for students to become contributing members of society. A student learning plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the district's graduation standards. The school district will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the learning plan. A learning plan will not be required if the parent or guardian requests, in writing, that no learning plan be developed. (4-1-97)
 - i. Other required instruction for all students:
 - Health (wellness)
 - Physical Education (fitness) (4-1-97)
 - ii. Other required offerings of the school:
 - Family and Consumer Science
 - Fine & Performing Arts
 - Vocational-Technical Education
 - Advisory Period (middle school only, encourage in junior high school)
 - Exploratory (middle school only) (4-1-97)
 - iii. Additional instructional options as determined by the local school district. For example:
 - Languages other than English (4-1-97)
 - c. High Schools (Grades 9-12). Students will maintain a parent-approved student learning plan for their high school and post-high school options. The learning plan will be developed by students and parents or guardians with advice and recommendation from school personnel. It will be reviewed annually and may be revised at any time. The purpose of a parent-approved student learning plan is to outline a course of study and learning activities for students to become contributing members of society. A student learning plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the district's graduation standards. The school district will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the learning plan. A learning plan will not be required if the parent or guardian requests, in writing, that no learning plan be developed. (4-1-97)
 - i. Other required instructional offerings of the school. Each student must complete credit and exiting standards in at least two (2) of the following areas of instructional offerings:
 - Physical Education (fitness)
 - Humanities
 - Vocational-Technical Education (including work-based learning)
 - Family and Consumer Science

- Fine and Performing Arts
 - Languages other than English (may include indigenous languages or sign language) (4-1-97)
 - ii. Additional instructional options as determined by the local school district. For Example: Journalism (4-1-97)
- 05. Graduation from High School. Graduation from an Idaho high school requires that: (4-1-97)
 - a. All students will demonstrate achievement in the CORE and other required subjects to include forty-two (42) semester credits, one (1) semester equaling one-half (1/2) year. (4-1-97)
 - b. All students will meet locally established subject area exiting standards (using state standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (4-1-97)
 - c. Foreign exchange students may be eligible for graduation by completing a comparable program as approved by the Board of Trustees. (4-1-97)

- 06. Graduation Requirements (Effective Until June 30, 2000). The minimum graduation requirements for accredited Idaho high schools shall be as follows: (4-1-97)T
 - a. Core Subjects.

	Yearly Units	Semester Credits
English (writing skills emphasis)	4	8
Mathematics	2	4
Reading (remedial or developmental)	.5	1
Speech (a class of debate may be substituted for the requirements in speech)	.5	1
Total Core	7	14

(4-1-97)T

- b. Core Competency. In addition to a passing grade in each Core class, satisfactory achievement in the Core shall be validated for each student through the use of one (1) of the options listed below: (4-1-97)T

- i. Option 1 - The student must achieve a composite grade point average (GPA) of C in the 14-credit Core. (4-1-97)T

- ii. Option 2 - The student must achieve a Basic Composite Score that is within one (1) standard deviation of the mean for all Idaho students taking the Statewide Achievement Test at the eleventh (11th) grade level, and must also receive at least a score of three (3) (on a five-point (5.0) scale) on the Direct Writing Assessment. (4-1-97)T

- iii. Option 3 - The local school district may choose to validate student achievement through the use of a locally developed Core Competency Plan. This plan must follow guidelines established by the State Department of Education and be approved by the State Board of Education. (4-1-97)T

c. Other Required Subjects.

	Yearly Units	Semester Credits
Science (two science credits shall be lab courses) {homemaking and agriculture are not to be substituted for the science requirement}	2	4
U.S. History to include 20th Century History and World Affairs (grade 11#)	1	2
American Government, including state/local (grade 12)	1	2
Health (required in grades 10-12#, the health course 7-9 is to be retained)	.5	.5
Physical Education (not athletics; a course in development of physical fitness and lifetime activities in grades 10-12#; the course in grades 7-9 is to be retained)	1	2
Humanities	2	4

i. This requirement may be satisfied by academic courses which emphasize history, theory, analysis, criticism in any of the following subject areas: (4-1-97)T

- (1) Literature, history, philosophy, architecture, and the fine arts (i.e music, art, drama, and dance); (4-1-97)T
- (2) Interdisciplinary humanities, i.e., the related study of two or more of the subject areas listed above; (4-1-97)T
- (3) Foreign languages; or (4-1-97)T
- (4) Comparative world religions. (4-1-97)T

ii. Academic courses that are otherwise required by the state high school graduation may not be used to satisfy the humanities requirement. (4-1-97)T

iii. Not more than two semester credit of this requirement may be satisfied by studio/performance courses in the fine arts, OR by practical arts courses such as vocational, pre-vocational, or consumer homemaking programs approved by the State Board of Vocational Education.

Total required (including core)	15	30
Total Elective credits	6	12
Total credits required for graduation	21	42

(4-1-97)T

#Transfer students from out-of-state high schools may have these requirements waived by the local school board IF they have already earned high school credit in a specific course which is comparable to coursework as outlined in Idaho's "Secondary Course of Study" handbook.

07. High School Graduation Standards (Effective July 1, 2000). State minimum graduation requirements for all Idaho public high schools are forty-two (42) semester credits. The core of instruction required by the State Board of Education is twenty-five (25) semester credits. Local school districts may establish graduation requirements beyond the state minimum. The local school district has the responsibility to provide education opportunities that meet the needs of students in both academic and vocational areas. It is the intent of the State Board of Education to give local school districts the flexibility to provide rigorous and challenging curriculum that is consistent with the needs of students and the desire of their local patrons. (7-1-00)T

a. Secondary Language Arts and Communication: (nine (9) credits required with instruction in communications including oral communication and technological applications). Includes four (4) years of instruction in English, each year will consist of language study, composition, and literature. A course in speech or a course in debate will fulfill one (1) credit of the nine (9) credit requirement. (7-1-00)T

b. Mathematics and Science: (eight (8) credits required) a minimum of four (4) credits in math and four (4) credits in science, two (2) of which will be laboratory sciences. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. Secondary sciences will include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (7-1-00)T

c. Social Studies: (five (5) credits required), including government (two (2) credits), U.S. history (two (2) credits), and economics (one (1) credit). Current world affairs and geography will be integrated into all social studies instruction. Courses such as geography, sociology, world affairs and world history may be offered as electives, not to be counted as a social studies requirement. (7-1-00)T

d. Humanities: (two (2) credits required). A course in interdisciplinary humanities or the related study of one (1) or more of the following: literature, history, philosophy, architecture, music, art, drama, dance, foreign languages, or comparative world religions. (7-1-00)T

~~e.~~ Health/Wellness: (one (1) credit required). A course focusing on positive health habit. (7-1-00)T

08. Guidance Programs (Section 33-1212, Idaho Code). In each Idaho school, a comprehensive guidance program will be provided as an integral part of the educational program. A comprehensive guidance and counseling program includes these elements: (4-1-97)

a. A guidance curriculum that identifies knowledge and skills to be attained by all students at various stages of their development and provides appropriate activities for their achievement. (4-1-97)

b. Individualized planning with students and their parents in each of these domains: personal/social development, educational development, and career development. (4-1-97)

c. Response services of counseling, consultation, and referral. (4-1-97)

d. System support functions that promote effective delivery of guidance services. (4-1-97)

09. Special Education Regulations (Section 33-2001 through 2008, Idaho Code) - General Provisions. (4-1-97)

a. Each public agency, including the State Department of Education, local school districts, and any other political subdivision of the State that is responsible for providing education for students with disabilities, will comply with all provisions of Chapter 20, Title 33, Idaho Code, the Idaho State Board of Education Rules for Public Schools, the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, Idaho's approved State Plan and any amendments and implementing regulations of such laws or plan. (4-1-97)

i. Local Education Agencies (LEAs) will develop appropriate plans and ensure that an array of individualized services is available at all times to meet the needs of children with disabilities at the preschool, kindergarten, elementary and secondary levels. These services to children with disabilities within a single school district, a multi-district, a cooperative unit, or through a contractual arrangement with an outside agency will be enumerated in the LEA application for federal funds. The Board of Trustees or other comparable governing agency will adopt local policies and procedures for providing special education services and obtain approval from the Department of Education for the same. Approval will be based on current requirements of applicable laws, including the Individuals with Disabilities Education Act, Idaho Code, federal and state regulations implementing those laws in Idaho's approved state plan and any corrective actions required resulting from federal or state reviews. (4-1-97)

ii. The State Department of Education will provide LEAs with a sample set of policies and procedures that is consistent with relevant state and federal laws and regulations. The State Department of Education will monitor

all public and private agencies who provide special education and/or related services to students with disabilities for compliance with state and federal laws, rules and regulations and local policies. (4-1-97)

iii. Each public agency contracting with a private school or facility will ensure that the private school or facility meets the standards set forth in this section. The State Department of Education will determine if private schools and facilities meet state standards for an approved special education program. Any agency aggrieved by the Department of Education's final decision may appeal that decision to the State Board of Education. (4-1-97)

iv. LEAs must employ professional personnel using certification standards approved by the State Board of Education or Bureau of Occupational Licensing standards for occupational and physical therapists. (4-1-97)

v. School districts will provide extended school year services (beyond the regular school year) for children with disabilities who qualify for such services. (4-1-97)

vi. LEAs must collect and report data as necessary to meet state and federal requirements concerning special education services, staff or students. (4-1-97)

b. Eligibility for Special Education. LEAs must implement appropriate procedures to locate, evaluate and determine eligibility of students with potential disabilities. At the preschool age level this will include public awareness and screening activities. For school age students, LEAs will make known and accessible to all concerned persons a specified method of referral for special education and related services. (4-1-97)

i. LEAs will establish Multi-Disciplinary Teams (MDTs) to assist in determining eligibility for special education. An MDT is a district or building committee composed of regular educators and special educators. The MDT may also include the student's parents. The MDT reviews all student referrals to determine whether to conduct a multi-disciplinary evaluation to determine eligibility for special education. If an evaluation is to be conducted, the MDT determines the nature and extent of the evaluation in accordance with Individuals with Disabilities Education Act requirements, minimum evaluation procedures and eligibility criteria established by the State Department of Education, and the student's needs. The MDT also conducts or arranges for the evaluation, as appropriate. Such evaluation procedures will be provided at no expense to the parents. (4-1-97)

ii. MDT evaluators must prepare individual evaluation reports or a single composite report containing complete data. A single composite report must be developed for students with learning disabilities. The IEP team will make the final determination of eligibility. (4-1-97)

iii. The State Department of Education will provide minimum state eligibility criteria for special education services consistent with the Individuals with Disabilities Education Act. (4-1-97)

c. IEP Team Responsibilities. Each school district or multi- district will establish and utilize IEP Teams to coordinate activities and make decisions regarding eligibility, to develop individual education programs and to determine the placement of students with disabilities. The IEP Team membership is specified by the Individuals with Disabilities Education Act and would typically include the child's teacher, parents, an administrator and others as appropriate. (4-1-97)

i. The IEP Team will review the comprehensive evaluation information completed for each child and determine if each child is eligible for special education or related services, using minimum state guidelines for eligibility. All information, including documentation of eligibility or ineligibility, becomes part of the student's permanent file. (4-1-97)

ii. The IEP Team will develop Individual Education Programs (IEPs) for each student who is eligible for special education prior to the initiation of special education or related services. The IEP will include components required by federal law and the LEAs policies and procedures. The IEP Team will determine the least restrictive educational environment in which the student's IEP can be appropriately implemented. (4-1-97)

iii. The IEP will be implemented as soon as possible after it is developed. The total timeline from the date of written parental consent for pre-placement evaluation to IEP implementation will not exceed sixty (60) calendar days, excluding periods when regular school is not in session for five (5) or more consecutive days.

Extensions may be granted only when all parties have agreed in writing to the extension. (4-1-97)

iv. At the discretion of the public agency, an Individualized Family Service Plan (IFSP) may be used in place of an IEP provided the child is aged three to five (3-5); the child's parents agree to the use of the IFSP; and the IFSP is developed in accordance with Part H policies and procedures. Nothing in this part requires public agencies to develop IFSPs rather than IEPs for three to five (3-5) year olds nor to implement more than the educational components of the IFSP. (4-1-97)

v. When a student eligible for special education or related services (as indicated on a current IEP) transfers from one (1) Idaho school district to another, the student will continue to be included in special education services. The receiving district may accept and implement the IEP developed by the sending district or may develop a new IEP. If a new IEP cannot be developed within five (5) days, or if the district wishes to re-evaluate the child, an interim (short-term) IEP must be implemented pending the development of the standard IEP. If the student transfers to an Idaho school district from another state, the district must determine if the student meets Idaho's state eligibility criteria for special education. (4-1-97)

vi. The IEP Team decision will be based upon team agreement and signed by team members. The signature of the parent or guardian is required prior to the implementation of the initial IEP. When any other member of the IEP Team is not in agreement, that member has the right to place a minority report in the student's file. (4-1-97)

vii. A review of each special education student's program and placement will be conducted at least annually by the IEP Team. The IEP Team will review the student's progress, will determine if additional evaluations are necessary, and whether the student is still eligible for special education. Continuing eligibility may be determined by formal or informal assessment, progress towards IEP goals and objectives or other relevant means. Students who are no longer eligible must be formally exited from special education. State funded personnel may continue to monitor the student and consult with general educators. (4-1-97)

viii. Any member of an IEP Team may request a team meeting at times other than the annual review for purposes of determining student progress in special education and related services or to consider revisions or amendments to the IEP or placement. IEP Team meetings will be convened on reasonable request of any member. (4-1-97)

ix. For a student who continues to be eligible for special education, the IEP Team will develop a new IEP or make revisions as needed. A complete IEP must be written at least annually. (4-1-97)

d. **Parent Participation.** LEAs must take steps to ensure that one (1) or both parents of each special education student are provided with appropriate information and are afforded the opportunity to participate in making educational decisions regarding their child, consistent with the Individuals with Disabilities Education Act. (4-1-97)

e. **Procedural Safeguards.** LEAs will use appropriate procedural safeguards consistent with the Individuals with Disabilities Education Act, including but not limited to the following methods: (4-1-97)

i. If parents disagree with an individual education program or placement change proposed by the district, they may file a written objection to all or parts of the proposed change. If parents file a written objection that is postmarked or hand delivered within ten (10) days of the date they receive written notice of the proposed change from the district, the changes to which the parents object cannot be implemented. The district and parent may use informal methods such as additional IEP Team meetings or voluntary mediation to resolve the disagreement. If these informal attempts fail, the district may request a due process hearing to obtain a hearing officer's decision regarding the proposed change. The written objection cannot be used to prevent the district from placing a student in an interim alternative educational placement in accordance with IDEA procedures for discipline of a student for possession of a weapon as defined by the Individuals with Disabilities Education Act. (4-1-97)

ii. Mediation is a voluntary process and may only be used when both parties to the dispute agree to it. Mediation does not negate the parents' or school district's rights to a due process hearing nor does it interfere with the timelines. The State Department of Education will offer mediation as an alternative dispute resolution mechanism any time a hearing is requested and at other times when appropriate. Schools and parents have the right to request

mediation at any time. The State Department of Education will screen all requests for mediation to determine appropriateness. If the State Department of Education appoints a mediator, the Department will reimburse the mediator for an honorarium and travel expenses. (4-1-97)

iii. The State Department of Education will resolve formal complaints filed against school districts and other agencies using procedures developed in accordance with Individuals with Disabilities Education Act requirements. (4-1-97)

iv. When a parent/guardian of the school district initiates a request for a due process hearing, the superintendent will inform the board of trustees of the request. The school district will immediately notify the State Department of Education's Special Education Section of any request for a due process hearing. Within ten (10) calendar days of a request for a hearing, an impartial hearing officer will be assigned by the State Department of Education. The State Department of Education will maintain a list of trained hearing officers and their qualifications. (4-1-97)

v. The school district that is a party to the hearing will be responsible for compensating hearing officers. (4-1-97)

vi. Due process hearings will be conducted pursuant to the Idaho Administrative Procedures Act (APA) and Individuals with Disabilities Education Act (IDEA) requirements. In case of any conflict between the APA and the IDEA, the IDEA will supersede the APA (4-1-97)

vii. The hearing officer will issue a written decision that includes findings of fact and conclusions of law within forty-five (45) days of the date the hearing was requested unless a specific extension of this time line has been request by one (1) of the parties and granted by the hearing officer. The decision will be sent to the parents, the school district superintendent and to their respective representatives. A copy of the decision will be sent to the State Department of Education. (4-1-97)

viii. A decision made by the hearing officer will be binding unless either party wishes to appeal the decision by initiating civil action. An appeal to Civil Court must be filed within fifty-six (56) calendar days from the date of issuance of the final decision. Any party initiating an appeal will be responsible for causing a written transcript to be made and will assume all costs associated with this transcript. (4-1-97)

ix. During the hearing the district will provide reasonable accommodations as required by federal and state regulations. Disputes concerning reasonable accommodations will be resolved by the Department of Education's Americans with Disabilities Act (ADA) Committee. (4-1-97)

x. During the pendency of any due process hearing or appeal of hearing results by civil action, the child's educational placement will be determined by the Individuals with Disabilities Education Act "stay put" requirements. The district's reassignment of a student to another classroom or building in the district will not be construed as a change in placement as long as the IEP goals remain unchanged and the degree of interaction with non-disabled peers remains the same. (4-1-97)

xi. A parent has the right to an Independent Educational Evaluation (IEE) at public expense if the parent disagrees with an evaluation obtained by the school district. Parents are not entitled to have additional evaluations or procedures, beyond those determined necessary by the school district, conducted at public expense under IEE provisions. Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the school district uses when it initiates an evaluation. A due process hearing may be initiated by the school to determine if the evaluation conducted by the school is appropriate. If the final decision of a hearing officer, (or a court of law if the hearing officer's decision is appealed), is that the evaluation that has been conducted by the school is appropriate, the parents still have the right to an independent evaluation. However, they must pay for this evaluation. (4-1-97)

xii. In order to avoid unreasonable charges for IEEs, a district may establish maximum allowable charges for specific tests. If a district does establish maximum allowable charges for specific tests, the maximum cannot simply be an average of the fees customarily charged in the area by professionals who are qualified to conduct

the specific test. Rather, the maximum must be established so that it allows the parents to choose from among the qualified professionals in the area and only eliminates unreasonably excessive fees. The district must allow the parents the opportunity to demonstrate that unique circumstances justify an IEE that does not fall within the district's criteria. If an IEE that falls outside the district's criteria is justified by the child's unique circumstances, that IEE must be publicly funded. (4-1-97)

xiii. Student records will be managed in accordance with federal regulations governing security, confidentiality, access, maintenance, destruction, inspection and amendment. (4-1-97)

f. Diplomas. School districts will use a regular diploma for special education students at the completion of their secondary program. The transcript serves as a record of individual accomplishments, achievements, and courses completed. A modified or differentiated diploma or certificate may not be used for special education students unless the same diploma or certificate is granted to students without disabilities. (4-1-97)

10. Alternative Secondary Programs (Section 33-1002; 33-1002C; 33-1002F, Idaho Code). Alternative secondary programs are those that provide special instructional courses and offer special services to eligible at-risk youth to enable them to earn a high school diploma. Some designated differences must be established between the alternative school programs and the regular secondary school programs. Alternative secondary school programs will include course offerings, teacher/pupil ratios and evidence of teaching strategies that are clearly designed to serve at-risk youth as defined in this section. Alternative high school programs conducted during the regular school year will be located on a separate site from the regular high school facility or be scheduled at a time different from the regular school hours. (4-1-97)

a. Student Qualifications: An At-Risk youth is any secondary student grade seven through twelve (7-12) who meets any three (3) of the following criteria, Subsections 100.09.a.i. through 09.a.v., or any one (1) of criteria, Subsections 100.09.a.vi. through 09.a.xii. (4-1-97)

i. Has repeated at least one (1) grade. (4-1-97)

ii. Has absenteeism that is greater than ten percent (10%) during the preceding semester. (4-1-97)

iii. Has an overall grade point average that is less than 1.5 (4.0 scale) prior to enrolling in an alternative secondary program. (4-1-97)

iv. Has failed one (1) or more academic subjects. (4-1-97)

v. Is two (2) or more semester credits per year behind the rate required to graduate. (4-1-97)

vi. Has substance abuse behavior. (4-1-97)

vii. Is pregnant or a parent. (4-1-97)

viii. Is an emancipated youth. (4-1-97)

ix. Is a previous dropout. (4-1-97)

x. Has serious personal, emotional, or medical problems. (4-1-97)

xi. Is a court or agency referral. (4-1-97)

xii. Upon recommendation of the school district as determined by locally developed criteria for disruptive student behavior. (4-1-97)

b. Instruction. Special instruction courses for at-risk youth enrolled in an alternative secondary program will include: (4-1-97)

i. Academic skills that include language arts and communication, mathematics, science, and social

- studies that meet or exceed minimum state standards. (4-1-97)
- ii. A personal and career counseling component. (4-1-97)
 - iii. A physical fitness/personal health component. (4-1-97)
 - iv. A state division approved vocational-technical component. (4-1-97)
 - v. A child care component with parenting skills emphasized. (4-1-97)
- c. Graduation credit may be earned in the following areas: academic subjects, electives, and approved work-based learning experiences. Nonacademic courses, i.e., classroom and office aides do not qualify for credit unless they are approved work-based learning experiences. (4-1-97)
- d. Special Services. Special services, where appropriate for at-risk youth enrolled in alternative secondary programs, include the following where appropriate: (4-1-97)
- i. A day care center when enrollees are also parents. This center should be staffed by a qualified child care provider. (4-1-97)
 - ii. Direct social services that may include officers of the court, social workers, counselors/psychologists. (4-1-97)
11. Testing in the Public Schools. (4-1-97)
- a. Philosophy. Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. A statewide student testing program consisting of standardized achievement testing and performance appraisal activities in the fundamental basic skills will be conducted annually under the supervision of the State Department of Education. (4-1-97)
 - b. Purposes. The purpose of testing in the public schools is to provide comparative local, state and national data regarding the achievement of students in essential skill areas; to identify performance trends in student achievement across grade levels tested and over time; to provide supplemental information to local educational agencies that may be useful in evaluating local curriculum and instructional practices, screening students for special program entry/exit, diagnosing individual differences, developing student schedules, making differential assignments within classes and in communicating school progress information to various publics; and to determine State Department of Education technical assistance/consultation priorities. (4-1-97)
 - c. Content. The statewide testing program will consist of the Iowa Tests of Basic Skills (ITBS), the Test of Achievement and Proficiency (TAP), the Direct Writing Assessment (DWA) and the Direct Mathematics Assessment (DMA). (4-1-97)
 - d. Testing Population. All students in Idaho public schools, grades three through eleven (3-11), are required to participate in the standardized portion of the statewide testing program approved by the State Board of Education and funded. In addition, all students in grades four (4), eight (8) and eleven (11) are required to participate in the Direct Writing Assessment and all students in grades four (4) and eight (8) are required to participate in the Direct Mathematics Assessment portions of the statewide testing program. Non-public school students at those same grade levels are encouraged to participate at private school expense. For those exceptional students currently receiving special services, it is recommended that they be enrolled in the regular education program for basic skills instruction in reading, language arts, mathematics, science and social studies at least one-half (1/2) of the school day or have the endorsement of the IEP Team to participate in the test. No student will be denied the right to participate. (4-1-97)
 - e. Scoring and Report Formats. Scores will be provided for each skill area assessed and reported in

standard scores, percentile ranks, stanines, and holistic scores (Direct Writing Assessment and Direct Mathematics Assessment). Test results will be presented in a class list report of student scores, building/district summaries, and pressure sensitive labels. (4-1-97)

f. Testing Schedule. The Iowa Tests of Basic Skills and the Tests of Achievement and Proficiency will be administered in October of each school year. The Direct Writing Assessment and the Direct Mathematics Assessment will be administered in the early spring of each school year during a time period specified by the State Department of Education. (4-1-97)

g. Costs Paid by the State. Costs for the following testing activities will be paid by the state: (4-1-97)

i. All consumable and non-consumable test materials needed to conduct the prescribed statewide testing program; (4-1-97)

ii. Statewide distribution of all test materials; (4-1-97)

iii. Processing and scoring student response forms, distribution of prescribed reports for the statewide testing program; and (4-1-97)

iv. Implementation and scoring of the Direct Writing Assessment component to the fourth, eighth and eleventh grade batteries and the fourth and eighth grade batteries of the Direct Mathematics Assessment. (4-1-97)

h. Costs of Additional Services. Costs for any additional sub-test administrations or scoring services not included in the prescribed statewide testing program will be paid by the participating school districts. Cost for replacement or supplemental materials which exceed expectation may also be charged to the district. (4-1-97)

i. Services. Statewide testing should be scheduled so that a minimum of instructional time is invested. Student time spent in testing will not be charged against attendance requirements. (4-1-97)

j. Test Security. Test security is of the utmost importance. It is expected that school districts will employ the same security measures in protecting statewide testing materials from compromise as they use to safeguard other formal assessments (4-1-97)

k. Demographic Information. Demographic information may be required by the State Department of Education to assist in interpreting test results. (4-1-97)

l. Assurances. The State Department of Education will neither advocate nor undertake performance comparisons across Idaho school districts. It is recognized the scholastic achievement can be adversely impacted by individual/environmental differences beyond the control of the school. (4-1-97)

m. Dual Enrollment. For the purpose of non-public school student participation in non-academic public school activities, the Idaho State Board of Education recognized achievement test is Form K of the Iowa Tests of Basic Skills, at the elementary level (grades K-8), and the Tests of Achievement and Proficiency, at the secondary level (grades 9-12). The minimum score on each assessment is the fifth (5th) stanine for the battery total score. (4-1-97)

12. Curricular Materials Selection (Sections 33-118; 33-118A, Idaho Code). The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. Committee appointments will be for a period of five (5) years. The membership of the committee will include one (1) representative from each of the state's institutions of higher education (Boise State University, Idaho State University, Lewis-Clark State College, and University of Idaho); two (2) Idaho public school administrators; two (2) Idaho public school elementary classroom teachers; two (2) Idaho public school secondary classroom teachers; one (1) person who is not a public school educator nor a public school trustee, one (1) person (parent, teacher, or administrator) representing Idaho's private/parochial schools, who will not be a public school educator or trustee; one (1) public school trustee; three (3) parents and one (1) curriculum consultant from the Division of Instruction of the State Department of Education and one (1) from the Division of Vocational Education whose appointment will be for one (1) year. The Executive Secretary will be an employee of the State Department of

Education and will be a voting member of the committee. (4-1-97)

a. Curricular materials are adopted by the State Board of Education for a period of five (5) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, handwriting, literature, driver education. (4-1-97)

b. Multiple adoptions are made in each subject area. (4-1-97)

c. Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption. (4-1-97)

d. The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option. (4-1-97)

e. School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee. (4-1-97)

**IDAPA 10 - BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-9701

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 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 54-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the July 2, 1997 Idaho Administrative Bulletin, Volume No. 97-7, pages 9 through 13.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David L. Curtis at (208) 334-3860.

DATED this 6th day of October, 1997.

David L. Curtis
Executive Secretary
Board of Registration of Professional Engineers
and Professional Land Surveyors
600 S. Orchard, Suite A
Boise, Idaho 83705-1242
Voice: (208) 334-3860
FAX: (208)

**IDAPA 10
TITLE 01
Chapter 02**

RULES OF PROFESSIONAL RESPONSIBILITY

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-7, July 2, 1997,
pages 9 through 13.**

**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 11 - DEPARTMENT OF LAW ENFORCEMENT

**11.04.02 - RULES GOVERNING SIMULCASTING
IDAHO STATE RACING COMMISSION**

DOCKET NO. 11-0402-9701

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, and 67-5226, Idaho Code, notice is hereby given that his agency has adopted a pending rule. The action is authorized pursuant to Section 54-2506, 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 any change.

The proposed rules are to define the definitions and requirements for a simulcast license. This will also give jurisdiction over the simulcast racing within the state to the Idaho State Racing Commission and defines the administration of the jurisdiction. The pending rules are being adopted as proposed. The original text of the proposed rule was published in the August 6, 1997, Administrative Bulletin, Volume 97-8, pages 25 through 31.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Eugene O. "Jack" Baker, telephone (208) 884-7080.

DATED this 21st day of October, 1997.

Eugene O. "Jack" Baker
Executive Director
Idaho State Racing Commission
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

**IDAPA 11
TITLE 04
Chapter 02**

RULES GOVERNING SIMULCASTING

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-8, August 6, 1997,
pages 25 through 31.**

**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 11 - DEPARTMENT OF LAW ENFORCEMENT
11.04.03 - RULES GOVERNING GREYHOUND RACING
IDAHO STATE RACING COMMISSION

DOCKET NO. 11-0403-9701

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 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 his agency has adopted a pending rule. The action is authorized pursuant to Section 54-2506, 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 any change.

The proposed docket repeals all provisions of the greyhound racing rules, IDAPA 11.04.03, since greyhound racing no longer exists in Idaho. The pending rules are being adopted as proposed. The original text of the proposed rule was published in the July 2, 1997, Administrative Bulletin, Volume 97-7, page 14.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Eugene O. "Jack" Baker, telephone (208) 884-7080.

DATED this 21st day of October, 1997.

Eugene O. "Jack" Baker
Executive Director
Idaho State Racing Commission
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)
DATED this 21st day of October, 1997.

IDAPA 11
TITLE 04
Chapter 03

RULES GOVERNING GREYHOUND RACING

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 97-7, July 2, 1997, page 14.**

**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 11 - DEPARTMENT OF LAW ENFORCEMENT

**11.11.01 - RULES OF THE IDAHO PEACE OFFICER
STANDARDS AND TRAINING COUNCIL (POST)**

DOCKET NO. 11-1101-9701

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The temporary rule is effective October 21, 1997, and remains effective until rescinded or superseded by replacement rule or the approval of the final rule by the legislature or such other date specified in the concurrent resolution, or upon the conclusion of the 1998 legislative session, whichever is sooner.

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 has proposed rule-making. The action is authorized pursuant to Title 19, Chapter 51, Idaho Code.

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

Public hearings 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 December 17, 1997.

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

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

The proposed rule is to correct typographical errors, change numbering to reflect the addition of new sections, remove unnecessary wording, insert wording previously omitted in error, and update the curriculum to reflect the ten-week academy. These changes will make the rule easier to understand and follow, but does not change the intent or meaning at all.

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: Protection of the public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Michael N. Becar at (208) 884-7250.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before December 24, 1997.

DATED this 21st day of October, 1997.

Michael N. Becar
Executive Director
Department of Law Enforcement
Peace Officer Standards and Training
700 South Stratford Drive
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7250 (208) 884-7295 (FAX)

TEXT OF DOCKET NO. 11-1101-9701

041. THE RECORDS SYSTEM.

01. Record. The Idaho Peace Officer Standards and Training Council will maintain a training record file on all Idaho Peace Officers. Officer certifications granted, and certified training schools attended by officers will be recorded in these records. A transcript of these training records may be used by the officer for any certification or employment needed. (7-1-93)

02. Notification. It will be the responsibility of the law enforcement agency department head to notify the Council of all presently employed officers. The names of all officers hired after submission of the original list shall be submitted to the Council within thirty (30) days of employment. The termination or resignation of an officer shall also be relayed to the Council on an appropriate form designated by the Council. (7-1-93)

03. Transcript. A transcript listing all certified courses an officer has completed, the hours credited and other pertinent data will be kept along with the officer's records. A copy of this transcript will be available upon the officer's request and will be furnished to law enforcement units when applicants apply for appointment as a peace officer in any part of this or another state. (~~7-1-93~~)(10-21-97)T

04. Records. All records of officer certification - basic, part-time basic, intermediate, supervisory, advanced, master, management, or executive - will also be kept in this file and on the transcript. (3-20-97)

05. File. A file on non-peace officer personnel will be maintained. This file will contain records for non-sworn persons who successfully complete certain certified courses. (7-1-93)

06. Names. Names of instructors certified or to be certified will be kept in the files. They will be filed in the master files, a cross reference file and in a file by course topic. (7-1-93)

07. List. A list of approved instructors and schools will be maintained by the Executive Director. (7-1-93)

042. PROCEDURE.

01. Application. Each individual officer applies for certification when they feel that they have met the training standards. When they are certified by the Council, this is entered into their file and on their transcript. (Refer to Section 091 to Section 1129 - "Certification of Peace Officers".) (~~7-1-93~~)(10-21-97)T

02. Roster. School coordinators will furnish to the Council a "Police School Attendance Roster" on the appropriate form designated by the Council upon the completion of each certified training school. This information is then recorded on the officer's record and transcript and the class roster filed with the file on the school. (Refer to Section 151 to Section 155.6 - "Formation and Certification of Schools".) (~~7-1-93~~)(10-21-97)T

(BREAK IN CONTINUITY OF SECTIONS)

050. MINIMUM STANDARDS FOR EMPLOYMENT.

01. Requirements. Every peace officer employed by a department shall meet the following requirements: (3-20-97)

a. Citizenship. Must be a citizen of the United States. (3-20-97)

b. Education. Requirements: (3-20-97)

- i. Graduation from high school or equivalent. Equivalent defined as having passed the General Educational Development Test indication of high school graduation. The military or veterans equivalent of high school graduation is also acceptable. (3-20-97)
- ii. Documentary evidence of satisfaction of requirement (~~Subsection 050.01.ab.i. of this Subsection~~) must be obtained and retained in the files of the employing department. (~~3-20-97~~)(10-21-97)T
- c. Procedure: Documentary evidence of the above shall consist of official transcripts, diplomas, or GED test report forms. In unusual circumstances, the Council may be required to accept other documentation and in such cases the decision of the Council shall be final. (3-20-97)
- d. Experience. Requirements. (3-20-97)
- i. Not less than two (2) years of responsible work experience following high school graduation (or when the applicant would have graduated). (3-20-97)
- ii. This work experience requirement can be complied with by two (2) years of military service, two (2) years of any combination of work, education or any other productive activity. The two (2) year requirement for responsible work and/or education is to be used to measure the conduct of the applicant after they leave the shelter of their home; to measure the financial conduct, moral conduct, the character and/or reputation of the applicant; the use of drugs or intoxicants; mental and emotional activities; to test the mannerisms, maturity, integrity, loyalty and other traits; all of which are expected to be above reproach in police officers. (~~3-20-97~~)(10-21-97)T
- e. Criminal record/military record. Requirements: (3-20-97)
- i. The applicant must be fingerprinted and a search made of local, state, and national fingerprint files to disclose any criminal record. (3-20-97)
- ii. A conviction or withheld judgment of any state, local, or federal crime may be grounds for rejection of the applicant. (3-20-97)
- iii. An applicant must be rejected who has been convicted of any felony crime, the punishment for which could have been imprisonment in a federal or state penal institution. For the purpose of this requirement, the term "conviction" shall mean a final conviction in a federal, state, county, or municipal court; a forfeiture of bail that has not been vacated, or collateral deposited to secure a defendant's appearance in court; the payment of a fine; a plea of guilty, nolo contendere, or a finding of guilt regardless of whether the imposition of sentence is deferred, withheld, or the penalty suspended. (3-20-97)
- iv. A "dismissal" from the military service as well as the other two (2) punitive discharges, specifically a "bad conduct discharge" (BCD) and a "dishonorable discharge" (DD) from the military service will disqualify the applicant. An administrative discharge of other than honorable (OTH) will disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN) may be grounds for rejection. (~~3-20-97~~)(10-21-97)T
- f. Procedures. (3-20-97)
- i. Each candidate for employment is finger printed on two (2) copies of the standard FBI applicant fingerprint form. (3-20-97)
- ii. One (1) card is forwarded to the Federal Bureau of Investigation, Washington, D.C. (3-20-97)
- iii. One (1) card is used in a search of local files. Following this record check, this card is forwarded to the Bureau of Criminal Identification in Meridian. (3-20-97)
- g. The original copies of the results of all record checks will be retained by the employing department. (3-20-97)

- i. Applicants with felony criminal records will be subject to terms of Subsection 050.01.e.iii.
(~~3-20-97~~)(10-21-97)T
- ii. Applicants with lesser criminal records will be reviewed and a final decision reached by the department concerned with approval of the Council. (3-20-97)
- h. The retention of fingerprint record checks is mandatory regardless of the nature of the results of such inquiry. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

055. TRAFFIC RECORD INVESTIGATION.

- 01. Requirements. (7-1-93)
 - a. The applicant must possess a valid driving license from his/her state of residence. (2-8-95)
 - b. Where the applicant's traffic record discloses a record of suspension, DWS or DUI conviction or withheld judgment during the five (5) years immediately preceding application, the POST Council shall review the application and shall determine whether the individual shall be certifiable as a peace officer of the state of Idaho. (2-8-95)
 - c. Where the applicant's traffic record discloses the commission of five (5) or more moving traffic offenses during the three (3) years immediately preceding application, the POST Council shall review the application and shall determine whether the individual shall be certifiable as a peace officer of the state of Idaho. (2-8-95)
- 02. Procedures. A check of driving records must be made of the Motor Vehicle Division, Highway Department, state of Idaho, and a check must be made of the files of the motor vehicle department in states of the applicant's previous residences. (~~7-1-93~~)(10-21-97)T

056. CHARACTER AND REPUTATION.

- 01. Requirements. (7-1-93)
 - a. Good moral character must be determined by a favorable report following a comprehensive background investigation covering school and employment records, home environment, personal traits and integrity. Consideration will be given to any and all law violations, including traffic and conservation law convictions as indicating a lack of good character. (~~7-1-93~~)(10-21-97)T
 - b. An oral interview by the employing department to determine such things as the applicant's appearance, demeanor, attitudes and ability to communicate. (7-1-93)
- 02. Recommended Procedures. (7-1-93)
 - a. The applicant shall be required to complete and submit to the employing law enforcement agency a comprehensive application and personal history form at least comparable to that used by the Idaho Personnel Commission. (7-1-93)
 - b. Conduct a personal interview with the applicant, using the application form for interview questions, to ascertain personal attributes not listed on the application. Ask searching questions about use of intoxicants, narcotics and drugs; physical, mental, and emotional history; family problems; moral outlook and habits; financial transactions, etc. Scrutinize applicant's personal appearance, mannerisms, judgment, maturity and resourcefulness. (7-1-93)

c. A thorough investigation into the character and reputation of the applicant should be conducted by an experienced investigator. The applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, loyalty, etc., should be explored. (7-1-93)

d. The investigation must resolve all doubts. Recommended sources of investigation may include the following: (7-1-93)

i. Verify birth and/or naturalization records to determine age and citizenship; (7-1-93)

ii. Review military records and verify discharge, if applicable; (7-1-93)

iii. Check local police files; (7-1-93)

iv. Check police files in all cities where the applicant has lived or worked; (7-1-93)

v. Interview teachers and fellow students; (7-1-93)

vi. Check previous employers to determine work habits, attendance, etc.; (7-1-93)

vii. Verify marital status and interview spouse to determine the attitude towards law enforcement occupational aspirations; (7-1-93)

viii. Interview past and present landlords, neighbors, references, and social acquaintances to determine applicant's character, abilities and reputation in the community; (7-1-93)

ix. Spouse and close relatives should be checked through appropriate files to determine whether they have criminal records, are in prison, or are in any status or position which might adversely affect the applicant's obligation as a peace officer; (7-1-93)

x. Check credit bureau files in all places of residence or employment; (7-1-93)

xi. If the applicant lives, or has lived in a distant community, a letter should be sent to the local law enforcement agency requesting that an investigation be conducted in that locality; (7-1-93)

xii. Any other course of information which previous contacts show to be important; and (7-1-93)

xiii. The final step in the field investigation should be an interview with the applicant's present employer following permission from the applicant. (7-1-93)

e. All results of the background investigation should be considered confidential and processed accordingly. (7-1-93)

f. The results of the personal history investigation should ultimately be evaluated by the department head and/or the hiring authority to determine whether the applicant is suitable. All doubts in personnel suitability matters should be resolved in favor of the department. (7-1-93)

057. PHYSICAL - MEDICAL.

01. Requirements. (7-1-93)

a. Height and Weight. Weight should be in proportion to height. Underweight and overweight candidates may be put on notice to correct this defect to retain candidacy. A chart approved by the Council indicating acceptable height and weight ranges will be furnished to the applicant and his department, to be completed by a licensed physician as part of the application process. If the applicant's weight is excessive, a skin fold measurement test will be required to determine body fat percentage. Male applicants whose body fat exceeds twenty-four (24) percent and female applicants whose body fat exceeds thirty percent (30%) ~~percent~~ must correct this problem before entering the Academy. (7-1-93)(10-21-97)T

b. Hearing. Applicants must have unaided or aided binaural hearing with a Speech Reception Threshold (hearing loss for speech) that does not exceed twenty-five (25) db, in each ear, at the three (3) middle speaking frequencies of five-hundred (500) Hz, one thousand (1000) Hz and two thousand (2000) Hz (or an average in both ears of no greater than twenty-five (25) db for the same frequencies: five hundred (500), one thousand (1000), and two thousand (2000)). Waiver to the above may be considered by the Council if accompanied by a hearing specialist's certification; that the applicant's condition would not jeopardize or impair the applicant's ability to perform the duties of a sworn peace officer. ~~(3-20-97)~~(10-21-97)T

c. Vision. (7-1-93)

i. Applicant must possess normal binocular coordination; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision shall be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must be no pathology of the eye; applicant must possess a minimum seventy percent (70%) ~~degrees~~ proficiency of the Dvorine or equivalent color discrimination test. Exceptions may be made by the Council. ~~(7-1-93)~~(10-21-97)T

ii. Applicants must have uncorrected vision in each eye of twenty-two hundred (20/200) with the strong eye corrected to twenty-twenty (20/20) and the weaker eye corrected to twenty-sixty (20/60). Applicants who wear contact lenses are exempt from the uncorrected vision of twenty-two hundred (20-200), but must have the strong eye corrected to twenty-twenty (20/20) and the weaker eye corrected to twenty-sixty (20/60). Exceptions may be made by the Council. ~~(7-1-93)~~(10-21-97)T

d. Medical. The applicant must be free from any impediments of the senses; physically sound, well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or mental instabilities which may tend to impair efficient performance of duty which might endanger the lives of others or the life of the officer if lacking these qualities. (7-1-93)

e. Physical Agility and Fitness Test. (7-1-93)

i. A physical agility and/or fitness test to determine the applicant's physical capability may be administered by the employing department to each applicant. (7-1-93)

ii. POST Council shall provide suggested fitness and agility tests to the departments upon request. (7-1-93)

02. Procedures. (7-1-93)

a. A medical history form will be supplied by each applicant to the examining physician. The medical history will include information on past and present diseases, injuries and operations. (7-1-93)

b. A medical examination must be administered by a licensed physician or surgeon to determine if the applicant is free from any physical, emotional or mental condition which might adversely affect the performance of duty as a peace officer. The physician shall record his findings on the appropriate form or letter and shall note thereon, for evaluation by the hiring authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

073. ADVANCED AND SPECIALIZED COURSES.

01. Optional. Optional advanced courses include, but are not limited to: (7-1-93)

a. Supervisory Course. (7-1-93)

- i. For officers promoted, appointed, or transferred to a supervisory position within a department. (7-1-93)
- ii. Open for expansion. (7-1-93)
- b. Middle Management Course. (7-1-93)
- i. For officers promoted, appointed, or transferred to a middle management position within a department. (7-1-93)
- c. Executive Development Course. (7-1-93)
- i. For department heads and assistant department heads. (7-1-93)
- ii. Open for expansion. (7-1-93)
- d. Advanced Officers Course. (7-1-93)
- i. Intended as a refresher for officers below the first level supervisory position. (7-1-93)
- ii. Open for expansion. (7-1-93)
- 02. Credit Hours. The amount of certified credit hours granted for advanced and specialized schools shall be decided by the Council after the "Application for Certification of School" has been received. (7-1-93)(10-21-97)T

(BREAK IN CONTINUITY OF SECTIONS)

076. THE BASIC TRAINING CURRICULUM.

01. Amount. The amount of training for which certification may be granted in the Basic Training Course shall be a total of four hundred ~~thirty six~~ thirty six ~~two~~ two (43062) hours, with ~~three hundred ninety~~ (390) four hundred twenty-two (422) hours received at the training academy and forty (40) hours received in field training in the officer's department or another department prior to or subsequent to attendance at the Basic Training Academy. (7-1-93)(10-21-97)T

02. Requirements. (7-1-93)

a. Successful completion of ~~three hundred ninety~~ (390) four hundred twenty-two (422) hours of instruction in the following minimum prescribed subject areas at the Basic Training Academy is required:

Summary	Hours
Professional Orientation	10
Human Relations	20 43
Criminal Law	52 1
Criminal Investigations	979
Police <u>Officer and Patrol</u> Procedures	52 154

Summary	Hours
Patrol Procedures	20
<u>Health and Fitness</u>	<u>52</u>
Practical Problems	8
<u>Administration/Examinations</u>	<u>23</u>
Enforcement Skills	32
Firearms Proficiency	36
First Aid	24
Physical Wellness	18
Administrative Matters	20
Sub-Total	390 <u>422</u>
Field Training Manual	40
Total	430 <u>62</u>

(~~7-1-93~~)(10-21-97)T

ii. It is emphasized that the established basic training is only a minimum and that additional instruction far beyond the basic course is necessary if the proper training of an officer, as required by the profession, is to be accomplished. (7-1-93)

b. Successful completion of forty (40) hours of supervised field training in the ~~employment~~ employing department, or another department if necessary, is required. (~~7-1-93~~)(10-21-97)T

c. Retention on a permanent basis, of Council forms notifying of course completion and completion of supervised field training is required. (7-1-93)

03. Procedure. (7-1-93)

a. Trainees should be enrolled in the Basic Training Academy in sufficient time to permit completion of the course and the supervised field training during the twelve (12) month period following employment. (7-1-93)

b. The Council shall issue a certificate of completion of the Basic Training Course to each peace officer who successfully completes the Basic Training Academy Course as certified by the Council. (7-1-93)

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

**11.11.01 - RULES OF THE IDAHO PEACE OFFICER
STANDARDS AND TRAINING COUNCIL (POST)**

DOCKET NO. 11-1101-9702

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective October 21, 1997, and remains effective until rescinded or superseded by replacement rule or the approval of the final rule by the legislature or such other date specified in the concurrent resolution, or upon the conclusion of the 1998 legislative session, whichever is sooner.

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 has proposed rule-making. The action is authorized pursuant to Title 19, Chapter 51, Idaho Code.

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

Public hearings 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 December 17, 1997.

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

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

The proposed rules set up the minimum standards for the training and certification of county detention officers. The Legislature recently passed legislation making this training and certification mandatory. In response to another piece of legislation that was recently passed, rules are included that establish the criteria for the decertification of law enforcement officers. There is a provision to allow officers to maintain their certifications by working a minimum of one hundred twenty (120) hours per year, and another provision to allow officers who have not had a break in service but are returning to Idaho after working in law enforcement in other states to complete a simpler challenge procedure.

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: Protection of the public health, safety, or welfare; and compliance with deadlines in amendments to governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Michael N. Becar at (208) 884-7250.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before December 24, 1997.

DATED this 21st day of October, 1997.

Michael N. Becar
Executive Director
Department of Law Enforcement
Peace Officer Standards and Training
700 South Stratford Drive
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7250 (208) 884-7295 (FAX)

TEXT OF DOCKET NO. 11-1101-9702

091. INTRODUCTION.

01. Certificates and Awards. Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of law enforcement and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals. (3-20-97)

02. Property. Certificates and awards remain the property of the Council and are only valid as long as the officer is commissioned as an Idaho peace officer. ~~The Council shall have the power to cancel, recall, or revoke any certificate or award upon reasonable cause as determined by the Council.~~ (7-1-93)(10-21-97)T

a. ~~The Council may revoke the certification of any peace officer after written notice and hearing, based upon a finding that the officer falsified any information required to obtain certification or has been, or should have been, discharged for reasonable cause from employment as a peace officer; decertify any officer who pleads guilty or is found guilty, regardless of the form of judgment or withheld judgment, of any felony or offense which would be a felony if committed in this state; any misdemeanor; any unlawful use, possession, sale, or delivery of any controlled substance; or who willfully or otherwise falsifies or omits any information to obtain any certified status; or who violates any of the standards of conduct as established by the council's code of conduct, as adopted and amended by the council.~~ (7-1-93)(10-21-97)T

b. Law Enforcement Code of Conduct. As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality, and justice. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. In furtherance of these duties, I hereby adopt and accept the following code of conduct: (10-21-97)T

i. I shall conduct myself at all times in a manner that does not damage or have the likely result of damaging or bringing the public image, integrity, or reputation of my department or myself into discredit or disrepute. (10-21-97)T

ii. I shall not possess or consume alcoholic beverages on duty or while in uniform on duty or off duty, except as expressly required for the lawful performance of my duties. Nor shall I unlawfully possess, sell, consume, use or assist in the use of any illegal or unauthorized drugs or medications on duty or off duty. I shall not consume any unauthorized drug or medication in proximate time to my reporting time for duty, nor shall I report to duty with evidence of having consumed such drugs or medications. (10-21-97)T

iii. I shall not engage in any illegal or forbidden harassment or intimidation of another, nor shall I permit personal feelings, prejudices, political beliefs, animosities, or friendships to influence my decisions. (10-21-97)T

iv. I shall not lie, give misleading information, or falsify written or verbal communications in official reports or in their actions with another person or organization when it is reasonable to expect that such information may be relied upon because of my position or affiliation with my department. (10-21-97)T

v. I shall willfully observe and obey the lawful verbal and written rules, duties, policies, procedures, and practices of my department. I shall also subordinate my personal preferences and work priorities to the lawful verbal and written rules, duties, policies, procedures and practices of my department, as well as to the lawful orders and directives of supervisors and superior command personnel of my department. I shall willfully perform all lawful duties and tasks assigned by supervisory and/or superior-ranked personnel. Direct, tacit or constructive refusal to do so is insubordination. (10-21-97)T

vi. I shall obey the constitutional, criminal and civil laws of the city, county, state, and federal government, and I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. (10-21-97)T

bc. The certification of any peace officer shall be considered lapsed if the officer does not serve as a peace officer in Idaho for three (3) consecutive years. Provided, however, that those persons once POST certified who remain in active law enforcement in Idaho shall retain their POST certification for purposes of compliance with this rule. The person must work at least one hundred twenty (120) hours active law enforcement per year. This shall include administrative, jail, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code. Provided further that those persons once POST certified in Idaho who remain in full-time, active law enforcement outside the state of Idaho, without a break in full-time law enforcement, and who successfully complete Idaho POST Academy Law Week may petition the Executive Director for recertification. The Executive Director shall have the discretion to grant or deny the petition or may refer the petition to the Council.

(3-20-97)(10-21-97)T

ed. An peace officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements: attend an approved course of study in Idaho law and pass the POST Idaho law exam, pass the POST patrol certification examination, qualify on the POST firearms course, pass the POST fitness test, and satisfy the probationary period requirement of Section 062.

(3-20-97)(10-21-97)T

de. An peace officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Patrol Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the preceding five (5) years, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. Upon receiving a waiver, the officer must meet the following POST requirements: attend an approved course of study in Idaho law and pass the POST Idaho law exam, pass the POST patrol certification examination, qualify on the POST firearms course, pass the POST fitness test, and satisfy the probationary period requirement of Section 0620.

(3-20-97)(10-21-97)T

ef. The provisions of Subsection 091.042.c. and 091.02d. shall not apply to officers holding a part-time basic certificate who are employed at least one hundred twenty (120) hours per year within the law enforcement profession.

(3-20-97)(10-21-97)T

fg. An peace officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Patrol Academy to be recertified. No waiver of this requirement shall be granted by the Council.

(3-20-97)(10-21-97)T

03. Forms. Basic, Part-Time Basic, Intermediate, Supervisory, Advanced, Master, Management, and Executive Certificates are established for the purpose of fostering professionalism, education, and experience necessary to perform adequately the duties of law enforcement.

(3-20-97)

092. GENERAL PROVISIONS.

01. Certification. From and after January 1, 1974, any peace officer, as defined in Section 19-5101(d), Idaho Code, except those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinances, shall be certified by the Peace Officer Standards and Training Council within one (1) year after first being employed.

(7-1-93)

02. Employed. To be eligible for the award of a certificate, each applicant must be a full-time commissioned Idaho peace officer, ~~sworn detention officer, or dispatcher~~ employed by a duly constituted law enforcement agency or a professional member of the POST Council staff, except for the part-time Basic certificate of Reserve Level I certificate, for which an eligible applicant must be a part-time commissioned Idaho peace officer employed by a duly constituted law enforcement agency.

(3-20-97)(10-21-97)T

03. Applications. All applications for award of the Basic, Part-Time Basic, Intermediate, Supervisory, Advanced, Master, Management, or Executive Certificates shall be completed on the prescribed form "Application for Certification" as provided by the POST Council.

(3-20-97)

04. Minimum Standards. Each applicant must meet the minimum standards for employment and

training as provided in these rules.

(7-1-93)

05. Other. The superintendent of State Police or any elected official, although specifically excluded by law from meeting the requirements set by the Council, may be certified if they so desire, providing they meet the minimum requirements for certification as prescribed in these rules.

(7-1-93)

093. LAW ENFORCEMENT EXPERIENCE.

Law enforcement experience, as used herein, means actual time served as a commissioned law enforcement officer with a duly constituted law enforcement agency. The acceptability of time served as a law enforcement officer in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Sections 054 through Section 063 of this manual, shall be subject to the determination of the Council.

~~(7-1-93)~~(10-21-97)T

(BREAK IN CONTINUITY OF SECTIONS)

095. THE BASIC AND PART-TIME BASIC CERTIFICATE.

In addition to the requirements set forth in Section 092 of these Rules the following requirements are necessary for award of the basic certificate and the part-time basic certificate.

(3-20-97)

01. Probation. The applicant must have completed at least six (6) months satisfactory probationary period (may include basic training academy time). Probationary period may be extended by the agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time must be continuous with the department the officer is employed with when applying for certification. Probationary period may not extend over one (1) year for certification purposes.

(3-20-97)

02. Basic Training. The applicant shall have completed the Basic Patrol Training Course as recommended by the Council in Section 071 or be a graduate of a law enforcement vo-tech program, the curriculum of which has been approved by the Council as being equivalent to the POST Basic Patrol Training Course, and shall have passed the POST patrol certification examination approved by the Council. The applicant shall be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts, he/she must successfully complete the POST Basic Patrol Training Academy Course to be certified.

~~(3-20-97)~~(10-21-97)T

03. Employed. Any peace officer presently employed by a duly constituted Idaho law enforcement agency who has within the last five (5) years, been certified or commissioned by another state or the federal government as a peace officer or a student who has satisfactorily completed a Basic Police Academy equivalent to Idaho ~~Post~~OST Basic Training within the last three (3) years shall be eligible for certification in the state of Idaho without attending the Basic Academy, provided ~~they comply with Subsection 095.03.a. through 095.03.e.~~ the officer:

~~(3-20-97)~~(10-21-97)T

a. ~~Provided the officer s~~Submits a POST Patrol Certification Challenge Packet, ~~passes the POST certification examination approved by the Council, qualifies with his/her firearms on the POST Short Course, and passes the POST fitness test. These qualifications must be administered by a POST Training Specialist.~~ to POST Council, which must include copies of transcripts, certificates, diplomas, or other documents that substantiate the officer's training and experience;

~~(7-1-93)~~(10-21-97)T

b. ~~Completes a six (6) month probationary period with one (1) Idaho law enforcement agency and meets other requirements set forth by the Council. In addition to the above requirements, the said officer shall attend and pass an approved course of study in Idaho Law. Passes the following tests administered by a POST Training Specialist:~~

~~(7-1-93)~~(10-21-97)T

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 095.02;

(10-21-97)T

- ii. The POST Short Course for qualification of firearms; and (10-21-97)T
 - iii. The POST Academy physical fitness test. (10-21-97)T
 - c. ~~An officer is allowed two (2) attempts to pass the POST certification examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts, he/she must successfully complete the POST Basic Training Academy Course to be certified. Attends and passes an approved course of study in Idaho Law; and~~ (3-20-97)(10-21-97)T
 - d. ~~Education and training must be supported by copies of transcripts, certificates, diplomas, or other verifying documents attached to the application. Completes his probationary period, as required by Subsection 095.01.~~ (7-1-93)(10-21-97)T
 - e. ~~The officer must have completed the required probationary period required by their department when making application for higher certification.~~ (7-1-93)
04. Eligibility. An officer duly employed in a full time capacity by a law enforcement agency shall be eligible for the basic certificate. Officers duly employed in a part time capacity shall be eligible for the part-time basic certificate. (3-20-97)

096. HIGHER CERTIFICATION

- 01. General Provisions. (7-1-93)
 - a. In addition to the requirements set forth above for the Basic Certificate, each applicant for the award of an Intermediate, Supervisory, Advanced, Master, Management, or Executive Certificate shall have completed the designated education and training, combined with the prescribed law enforcement experience, or shall hold the college degree designated, combined with the prescribed law enforcement experience. (7-1-93)
 - b. Of the minimum college credits required, at least one-half (1/2) must be courses related to law enforcement. (7-1-93)
 - c. Education and training must be supported by copies of transcripts, certificates, diplomas, or other verifying documents attached to the application. (10-21-97)T
 - d. The officer must have completed the probationary period required by their department when making application for Intermediate and Advanced Certifications. (10-21-97)T
- 02. Intermediate Certificate. In addition to the requirements set forth in Section 092 of these Rules, the following are required for the award of an Intermediate Certificate: (7-1-93)
 - a. The applicant shall possess, or be eligible to possess, a Basic Certificate. (7-1-93)(10-21-97)T
 - b. The applicant shall have acquired the following combinations of college credits and/or training hours, combined with the prescribed years of law enforcement experience:

Total Hours Training Including POST Basic Course	600	800	1,200	1,600	1,800	POST Basic Course	
	hours	hours	hours	hours	hours	Academic Associate Degree	Baccalaureate Degree
One College Credit Baccalaureate Equals <u>Twenty</u> (20) Classroom Hours	The above can either be a combination of College Credits or Training Hours					Academic Associate Degree	Baccalaureate Degree

Years of Law Enforcement Experience	8	7	6	5	4	4	2
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(7-1-93)(10-21-97)T

03. Advanced Certificate. (7-1-93)

a. In addition to the requirements set forth in Section 092 of these rules, the following are required for the award of the Advanced Certificate: (7-1-93)

i. The applicant shall possess, or be eligible to possess, an Intermediate Certificate. (7-1-93)

ii. The applicant shall have acquired the following combination of college credit and training combined with the prescribed years of law enforcement experience, or the college degree designated from an accredited university, combined with the prescribed years of law enforcement experience, and a graduate from the POST Basic Academy. Graduation from the ten-week Drug Enforcement Administration School in Washington or the FBI National Academy will be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years experience.

Minimum Training Including Post OST Basic Course	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Course		
							A.A., A.S. Degree	B.A. B.S. Degree	PhD or Masters Degree or PhD
College Credits	15	20	30	40	45	60	9	6	4
Years of Law Enforcement Experience	13	12	11	10	9	8	9	6	4

(7-1-93) (10-21-97)T

04. Other Law-Enforcement Related Agencies. (7-1-93)

a. After three (3) years, officers who have been certified and who have transferred from full-time peace officer duties to other law enforcement duties and agencies, may keep their certification active for two (2) additional years provided they attend at least twenty-four (24) hours of refresher courses per year up to and including the fifth year for a total of forty-eight (48) hours. The forty-eight (48) hour requirement could be attained by attending the Idaho Law Week at the Basic Academy. (7-1-93)

b. While an officer is employed in a position termed "other law enforcement related duties or agency," they may receive up to and including twenty percent (20%) experience time for each year in that position and the POST Council may accord up to fifty percent (50%) credit towards POST Certification for hours spent in accepted training while in that position. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

106. CAREER-LEVEL CERTIFICATION.

01. Supervisory Certificate. For purposes herein, the term "first-level supervisory position" means a position above the operational level for which commensurate pay is authorized and which is occupied by an

individual who, in the upward chain of command, principally is responsible for the direct supervision of non-supervisory employees of an agency or who is subject to assignment of such responsibilities and most commonly holds the rank of sergeant. A candidate for the Supervisory Certificate shall: (10-21-97)T

a. Possess the Intermediate Certificate, Level II Detention Officer Certification, or Level II Communications Specialist Classification. (10-21-97)T

b. Have completed one hundred (100) hours of Council-approved supervisory level training, of which fifty (50) hours must have been completed within three (3) years prior to submitting an application for the Supervisory Certificate. (10-21-97)T

c. Be presently employed in a first-line supervision or mid-management position within an Idaho law enforcement agency and shall have served satisfactorily in a supervisory position for a minimum of one (1) year prior to application. (10-21-97)T

02. Master Certificate. For purposes herein, the term "master law enforcement" position means that the incumbent possesses an Advanced POST certification, Level III Detention Officer Certification, or Level III Communications Specialist Classification, and has consciously decided to focus career efforts on line functions such as patrol, investigations, detention/custody functions, or dispatch. An employee possessing this certification is considered a master level patrol/detention/dispatch employee with advanced and/or specialized training. Candidates for this certificate must be below the rank of sergeant. A candidate for this Certificate shall: (10-21-97)T

a. Possess the Advanced Certificate, Level III Detention Officer Certification, or Level III Communications Specialist Classification. (10-21-97)T

b. Have completed a minimum of fifteen (15) years of law enforcement service in assignments which did not include full-time supervisory, management, or executive positions. (10-21-97)T

c. Have accumulated and successfully completed one thousand five hundred (1,500) hours of Council-approved training. (Law enforcement academic credits may apply.) (10-21-97)T

03. Management Certificate. For purposes herein, the term "middle-management position" means a position between a first-level supervisory position and an executive position and for which commensurate pay is authorized and is occupied by an individual who, in the upward chain of command, principally is responsible for the direct supervision of supervisory employees of an agency and/or command duties and most commonly is the rank of lieutenant or captain. A candidate for the Management Certificate shall: (10-21-97)T

a. Occupy a position on a full-time basis wherein the predominance of responsibilities are administrative or managerial in nature. Proof of this fact must be submitted to the POST Council in the form of a job description or other documentation from the hiring authority. (10-21-97)T

b. Possess certification from Idaho or other state that has minimum peace officer standards, Detention Officer Certification, Communications Specialist Classification, or a certification of completion from a city, county, state, or federal law enforcement academy. The academy attended must meet or exceed that state's minimum training standards. (10-21-97)T

c. Attend and pass the Idaho POST Academy Law Week within the first year of employment. This section applies to an officer who is uncertified in Idaho and/or certified in another state. This requirement may be waived if applicant has served as a Chief of Police in the state of Idaho for over one (1) year before enactment of these rules. (10-21-97)T

d. Comply with Idaho POST Rules 050 through 056 inclusive. (10-21-97)T

e. Have completed one hundred (100) hours of Council-approved management-level training, of which fifty (50) hours must have been completed within three (3) years prior to submitting an application for the Management Certificate. (10-21-97)T

f. Be presently employed full time and shall have served satisfactorily in a middle management or management position for a period of six (6) months. (10-21-97)T

g. A newly appointed Chief of Police must obtain this level of certification within one (1) year of employment within the state of Idaho if qualified under Subsection 106.03.a. (10-21-97)T

04. Executive Certificate. For purposes herein, the term "executive position" means the head of an agency and most commonly is the Chief of Police, Sheriff, ~~or Director,~~ or Chief Executive Officer. A candidate for the Executive Certificate shall: (2-8-95)(10-21-97)T

a. Possess the Advanced or Management Certificates, ~~Level III Detention Officer Classification, or Level III Communications Specialist Classification~~ from Idaho or another state which has such certification meeting or exceeding Idaho standards. (3-20-97)(10-21-97)T

b. Have satisfactorily completed one hundred (100) hours of Council-approved, executive-level training, of which fifty (50) hours must have been completed within three (3) years prior to application for Executive Certificate. (7-1-93)(10-21-97)T

c. Be presently employed full time as ~~an agency department~~ head, and shall have served as ~~an agency department~~ head a minimum of three (3) years with one (1) law enforcement agency in Idaho. (2-8-95)(10-21-97)T

d. Submit a resume of education and experience and have ~~his/her~~ this resume and credentials reviewed by the POST Council. Should ~~if~~ the POST Council determine that the qualifications are inadequate, then the applicant shall be provided with an opportunity to appeal the ruling. (2-8-95)(10-21-97)T

e. ~~Mid-managers who are not commonly known as agency heads may apply for an executive certificate provided they have graduated from the Intermountain Command College or an equivalent college and meet all other requirements.~~ (2-8-95)

(BREAK IN CONTINUITY OF SECTIONS)

107. RESERVE LEVEL I CERTIFICATION REQUIREMENTS.

01. Selection Standards. Same as full-time officer regarding citizenship, education, two (2) years work experience, no criminal record, hearing, vision, traffic, and character check. Height, weight, fitness, and physical disability will be left to the discretion of the employing agency. (7-1-93)

02. Minimum Training Requirements. All reserve officers desiring POST certification must complete and pass the POST Council approved Reserve Academy core curriculum consisting of one hundred sixty (160) hours within the first year of employment as a reserve officer. Part of the one hundred sixty (160) hour core curriculum may be taught by uncertified instructors provided the high liability classes as identified by POST are taught by POST-certified instructors and the trainees pass a final examination approved and administered by POST, and they must be under supervision of a full-time peace officer. (3-20-97)

a. The term supervision is intended to limit the activities of a reserve officer. Each agency should draft its individual department policy in reference to the supervision of its certified reserve officers, and that policy should be kept on file within each department. (3-20-97)

b. At the completion of the one hundred sixty (160) hour core curriculum, the reserve officer will be given two (2) opportunities to pass the final exam with a seventy-five percent (75%) or better to become certified. The second test can be taken not less than thirty (30) days nor more than six (6) months after the first exam. If the reserve officer fails the second attempt also, he/she must complete the Reserve Academy again. (7-1-93)

c. Documented reserve training will be accepted for credit upon the department head's certification

that the reserve officer has met the minimum one hundred sixty (160) hour core curriculum. The reserve officer must pass an exam administered by POST. The applicant shall be allowed two (2) attempts to pass the exam. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. A passing score is seventy-five percent (75%). (3-20-97)

d. A reserve officer's certification is effective only during those periods when he/she is formally assigned by the employing agency to perform the duties of a peace officer. Each reserve officer must work one hundred twenty (120) hours annually in a law enforcement capacity to retain their certification. Said documentation must be retained by said department. (3-20-97)

e. Reserve status notwithstanding, all reserve officers must comply with all POST Rules to be certified as full-time peace officers. (3-20-97)

f. A certified peace officer who has been out of full-time law enforcement status for three (3) years may apply for Level I Reserve Certification without testing provided he/she makes application prior to the three (3) year expiration date since employed full-time, and is endorsed by a department head. A certified peace officer who has been out over three (3) years and wants to be a Level I Reserve must pass the Reserve Certification Exam and meet the other requirements set forth in these rules. A peace officer certified in another state who desires to be a Level I Reserve must provide proof of certification, pass a basic course in Idaho Law authorized by the POST Academy, fill out all necessary paperwork, and pass the Reserve Certification Exam. A certified peace officer who has been out of full-time law enforcement status for a period exceeding three (3) years must complete the Minimum Training Requirements listed in Subsection 107.02. (7-1-93)(10-21-97)T

03. Curriculum for Reserve Level I Certification. (7-1-93)

- * Must be taught by a Prosecutor.
- ** Must be taught by a Judge.
- *** Must be taught by a POST-certified Instructor.

	Law	Hours
* 1.	Probable Cause and Laws of Arrest	4
* 2.	Constitutional Laws and Interviewing	2
* 3.	Search and Seizure Laws	6
* 4.	Warrantless Arrest	1
* 5.	Laws of Evidence	1
* 6.	Criminal Law Procedure	2
* 7.	Civil Laws and Laws of Arrest	2
** 8.	Motor Vehicle Laws	4
** 9.	Liquor Laws	1
		23
	Professional Orientation	
1.	Ethics, Public Relations and the Role in the Community	2
2.	Officer-Violator Relations	2
		4
	Police Procedures	
1.	Radio Procedures	2

	Law	Hours
2.	Jail Procedures, Booking, and Fingerprinting	2
3.	Reporting Writing and Note Taking	8
** 4.	Court Room Testimony	2
*** 5.	Searching Suspects and Handling of Prisoners	3
6.	Building Search	5
*** 7.	Emergency Vehicle Operation	8
		30
	Patrol Procedures	
1.	Introduction to Modern Law Enforcement	1
2.	Family Disturbances	2
3.	Crimes Against Persons	2
4.	Crimes Against Property	2
*** 5.	Traffic Stops, Routine and Felony, Classroom	4
		11
	Practical Problems	
1.	Mock Crime Scenes	2
*** 2.	Traffic Stops, Routine and Felony, Field	8
		10
	Investigations	
*** 1.	DUI	6
2.	Auto Theft, R.V. Theft	1
3.	Accident Investigation	8
4.	Preservation of Evidence	2
5.	Narcotics	4
6.	Juvenile Procedures	2
7.	Death, Burglary, and Robbery Investigation	2
		25
	Enforcement Skills	
*** 1.	Hazardous Materials	4
*** 2.	Weapon Retention	6
*** 3.	Defensive Tactics	8
		18
	Firearms Proficiency	
*** 1.	Firearms Training, Classroom	6

	Law	Hours
*** 2.	Firearms Training, Range	18
*** 3.	Firearms Qualification	8
*** 4.	Use of Deadly Force, Legal Aspects	2
		34
	Administrative Matters	
1.	Registration - Explanation of Schedule	1
2.	Written Exam, Course Evaluations	4
		5
	Total Number of POST-Certified Instructor Class Hours	97
	Total Number of Training Hours	160
	Optional Classes	
*** 1.	PR-24 Training & Certification	12
*** 2.	Intoximeter 3000	8
3.	Boating Laws	1
4.	Boat Theft	1
5.	Crime Scene Sketching	1.5
6.	Use of Informants	2
7.	Crime Prevention	2
	Total Number of Optional Training Hours	27.5

(7-1-93)(10-21-97)T

(BREAK IN CONTINUITY OF SECTIONS)

110. DETENTION OFFICER ~~CLASSIFICATION~~ CERTIFICATION.

01. ~~Applicants. Applicants for Detention Officer Classification must meet the same selection standards as are set up for full-time peace officers regarding citizenship, education, two (2) years work experience, no criminal record, hearing, vision, traffic, and character check. Height, weight, fitness, and physical disability will be left to the discretion of the employing agency. Detention Officer Classification is not statutorily mandated, but is voluntary. The recognized Detention Academy is POST Basic Detention Academy. Certification, Awards, and Decertification. Certificates and awards may be presented to county detention officers in the same manner as provided in Subsections 091.01 and 091.02. The council may decertify any county detention officer in the same manner as provided in Subsection 091.02.a.~~

(3-20-97)(10-21-97)T

02. ~~Basic Classification. The applicant must have at least thirty (30) days experience as a detention officer or one (1) year of experience as a full-time peace officer. They shall have completed forty (40) hours OJT as approved or equivalent and forty (40) hours with a JOT at the current facility to be documented by the facility director. Lapsed Certificate. The certification of any county detention officer shall be considered lapsed if the officer does not serve as a county detention officer in Idaho for three (3) consecutive years. Provided, however, that those persons once POST certified who remain in active law enforcement in Idaho shall retain their POST certification for purposes~~

of compliance with this rule. The person must work at least one hundred twenty (120) hours active law enforcement per year. This shall include administrative, patrol, or civil division duty assignments in law enforcement agencies as defined in Section 19-5101(d), Idaho Code. Provided further that those persons once POST certified in Idaho who remain in full-time, active law enforcement outside the state of Idaho, without a break in full-time law enforcement, and who successfully complete Idaho POST Academy "Legal Issues of Detention" training or POST-approved equivalent may petition the Executive Director for recertification. The Executive Director shall have the discretion to grant or deny the petition or may refer the petition to the Council. (3-20-97)(10-21-97)T

~~03. Level I Classification. The applicant must have at least one (1) year of experience as a detention officer and shall have completed a minimum of three hundred fifty (350) hours of POST approved training which must include the Detention Academy. Recertification - Out of Full Time Law Enforcement Three (3) to Five (5) Years. A county detention officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to be recertified must meet the following POST requirements:~~ (10-21-97)T

~~a. Attend Idaho POST Academy "Legal Issues of Detention" training or POST-approved equivalent and pass the exam; and~~ (10-21-97)T

~~b. Pass the POST detention certification examination; and~~ (10-21-97)T

~~c. Satisfy the probationary period requirement of Section 062.~~ (7-1-93)(10-21-97)T

~~04. Eligible. Any detention officer presently employed by a duly constituted Idaho law enforcement agency who has previously served as a detention officer in another state shall be eligible for detention officer classification in the state of Idaho without attending the Detention Academy, provided the officer is a graduate of an accredited detention officer academy in the state in which he/she is from. The applicant must pass the Idaho Detention Academy comprehensive examination within one (1) year of being employed in the state of Idaho. He/she will be allowed two (2) attempts to pass the exam. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts, he/she must successfully complete the Detention Academy Course to be classified. Recertification - Out of Full Time Law Enforcement Over Five (5) Years. A county detention officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Detention Academy to be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the preceding five (5) years, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. Upon receiving a waiver, the officer must meet the following POST requirements:~~ (10-21-97)T

~~a. Attend Idaho POST Academy "Legal Issues of Detention" training or POST-approved equivalent and pass the exam; and~~ (10-21-97)T

~~b. Pass the POST detention certification examination; and~~ (10-21-97)T

~~c. Satisfy the probationary period requirement of Section 062.~~ (7-1-93)(10-21-97)T

~~05. Employed. Any detention officer presently employed by a duly constituted Idaho law enforcement agency who has previously been certified as a peace officer in another state, and who has a minimum of one (1) year of experience as a detention officer in that state, shall be eligible for detention officer classification in the state of Idaho without attending the Detention Academy, provided the officer is a graduate of a recognized Detention Academy in the state in which he/she is from. The training must meet the Idaho POST standards. The applicant must pass the Idaho Detention Academy comprehensive examination. Two (2) attempts will be allowed in the same manner as described in Subsection 110.04 above. Recertification - Out of Full Time Law Enforcement Over Eight (8) Years. A county detention officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Detention Academy to be recertified. No waiver of this requirement shall be granted by the Council.~~ (3-20-97)(10-21-97)T

06. Forms. Level I, Level II, and Level III Detention Officer Certificates are established for the purpose of fostering professionalism, education, and experience necessary to perform adequately the duties of law enforcement. (10-21-97)T

111. GENERAL PROVISIONS.

01. Certification. From and after July 1, 1997, any county detention officer, as defined in Section 19-5101(b), Idaho Code, shall be certified by the Peace Officer Standards and Training Council within one (1) year after first being employed. Current county detention officers, who were employed prior to July 1, 1997, shall comply with the training and certification provisions of this section by July 1, 1999; however, the requirement for successful completion of the POST Basic Detention Academy will be waived if the officer scores a minimum of seventy-five percent (75%) on an examination administered by POST. The officer will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If the officer fails both attempts, he/she must successfully complete the POST Basic Detention Academy to be certified. Detention Officers who currently possess or qualify to possess a Level I, Level II, or Level III classification will convert from classified to certified status according to POST administrative procedures for certifying officers. County Detention Officers who have successfully completed a Detention/Corrections academy prior to July 1, 1997 and who meet all other criteria may be eligible for certification status depending upon verifiable and accurate documentation of such training. This option will close July 1, 1999. (10-21-97)T

02. Employed. To be eligible for the award of a certificate, each applicant must be a full-time county detention officer employed by a duly constituted Idaho law enforcement agency or a professional member of the POST Council staff. (10-21-97)T

03. Applications. All applications for award of the Level I, Level II, or Level III Detention Officer Certificates shall be completed on the prescribed form "Application for Certification" as provided by the POST Council. (10-21-97)T

04. Submission. The Application for Certification form must be submitted by the officer/applicant to his/her department head, who shall attach a recommendation and forward the application to the Council. Certificates will be issued to the department head for award to the applicant. (10-21-97)T

05. Minimum Standards. Each applicant must meet the minimum standards for employment and training as provided in these rules with the exception of height, weight, fitness, and physical disability which will be left to the discretion of the employing agency. (10-21-97)T

06. Discharged. Whenever an officer is discharged from a department for cause, or resigns and is not eligible for rehire, or terminates employment, the department shall forward to the Council within thirty (30) days, this information and his/her full name and date of birth on a POST Council "Personnel Action" form. (10-21-97)T

112. LAW ENFORCEMENT EXPERIENCE.

Law enforcement experience, as used herein, means actual time served as a peace officer or county detention officer with a duly constituted law enforcement agency. The acceptability of time served as a law enforcement officer in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Section 050 through Section 063 of this manual, shall be subject to the determination of the Council. (10-21-97)T

113. EDUCATION AND TRAINING.

Education. (10-21-97)T

01. College Hour. One (1) college or university semester hour or unit shall equal one (1) college credit. (10-21-97)T

02. College Quarter Hour. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. (10-21-97)T

a. Basic, advanced, and specialized courses certified by the Council will be approved. (10-21-97)T

b. When college credit is awarded for law enforcement-related subjects, it may be counted for either training or college credit, whichever is to the advantage of the applicant. (10-21-97)T

114. THE LEVEL I CERTIFICATE.

In addition to the requirements set forth in Section 112 of these Rules the following requirements are necessary for award of the Level I Certificate. (10-21-97)T

01. Probation. The applicant must have completed at least six (6) months satisfactory probationary period (may include basic training academy time). Probationary period may be extended by the agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time may be continuous with the department the officer is employed with when applying for certification. Probationary period may not extend over one (1) year for certification purposes. (10-21-97)T

02. Basic Training. The applicant shall have completed the POST Basic Detention Academy or be a graduate of a law enforcement vo-tech program, the curriculum of which has been approved by the Council as being equivalent to the POST Basic Detention Academy, and shall have passed the POST detention certification examination approved by the Council. The applicant shall be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts, he/she must successfully complete the POST Basic Detention Academy to be certified. (10-21-97)T

03. Employed. Any county detention officer presently employed by a duly constituted Idaho law enforcement agency who has, within the last five (5) years, been employed by another state or the federal government as a detention officer or a student who has satisfactorily completed a Basic Detention Academy equivalent to Idaho's POST Basic Detention Training within the last three (3) years shall be eligible for certification in the state of Idaho without attending the Basic Detention Academy, provided the officer: (10-21-97)T

a. Submits a POST Detention Certification Challenge Packet to POST Council, which must include copies of transcripts, certificates, diplomas, or other documents that substantiate the officer's training and experience; (10-21-97)T

b. Passes the POST detention certification examination approved by the Council and administered by a POST Training Specialist, conducted in the manner set forth in Subsection 115.02. (10-21-97)T

c. Attends and passes the Idaho POST Academy "Legal Issues of Detention" training or POST-approved equivalent; and (10-21-97)T

d. Completes his/her probationary period, as required by Subsection 115.01. (10-21-97)T

1145. HIGHER CLASSIFICATION CERTIFICATION.

01. General Provisions. (7-1-93)

a. In addition to the requirements set forth above for ~~Detention Officer Classification~~ the Level I Certificate, each applicant for the award of a Level II or Level III ~~Classification~~ Certificate shall have completed the designated education and training, combined with the prescribed ~~detention officer law enforcement~~ experience, or shall hold the college degree designated, combined with the prescribed ~~detention officer law enforcement~~ experience. (7-1-93)(10-21-97)T

b. Of the minimum college credits required, at least one-half (1/2) must be courses related to law enforcement, ~~corrections, and/or behavioral sciences.~~ (7-1-93)(10-21-97)T

c. Education and training must be supported by copies of transcripts, certificates, diplomas, or other verifying documents attached to the application. (7-1-93)

d. The officer must have completed the ~~required~~ probationary period required by their department when making application for Level II and Level III ~~Classifications~~ Certifications. (7-1-93)(10-21-97)T

02. Level II ~~Classification~~ Certificate. In addition to the requirements set forth in Section 112 of these Rules, the following are required for the award of a Level II Certificate: (7-1-93)(10-21-97)T

- a. The applicant shall possess, or be eligible to possess, a Level I ~~Classification Certificate.~~
 (7-1-93)(10-21-97)T
- b. The applicant shall have acquired the following combinations of college credits and/or training hours, combined with the prescribed years of ~~detention officer~~ law enforcement experience:

Total Hours Training Including Detention Academy	600 hours	800 hours	1,200 hours	1,600 hours	Detention Academy	
One College Credit Equals Twenty (20) Training Hours	The above can either be a combination of College Credits or Training Hours				Academic Associate Degree	Bachelor's Degree
Years of Detention Officer <u>Law Enforcement</u> Experience	6	5	4	3	3	2

(7-1-93)(10-21-97)T

03. Level III ~~Classification Certificate.~~ In addition to the requirements set forth in Section 112 of these Rules, the following are required for the award of the Level III Certificate:
 (7-1-93)(10-21-97)T

- a. The applicant shall possess, or be eligible to possess, a Level II ~~Classification Certificate.~~
 (7-1-93)(10-21-97)T
- b. The applicant shall have acquired the following combination of college credit and training combined with the prescribed years of ~~Detention Officer~~ law enforcement experience, or a ~~the~~ college degree designated from an accredited university, combined with the prescribed years of law enforcement experience, and a graduate from the POST Basic Detention Academy.

Minimum Training Including Detention Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	Detention Academy		
College eCredits	10	20	30	40	50	60	A.A.; A.S. Degree	B.A.; B.S. Degree	PhD or Masters Degree or PhD
Years of Detention Officer <u>Law Enforcement</u> Experience	13	12	11	10	9	8	6	5	4

(7-1-93)(10-21-97)T

1126. COMMUNICATIONS SPECIALIST CLASSIFICATION.

01. Applicants. Applicants for Communications Specialist Classification must be employed full-time in a communications position, have a high school diploma or equivalent on file at the POST Academy, and have two (2) sets of fingerprints on file at the Idaho Bureau of Criminal Identification. Communications Specialist Classification is not statutorily mandated, but is voluntary. ~~Non-communications-related training shall count toward communications specialist classification at one-quarter (1/4) of its face value.~~
 (7-1-93)(10-21-97)T

02. Level I Classification. The applicant must have at least one (1) year of full-time experience as a communications specialist and shall have completed a minimum of forty (40) hours of POST Council approved communications-related training, which must include the ILETS Classification Level I certificate.
 (7-1-93)

03. Level II Classification. The applicant must have at least three (3) years of full-time experience as a communications specialist and shall have completed a minimum of eighty (80) hours of training, forty (40) of which must meet Level I requirements. (7-1-93)

04. Level III Classification. The applicant must have at least six (6) years of full-time experience as a communications specialist and shall have completed a minimum of one hundred twenty (120) hours of training, forty (40) of which must meet Level I requirements. (7-1-93)

05. Advanced Classification. For purposes herein, the term "advanced communications" position means that the incumbent possesses a Level III Communications Specialist Classification and has consciously decided to focus career efforts on public safety communications. A candidate for this classification shall. (7-1-93)

- a. Possess a Level III Communications Specialist Classification. (7-1-93)
- b. Have a minimum of ten (10) years full-time experience in public safety communications. (7-1-93)
- c. Have accumulated and successfully completed five hundred (500) hours of POST Council-approved communications-related training. (7-1-93)
- d. Have successfully completed both the Basic and Advanced Communications Academies. (7-1-93)

1137. CANINE TEAM CERTIFICATION.

01. Legal Authority. The Idaho Legislature has given the Idaho Peace Officer Standards and Training Council the authority to promulgate these rules in Section 19-5107, Idaho Code. (3-20-97)

02. Title and Scope. These rules are intended to set minimum standards of performance in Idaho for the Certification of Police Canine Teams. (3-20-97)

03. Definitions. (3-20-97)

a. Canine team. A specific person and a specific canine controlled by that person in the capacity of handler, working together in the performance of law enforcement duties. This definition includes canines utilized for tracking, controlled substances detection and explosives detection. (3-20-97)

b. Evaluator. A police officer who has been recommended to the Council by the Idaho Police Canine Association and subsequently approved for the purpose of testing and certifying canine teams. (3-20-97)

04. Certification. The Council shall certify a canine team which meets the following requirements: ~~(3-20-97)~~(10-21-97)T

a. Successful demonstration of proficiency, under the scrutiny of a certified canine evaluator, in one or more of the following areas: ~~(3-20-97)~~(10-21-97)T

- i. The handler's ability to control and obtain the obedience of the canine. (3-20-97)
- ii. The effectiveness of the team in criminal suspect apprehension. (3-20-97)
- iii. The effectiveness of the team in conducting building searches. (3-20-97)
- iv. The effectiveness of the team in conducting open area searches. (3-20-97)
- v. The effectiveness of the team in the detection of controlled substances. (3-20-97)
- vi. The effectiveness of the team in the detection of explosive devices. (3-20-97)

b. In evaluating the proficiency of the canine teams, the Evaluators shall use the Standards promulgated by the Idaho Police Canine Association and approved by the POST Council for that particular skill category. (3-20-97)

c. To be eligible for certification under these rules, the canine officer must be POST-certified or classified within Idaho. (3-20-97)

05. Expiration of Certification. Each certification issued pursuant to these rules shall expire on the anniversary date of the certification. Certification may be renewed upon completion of the requirements of Subsection 113.04.b. A canine team certification shall lapse if the specific handler and canine, as originally paired at the time of certification, cease to perform canine team functions together. (3-20-97)

1148. PATROL DOGS.

01. Requirements. The following requirements should be construed as standards for Police Service Dogs to perform their duties. The certification test will be mandatory to those agencies having canine units. A POST Training Specialist or his/her designee must be present for all canine certification testing. (3-20-97)

02. POST Certification for Patrol Dogs Will Consist of Basic Level Only. Intermediate and Advanced levels can be obtained through the Idaho Canine Association. Each stage will have two (2) levels the Patrol Dog can be certified in. Level I consists of testing in scent work, obedience and apprehension. A level II rating consists of testing in obedience and apprehension. A level III rating consists of tracking only. (3-20-97)

03. Certifications for Canine Teams Shall Remain Valid For One (1) Year. Each canine team must be evaluated annually to maintain their certification. If the canine team fails any portion of an evaluation, they must be re-evaluated for the failed area. (3-20-97)

04. Basic Patrol Dog Certification Test. (3-20-97)

a. The skills favorable for successful deployment of a Basic Patrol Dog are recognized within three (3) categories: (A) Scent Work, (B) Obedience-Agility, and (C) Apprehension. The Dog and Handler can be successfully trained to an appropriate skill level by a qualified Patrol Dog Instructor. The competency can then be evaluated and declared by a qualified Patrol Dog Evaluator. (3-20-97)

b. The Basic Patrol Dog evaluation shall be concluded within twenty-four (24) hours after it is begun. This is to establish that the dog's mental and physical endurance are sufficient to withstand the rigors of active service. (3-20-97)

05. Performance Objectives. (3-20-97)

a. Scent work. (3-20-97)

i. Tracking. The Dog shall follow the steps of a person along a track that is four hundred (400) to six hundred (600) paces in length, having two (2) ninety (90) degree turns and aged a minimum of thirty (30) minutes. Two (2) items which have been permeated with the track layers scent will be placed along the route. One (1) item will be on the second leg and the other will be at the end of the track. The Dog should indicate the location of these items as it encounters them. A cross-track will be placed at some point along the third leg as a diversion. The Dog should not be diverted from the original track. (3-20-97)

ii. Evidence search. The Dog shall be deployed to search for two (2) well-scented, small items which the evaluator has hidden within an eight hundred (800) square yard area. The Dog will be out of sight when the items are placed. The Handler will remain along the centerline of the search area and direct the Dog to search systematically. The Dog should indicate the location of these items as it encounters them. (3-20-97)

b. Obedience-Agility. (3-20-97)

i. Heeling, behavior in public, and gun-sureness. The Dog shall heel off-leash beside its Handler

through a series of normal, slow, and fast paces. During each pace the Handler shall make right, left, and about-turns. Next, the Handler shall walk in a straight line and at intervals of at least ten (10) paces he shall command the Dog to sit, stand, and down. As he gives each command he shall halt. Next, the Dog shall heel beside its Handler as he walks in serpentine fashion through a group of at least three (3) persons. The group shall be walking slowly and parallel to each other. At some point, the Handler will halt beside one (1) of the persons such that the Dog is immediately next to an individual. When the Handler halts, the group shall halt also. The Dog should show no unusual attention to the person beside whom it is sitting. The Dog will then heel beside its Handler as he exits the group and walks away. At a distance of about fifty (50) feet the Handler shall turn around and begin walking toward the group. At this point two (2) simulated gunshots shall be discharged by a group member. This shall be done discreetly, with the blast aimed at the ground. The Dog shall remain under control as this occurs. (3-20-97)

ii. Stand in motion and down. The Dog shall heel beside its Handler in a straight line. After a few steps the Handler shall command the Dog to stand. The Handler will continue forward, without breaking stride, for at least twenty (20) paces. He will then stop, turn and face the Dog. After a few moments, the Dog will be commanded to assume a down position. After a few moments, the Handler will return to the Dog. It should remain in the down position until commanded to sit, at a heel position. (3-20-97)

iii. Retrieving an object. The Handler should obtain an object and hold it in his hand as he and his Dog assume a heel position. The Dog shall remain in position as the Handler tosses the object a moderate distance in front of the Dog. After a short pause, the Dog will be commanded to retrieve the object. The Dog should respond and present the object in a front position. When commanded, the Dog should release it, and go to a heel position. (3-20-97)

iv. Jumping an obstacle. The Handler and Dog will assume a heel position at an appropriate distance from an obstacle that is at least thirty-six (36) inches high. The Dog will be commanded to jump over the obstacle and then stand in place. After a pause, the Handler will walk to his Dog and command it to ~~H~~heel, without breaking his stride. The Handler will then walk away from the obstacle and halt. ~~(3-20-97)~~(10-21-97)T

v. Climbing and retrieving. The Handler should obtain an object and hold it as he and his Dog assume a position in front of a wall. The wall should be inclined and at least five (5) feet high. The Dog should remain in position as the Handler tosses the object over the wall. When commanded, the Dog should climb the wall. As the Dog descends, it will be commanded to retrieve the object. It should climb back over the wall with the object, and then present it in front of the Handler. On command, the Dog should relinquish the object. After a pause, it will then be commanded to assume a heel position. ~~(3-20-97)~~(10-21-97)T

vi. Long down with distraction. The Handler will place his Dog in a down position. He will then leave the Dog and walk a distance of about fifty (50) paces, remaining in the Dog's field of vision. The Handler will stand with his back to the Dog while another Dog goes through exercises listed in Subsection 114.05.a.i. through 114.05.a.iv. above. The Dog should remain calmly in position. (3-20-97)

c. Apprehension. (3-20-97)

i. Suspect search. The Handler shall position his Dog on the boundary of a pre-determined search area. The Dog shall be directed to search systematically, The Handler shall move through the search area in a tactical manner. While in the search area, the Dog shall encounter a person who happens to be there totally by accident. The Dog should respond to the person's submissive behavior by detaining him without physical contact. The person shall be absolutely submissive during this encounter. When the Handler arrives, the Dog shall be commanded to assume a backup position as the Handler conducts a frisk of the person, searches the location, and dismisses him. (3-20-97)

ii. Surveillance and apprehension (choice of exercise). The Handler and Dog shall assume a surveillance position. The Dog should remain calm and alert. A person representing a criminal suspect shall appear about eighty (80) to one hundred (100) yards away. The Dog should remain quiet as the Handler issues a Departmental warning. The person shall flee and the Handler shall send the Dog to apprehend. The suspect shall stop and face the Dog submissively when it is about thirty (30) yards away. It shall be evident the person is surrendering when the Dog arrives. It should detain the suspect without physical contact. When the Handler arrives he shall command the Dog to assume a backup position. It should now remain quiet and alert, ready to engage the suspect if necessary, while the Handler frisks the suspect and places him in custody. The Dog should heel beside its Handler as

he escorts the suspect to the evaluator for remanding; OR (3-20-97)

iii. Handler defense and apprehension. The Handler and Dog shall heel along a predetermined route. A person shall emerge from a hiding place and attempt to assault the Handler. The Dog should defend its Handler without hesitation by engaging in strong combat. The perpetrator shall be armed with a simulated weapon such as a stick. At some point during the combat he shall strike the Dog twice sharply on the less sensitive parts of its body. The Dog should continue in combat until the perpetrator gives up and the Handler commands it to stop. At this point the Dog should remain alert and quiet while the Handler conducts a frisk and places the individual in custody. The Dog should heel beside its Handler as he escorts the individual to the evaluator for remanding. (3-20-97)

iv. The same behavior as above is to be exhibited, up to the point where the suspect stops. The Handler, upon becoming reasonably sure that the suspect shall indeed surrender and not flee further, shall recall his Dog. The team shall heel to the suspect and the Dog shall be placed in a backup position. It should remain quiet and alert, ready to engage the suspect if necessary, while the Handler frisks the suspect and places him in custody. The Dog should heel beside its Handler as he escorts the suspect to the evaluator for remanding. (3-20-97)

06. Appeal. Any Handler who thinks there have been improper procedures applied in implementing the standards may report the facts to the Idaho Peace Officer Standards and Training Academy in writing. This report must be filed within thirty (30) days of the testing date. (3-20-97)

07. Evaluators. (3-20-97)

a. Qualifications. (3-20-97)

i. An evaluator must be an Idaho POST-certified officer with three (3) years of street handler experience, and three hundred ninety (390) hours of accredited canine classroom training. He/she must also meet the requirements as stipulated by the Idaho Police Canine Association, and be an Idaho POST-certified instructor for canine subjects. (3-20-97)

ii. A Corrections Officer may be recognized as an Evaluator, provided they have passed a four (4) week Detention or Corrections Academy and met all other requirements with the exception of being a "commissioned law enforcement officer." (3-20-97)

1159. DETECTION DOGS.

01. Requirements. The following requirements should be construed as standards for Police Service Dogs to perform their duties. The certification test will be mandatory to those agencies having canine units. A POST Training Specialist or his designee must be present for all canine certification testing. ~~(3-20-97)~~(10-21-97)T

02. Certifications for Canine Teams Shall Remain Valid For One (1) Year. Each canine team must be evaluated annually to maintain their certification. If the canine team fails any portion of an evaluation, they must be re-evaluated for the failed area. ~~(3-20-97)~~(10-21-97)T

03. Detection Dog Teams. Detection Dog teams should be able to show proficiency in detecting substances in the following environments: ~~(3-20-97)~~(10-21-97)T

a. Buildings (residential and commercial). (3-20-97)

b. Vehicles (private and commercial). (3-20-97)

c. Luggage and packages. (3-20-97)

d. Exterior open areas. (3-20-97)

04. Substance Tests. Tests will, therefore, incorporate each of the above areas with the substance(s) being detected as well as demonstrated control of the canine. Performance of these tests will be on a pass/fail basis. It is recommended that the Dog teams have experience in searching for substances outside of the normal day-to-day

- routines. (3-20-97)
05. Tests. (3-20-97)
- a. Buildings. The building search will consist of an area designated by the evaluator that may vary in size, location or environment, but will consist of at least three (3) rooms. Substances shall be hidden high and low, known to the evaluator and unknown to the Handler. The canine will start the search at a point determined by the Handler. All substances will be hidden by the evaluator unknown to the Handler. (3-20-97)
- b. Vehicles. The vehicle search will consist of at least three (3) vehicles, which may vary in size, location or environment. The search will include the interior and exterior of the vehicles. Substances shall be hidden inside or on the outside, known to the evaluator and unknown to the Handler. The canine will start the search at a point determined by the Handler. ~~(3-20-97)~~(10-21-97)T
- c. Luggage and packages. This search will consist of at least six (6) pieces of luggage and/or packages of different sizes and/or shapes. These pieces may vary in location or environment. The canine will start the search at a point determined by the Handler. (3-20-97)
- d. Exterior areas. The exterior search will consist of an area in open air that may vary in size, location or environment, and may include buried substance. The canine will start the search at a point determined by the Handler. (3-20-97)
- e. Obedience. Each Handler will demonstrate obedience and control of their canine. This will include "sit, stay, heel, and come" commands. (3-20-97)
06. Test Criteria. The Handler will be evaluated in the following areas: ~~(3-20-97)~~(10-21-97)T
- a. Control of the dog. (3-20-97)
- b. Recognition of the behavioral changes in the dog; (3-20-97)
- c. Search patterns, to include: (3-20-97)
- i. Presentation of the areas to be searched. (3-20-97)
- ii. Manipulation of the environments. (3-20-97)
- iii. Body language which includes negative behavior in the dog (false response, failure to work to the course, etc.) and timeliness of positive and/or negative reinforcement. (3-20-97)
07. Substances. (3-20-97)
- a. The types and amounts of substance in each search will be at the discretion of the evaluator. Substances will be set in place at least thirty (30) minutes prior to each test. (3-20-97)
- b. Articles containing human scent may be placed in each test area, ~~(3-20-97)~~(10-21-97)T
- c. The handler will be notified if a dangerous substance being detected by the dog can be accessed by the dog. (3-20-97)
- d. No substance other than marijuana will be hidden in a location readily accessible to the canine. (3-20-97)
- e. Controlled substance shall consist of, but not be limited to, four (4) main areas: ~~(3-20-97)~~(10-21-97)T
- i. Marijuana and Hashish (Two (2) grams or greater). (3-20-97)

- ii. Cocaine (hydrochloride) (Two (2) grams or greater). (3-20-97)
- iii. Heroin and opiate derivatives (Two (2) grams or greater). (3-20-97)
- iv. Methamphetamines (Two (2) grams or greater). (3-20-97)
- f. It is not required that a narcotic detection dog be trained in all four (4) common fields of controlled substances. However, if the dog is not trained in all four (4) substances it should be noted in the dog's training records what substances the dog is proficient in detecting. (3-20-97)
- 08. Testing Procedure. (3-20-97)
 - a. Prior to the start of the testing, the handler will give the evaluator the following information. (3-20-97)
 - i. The type of alert (passive or aggressive). (3-20-97)
 - ii. The type of reward (ball, food, towel, praise, etc.). (3-20-97)
 - iii. The type of substance(s) the dog is trained to detect (dogs will be evaluated only on the substances with which it has been trained). (3-20-97)
 - iv. Whether the dog is cross-trained (patrol/drugs/bombs/etc.) (3-20-97)
 - b. The evaluator will signal the start and finish of each test and allow reasonable time for the team to cover the area and indicate the location of the substance. (3-20-97)
 - i. It will be at the evaluators discretion to discontinue the search if excessive time has been spent on the search without results. Prior to terminating the search the evaluator may give the team the opportunity to note any changes in behavior and research that specific area. (3-20-97)
 - c. The Handler must verbally indicate to the evaluator that he has a positive alert from his dog and believes that the substance has been found. The handler will indicate the location of the substance to the evaluator. (3-20-97)
- 09. Appeal. Any handler who thinks there have been improper procedures applied in implementing the standards may report the facts to the Idaho Peace Officer Standards and Training Academy in writing. This report must be filed within thirty (30) days of the testing date. (3-20-97)
- 10. Evaluators. (3-20-97)
 - a. Qualifications. (3-20-97)
 - i. An evaluator must be an Idaho POST-certified officer with three (3) years of street handler experience, and three hundred ninety (390) hours of accredited canine classroom training. He/she must also meet the requirements as stipulated by the Idaho Police Canine Association, and be an Idaho POST-certified instructor for canine subjects. (3-20-97)
 - ii. A Corrections Officer may be recognized as an evaluator, provided they have passed a four-week Detention or Corrections Academy and met all other requirements with the exception of being a "commissioned law enforcement officer." (3-20-97)

14620. -- 129. (RESERVED).

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

**11.11.01 - RULES OF THE IDAHO PEACE OFFICER
STANDARDS AND TRAINING COUNCIL (POST)**

DOCKET NO. 11-1101-9703

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The temporary rule is effective October 21, 1997, and remains effective until rescinded or superseded by replacement rule or the approval of the final rule by the legislature or such other date specified in the concurrent resolution, or upon the conclusion of the 1998 legislative session, whichever is sooner.

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 has proposed rule-making. The action is authorized pursuant to Title 19, Chapter 51, Idaho Code.

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

Public hearings 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 December 17, 1997.

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

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule: The proposed rule is to establish the minimum standards that vocational law enforcement programs must meet in order to obtain and maintain POST Council approval.

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: Protection of the public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Michael N. Becar at (208) 884-7250.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before December 24, 1997.

DATED this 21st day of October, 1997.

Michael N. Becar
Executive Director
Department of Law Enforcement
Peace Officer Standards and Training
700 South Stratford Drive
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7250 Phone, (208) 884-7295 (FAX)

TEXT OF DOCKET NO. 11-1101-9703

157. VOCATIONAL LAW ENFORCEMENT PROGRAM CERTIFICATION/RE-CERTIFICATION STANDARDS.

01. Purpose. The purpose of this policy is to verify that the entity seeking vocational law enforcement certification/recertification is in compliance with all standards established by the Department of Education for such programs and by POST for the operation of a basic course. A program seeking certification must first be approved by the Peace Officer Standards and Training Council prior to beginning the certification process. Entities seeking certification and previously certified vocational law enforcement programs are subject to scheduled and unscheduled visits by field training specialists and other members of the Peace Officer Standards and Training Council in which adherence to certification standards will be evaluated. Vocational law enforcement program certification is valid for two (2) years and expires on June 30th of the second year after the program was certified. In order to maintain certified status a vocational law enforcement program must successfully complete the recertification process prior to the expiration date. (10-21-97)T

02. Process. (10-21-97)T

a. The POST Regional Training Specialist will provide guidance and assistance to the prospective vocational law enforcement program by identifying the requirements for certification, and providing an estimate of what needs to be accomplished prior to formally requesting vocational law enforcement program certification status. (10-21-97)T

b. A staff member of Peace Officer Standards and Training will establish a mutually agreeable date for an on-site inspection with the program coordinator and conduct the on-site assessment for vocational law enforcement program certification. (10-21-97)T

c. A vocational law enforcement program which has been certified is subject to scheduled and unscheduled visits by the field training specialist and other members of the Peace Officer Standards and Training Council to check items required for continued certification. (10-21-97)T

d. If at any time it is determined that the certified vocational law enforcement program does not meet one (1) or more certification standards, the program will be given a reasonable amount of time to correct the situation, not to exceed sixty (60) days, unless an extension is granted by the POST Council certification committee. The program coordinator will receive written notification of the standards which have not been met and the date when a reassessment will be conducted. (10-21-97)T

e. A staff member of Peace Officer Standards and Training will conduct the reassessment. If one (1) or more of the standards still have not been met, the Administrator or Board Chairman of the vocational law enforcement program will be notified in writing that upon reassessment the standard has not been met. The program will have a maximum of sixty (60) days to comply with all certification standards, unless an extension is granted by the POST Council certification committee. (10-21-97)T

f. A staff member of Peace Officer Standards and Training will conduct the second reassessment. If the program is still not in compliance with all certification standards at the time of the second reassessment, the matter will be referred to the POST Council Certification Committee. The committee will review the findings of the second reassessment in which the program was not in compliance with all certification standards and make a recommendation to the POST Council. (10-21-97)T

g. The POST Council will review the recommendation of the POST Council Certification Committee, giving both the vocational law enforcement program and the POST Council Certification Committee an opportunity to make a verbal presentation, and, based upon all pertinent information, recommend appropriate action. (10-21-97)T

h. Certification is valid for two (2) years from the date of certification. Vocational law enforcement program certification expires on June 30th of the second year after the program was certified. In order to maintain certification status, a program must successfully complete a recertification process prior to the expiration of the

original certification. The recertification will extend the expiration date for two (2) years. (10-21-97)T

03. Definitions. (10-21-97)T

a. Vocational Law Enforcement Program. A college/university vocational law enforcement program certified by the Idaho Department of Education with a curriculum based on POST performance objectives for basic training. The curriculum must include the minimum instruction in each topic as described in the POST Rules. (10-21-97)T

b. Program Coordinator. An individual designated by the college/university who is responsible for the conduct and operation of training conducted by the vocational law enforcement program. (10-21-97)T

c. Vocational Law Enforcement Program Facility. A facility in which training programs are conducted. It houses classrooms and offices for instructors and staff. Other facilities such as a firing range, driver training track, multipurpose training areas, library and satellite locations are considered to be part of such facility but need not be located at the same site. (10-21-97)T

d. Satellite Facility. A facility, located away from the certified vocational law enforcement program facility, which the certified program uses to conduct forty (40) hours or more of mandated training per year. This definition specifically excludes firing ranges, driver training sites and physical fitness or arrest techniques sites which may be located away from the certified program facility. (10-21-97)T

e. Temporary Training Facility. A facility, located away from the certified vocational law enforcement program facility, which the certified program uses to conduct less than forty (40) hours of mandated training per year. This definition specifically excludes firing ranges, driver training sites and physical fitness or arrest techniques sites which may be located away from the certified program facility. (10-21-97)T

f. POST Council Certification Committee. The POST Council Certification Committee reviews the certification and recertification standards and recommends changes as necessary to the POST Council. This committee also reviews the circumstances and facts surrounding the non-compliance with certification standards by any certified vocational law enforcement program in order to make a recommendation to POST Council. This committee is composed of five (5) members selected by the POST Council Chairman. (10-21-97)T

g. Directive. A written statement of policy procedure or rule/regulation addressing certification standards, and made available for inspection and guidance in the operation of the program. (10-21-97)T

04. Administration. (10-21-97)T

a. A vocational law enforcement program shall have an advisory board or committee composed of criminal justice executives of several area agencies/organizations, including the POST Executive Director or his designee. (10-21-97)T

b. Vocational law enforcement programs shall maintain a training record/file on each student attending the program. This file shall include records pertaining to that student while attending that program sufficient to document that all performance objectives have been successfully completed. (10-21-97)T

c. Vocational law enforcement programs shall maintain an administrative file that pertains to each class it conducts. This file shall include curriculum/schedule, attendance records, discipline records, counseling records, test-answer sheets, and course evaluation or summary. This file may be combined with the training record/file on each student file specified above at the discretion of the program. (10-21-97)T

d. Vocational law enforcement programs shall have a policy on the minimum and maximum number of students in classes. (10-21-97)T

i. Mandated training will not be conducted for classes of less than six (6) students nor more than thirty-five (35). (10-21-97)T

ii. Exceptions to this standard may be granted by the POST Training Specialist in the region where the vocational law enforcement program is located. A written request shall be submitted to the POST Training Specialist and shall specify the reasons why an exception is necessary. The POST Training Specialist shall evaluate the request to determine if sufficient cause exists to grant an exception. If an exception is granted, the POST Training Specialist will document the exception in writing to the program coordinator and forward a copy to the Executive Director of Peace Officer Standards and Training. (10-21-97)T

e. Vocational law enforcement programs shall comply with all administrative procedures set forth in applicable rules promulgated by the POST Council. (10-21-97)T

f. Vocational law enforcement programs shall comply with all requirements of the Idaho Department of Education and the individual institution. (10-21-97)T

g. Vocational law enforcement programs shall have a policy for post-graduation evaluation of entry-level training. (10-21-97)T

i. Shall occur from six (6) months to one (1) year after leaving the program. (10-21-97)T

ii. Shall assess the job-relatedness of entry-level training. (10-21-97)T

05. Facility. (10-21-97)T

a. A vocational law enforcement program shall have scheduled access to a firing range which shall include: (10-21-97)T

i. Shotgun/tear gas capabilities; (10-21-97)T

ii. Adequate facilities for courses prescribed by POST Council; and (10-21-97)T

iii. Adequate storage facility for ammunition at the vocational law enforcement program or range. Facility should have posted signs in accordance with law and should be protected from illegal entry and fire. (10-21-97)T

b. Ranges shall have at least five (5) firing points if used for basic training. (10-21-97)T

c. Vocational law enforcement programs shall be adequately equipped with first-aid equipment. (10-21-97)T

06. Instruction. (10-21-97)T

a. All instructors must be POST-certified instructors and/or meet the minimum standards established by POST Council within a school calendar year. (10-21-97)T

b. The vocational law enforcement program shall establish quality control methods for ensuring adequate instruction, to include: (10-21-97)T

i. Written student evaluations of instructors; and (10-21-97)T

ii. Lesson plans for all training courses required to be on file at the vocational law enforcement program. (10-21-97)T

(1) Review of curricula and lesson plans to ensure they are in compliance with POST Council requirements. (10-21-97)T

(2) Lesson plans shall be updated on an annual basis. (10-21-97)T

iii. Periodic and random monitoring of instruction provided to ensure that: (10-21-97)T

- (1) Lesson plans are being used; (10-21-97)T
- (2) Appropriate audio-visual aids are available and used properly; (10-21-97)T
- (3) The instructor is holding student attention; (10-21-97)T
- (4) The instructor is in control of the students; (10-21-97)T
- (5) The instructor is addressing the objectives; and (10-21-97)T
- (6) Classroom conditions such as lighting, noise levels and temperature are acceptable. (10-21-97)T
- iv. Appropriate action is taken to follow up on any student complaints regarding instructors or the training process. (10-21-97)T
- v. Results of testing are analyzed and evaluated. (10-21-97)T
- c. The vocational law enforcement program shall maintain an up-to-date copy of the POST Rules Manual provided by Peace Officer Standards and Training. (10-21-97)T
- d. The vocational law enforcement program shall comply with all instruction standards established by POST. (10-21-97)T
- 07. Satellite Facility. (10-21-97)T
 - a. A satellite facility is a facility, located away from the certified vocational law enforcement program facility, which the certified program uses to conduct more than forty (40) hours of mandated training per year. This definition specifically excludes firing ranges, driver training sites, and physical fitness or arrest techniques sites which may be located away from the certified program facility. (10-21-97)T
 - i. All satellite facilities where mandated training is conducted must meet the standards in the facilities portion of this policy. (10-21-97)T
 - ii. Satellite facilities must be approved by POST as meeting the standards for facilities before any credit can be awarded for mandated training which is conducted in such a facility. (10-21-97)T
- 08. Conduct and Behavior. (10-21-97)T
 - a. Any vocational law enforcement student not meeting the POST minimum standards for employment will not be given the final test. (10-21-97)T
 - b. The vocational law enforcement program shall have a policy on integrity. This should include dishonesty, untruthfulness, or discourtesy to include acts of academic dishonesty and plagiarism. This policy must be reviewed with all vocational law enforcement students upon entry into the program. (10-21-97)T
 - c. The vocational law enforcement program shall have a policy on social contact between staff, instructors, and students. Associations with vocational school staff must be professional in nature at all times. Students should be expressly prohibited from having social contact, either on or off campus, with any vocational staff or instructor(s) at the vocational law enforcement program. (10-21-97)T
 - d. Other standards for conduct and behavior that shall be addressed by the vocational law enforcement program shall include: (10-21-97)T
 - i. Disrupting class; (10-21-97)T
 - ii. Misconduct; (10-21-97)T

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|----------------------|---|--------------------|
| <u>iii.</u> | <u>Truthfulness;</u> | <u>(10-21-97)T</u> |
| <u>iv.</u> | <u>Courtesy;</u> | <u>(10-21-97)T</u> |
| <u>v.</u> | <u>Bigotry;</u> | <u>(10-21-97)T</u> |
| <u>vi.</u> | <u>Sexual harassment;</u> | <u>(10-21-97)T</u> |
| <u>vii.</u> | <u>Regard for the safety of others; and</u> | <u>(10-21-97)T</u> |
| <u>viii.</u> | <u>Sleeping in class.</u> | <u>(10-21-97)T</u> |
| 1578. -- 169. | (RESERVED). | |

IDAPA 15 - IDAHO COMMISSION ON AGING
15.01.01 - IDAHO SENIOR SERVICES PROGRAM
DOCKET NO. 15-0101-9701
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

The proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Section 010.34, Definition was changed to eliminate "payment for services based on." Section 010.42, Definition was expanded to include "For Adult Protection purposes the SSP shall address the available remedial, social, legal, medical, educational, mental health, or other services available to reduce risks and meet the care needs of a vulnerable adult." Section 025, Cultural Accommodations was changed to delete "cultural" and add a new 025.01., "Accommodations for Geographic Inaccessibility. All providers shall make and document efforts to locate and hire a part-time worker or generate a volunteer to meet the client service need." Section 025.01 was changed to 025.02 and the last phrase was deleted. Section 025.02 was changed to 025.03 and a new section 025.04 was added: "Accommodations for Disabilities. All providers shall make accommodations to work with persons who have vision or hearing impairments or other disabilities." Section 026.03 was expanded to include "In determining income for respite and adult day care clients, income means the gross income of the client as specified above but shall not include the income of any other person(s) who reside in the household." Section 026.06 was changed to eliminate the words "care coordination." Section 028.03 was modified as the following was deleted: "In determining income for client's of respite and adult day care services, income means the gross income of the client as specified above but shall not include the income of any other person(s) who reside in the household." Section 029.01 was changed by the elimination of the words "or applicant has adequate support through family or other sources." In Section 029.05 the words "The cost of service delivery is prohibitive because the applicant's home is more than twenty (20) miles from the nearest point of service provision of Chore, Adult Day Care, Homemaker, Respite or Care Coordination Services." were deleted and the following words were added, "The applicant's home is more than twenty (20) miles from the nearest point of service provision of homemaker, chore, or respite and the provider can document efforts to locate a worker or volunteer to fill the service need have been unsuccessful." In section 040.01 the word "duplicated" was replaced by the word "placed." Section 040.03.f was changed by the elimination of the words "if obituary in case file." Section 040.03.i. was changed by the addition of the words "prior notification of the AAA Director with final . . . being at the discretion . . ." Section 040.04 was changed to read "provider" instead of "agency", "shall" was changed to "will" and "approved in writing" was changed to "to the AAA Director with final approval being at the discretion of." Section 041.02.d. was changed to read "a maximum of" instead of "only for." Section 041.03 was changed to read "clients" instead of "persons." Section 041.06 was changed to read "priority" instead of "priorities" and "uniform assessment process" and "prioritization shall be" was eliminated and "completion of the UAI" was added. Section 041.07.b. was changed to read "providers" instead of "contractors." 041.07.d. was changed to read "providers" instead of "contractors." 041.08.e. was expanded to add "unless the client has given permission to enter to accomplish scheduled work and the permission to enter to accomplish scheduled work and the permission is documented in the client file." Section 041.10.b. was amended to read "referrals" instead of "clients" and "and available" and "Referrals assessed to need emergency service shall take precedence over applicants carried on a waiting list." Subsection 041.10.c. was amended to read "UAI service alternatives shall be discussed and referrals initiated as appropriate.", Subsections 041.10.c.i. through v. were deleted, and Subsection 141.11.c. was amended to replace the word "evaluation" with "assessment". Subsection 042.01 was amended to clarify the property owner's responsibility. Subsection 02.a. was amended to change walkways or lawns to yards. Subsection .03 was amended to change "Prioritization for Receipt of Chore Service" to "Service Priority". Subsection 043.05.b. and c. were deleted. Subsection 044.01 was amended to add "volunteer-based program". Subsection 044.02.b. was amended to clarify eligibility for respite care. Subsection 044.06 was amended to eliminate recruitment. Subsection 056.01 Care

Coordination, was amended to read, "Care coordination is a consumer-driven, social model case management service that empowers individuals and their families to make choices concerning in-home, community based or institutional long-term care services." A new Subsection 056.02 was added to require any person hired as a care coordination supervisor or care coordinator after July 1, 1998 to meet the requirements in Subsections 010.08 and 010.10 of these rules. Section 056.02 was re-numbered to .03, the word "eligibility" was changed to "Service Priority", and the reference to IDAPA 15.01.01.021 was deleted. Subsection 056.04.h. of this section was deleted. Section 056.06.a. was amended to clarify primary community resources. Subsection 056.07.e. was amended to replace the word "recipient" with "client". Subsection 056.09.d. was amended to delete the words "individual community service plan", to add "and Community" to 056.09.d.iv., and to delete 056.09.d.v. Subsection 056.11 was amended to replace the word "monitoring" with "evaluation".

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, page 24 through 40.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ken Wilkes, 334-3833.

DATED this 28th day of October, 1997.

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IDAPA 15
TITLE 01
Chapter 01

RULES GOVERNING IDAHO SENIOR SERVICES PROGRAM

**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 97-9, September 3, 1997, pages 24 through 40.**

**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. 15-0101-9701

002. WRITTEN INTERPRETATIONS.

This agency ~~has no~~ may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the Director. ()

003. ADMINISTRATIVE APPEALS.

The ICOA ~~and its AAAs~~ shall provide ~~recipients and provider organizations~~ AAAs with opportunity to appeal administrative decisions related to these rules in accordance with ~~IDAPA 15.01.20, Section 003, "Rules Governing Area Agency on Aging Operations."~~ 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ()

010. DEFINITIONS.

01. Act. The Idaho Senior Services Act. Programs and services established in Idaho Code, Section 67-5001, et. seq., Idaho Code. ()

02. Activities of Daily Living (ADL). Bathing, dressing, toileting, transferring, eating, walking. ()

03. Adult Day Care. A structured day program which provides individually planned care, supervision, social interaction, and supportive services for frail older persons in a protective group setting, and provides relief and support for caregivers. ()

04. Aging Network. The ICOA, it's AAAs and providers. ()

05. Advance Directive. A Living Will or Durable Power of Attorney for healthcare executed under the Natural Death Act, 39-4501, Idaho Code. ()

06. Area Agency on Aging (AAA). Local agency designated by the Idaho Commission on Aging, pursuant to the OAA (OAA) of 1965, as amended, that plans, develops, and implements services for older persons within a specified geographic area. ()

07. Area Plan. Plan for aging programs and services which an AAA is required to submit to the Idaho Commission on Aging, in accordance with the OAA, in order to receive OAA funding. ()

08. Care Coordinator. A licensed social worker, or licensed professional nurse (RN), or an individual with a BA or BS in a human services field and at least one (1) year's experience in service delivery to the service population. ()

09. Care Coordination. Case management assistance in circumstances where the older person, their caregivers, or both, are experiencing diminished functioning capacities, personal conditions, or other characteristics which require the provision of services by formal service providers. Activities of care coordination include assessing needs, developing care plans, authorizing services among providers, follow-up and reassessment, as required. ()

10. Care Coordination Supervisor. An individual who has at least a BA or BS degree and is a licensed social worker, psychologist or licensed professional nurse (registered nurse/RN) with at least two (2) years' experience in service delivery to the service population. ()

11. Chore Services. Providing assistance to persons having difficulty with one or more of the following instrumental activities of daily living: heavy housework, yard work or sidewalk maintenance. ()

12. Client. Person who has met program eligibility requirements for services addressed in this chapter. ()

13. Cognitive Impairment. A disability or condition due to mental impairment. ()

14. Congregate Meals. Meals that meet the requirements of the OAA, as amended, served in a group setting. ()

15. Department. Department of Health and Welfare. ()
16. Direct Costs. Costs incurred from the provision of direct services. These costs include, but are not limited to, salaries, fringe benefits, travel, equipment, and supplies directly involved in the provision of services. Salaries of program coordinators and first line supervisors are considered direct costs. ()
17. Eligible Clients. Residents of the state of Idaho who are sixty (60) years or older and their spouses. ()
18. Fee for Services. An established payment required from individuals receiving services under the Act. The fee varies according to client's current annual household income. ()
19. Fiscal Effectiveness. A financial record of the cost of all formal services provided to insure that maintenance of an individual at home is more cost effective than placement of that individual in an institutional long-term care setting. ()
20. Formal Services. Services provided to clients by a formally organized entity. ()
21. Functional Impairment. A condition that limits an individual's ability to perform ADLs and IADLs. ()
22. Home-Delivered Meals. Meals delivered to eligible clients in private homes. These meals shall meet the requirements of the OAA. ()
23. Homemaker. A person who has successfully completed a basic prescribed training, who, with additional supervision, provides homemaker services. ()
24. Homemaker Service. Assistance with housekeeping, meal planning and preparation, essential shopping and personal errands, banking and bill paying, medication management, and, with restrictions, bathing and washing hair. ()
25. Household. For sliding fee purposes, a "household" includes a client and any other person(s) permanently resident in the same dwelling who share accommodations and expenses with the client. ()
26. Idaho Commission on Aging (ICOA). Commission designated by the Governor to plan, set priorities, coordinate, develop policy, and evaluate state activities relative to the objectives of the OAA. ()
27. Informal Supports. Those supports provided by church, family, friends, and neighbors, usually at no cost to the client. ()
28. Instrumental Activities of Daily Living (IADL). Meal preparation, money management, transportation, shopping, using the telephone, medication management, heavy housework, light housework. ()
29. Legal Representative. A person who carries a Durable Power of Attorney or who is appointed Guardian or Conservator with legal authority to speak for a client. ()
30. National Aging Program Information System. (NAPIS) Standardized Nationwide reporting system that tracks: ()
- a. Service levels by individual service, identifies client characteristics, State and area agency staffing profiles, and identifies major program accomplishments; and ()
- b. Complaints received against long term care facilities and family members or complaints related to rights, benefits and entitlements. ()
31. Non-Institutional. Living arrangements which do not provide medical oversight or organized supervision of residents' activities of daily living. Non-institutional residences include congregate housing units,

board and room facilities, private residential houses, apartments, condominiums, duplexes and multiplexes, hotel/motel rooms, and group homes in which residents are typically unrelated to individuals. Non-institutional does not include skilled nursing homes, residential care facilities, homes providing adult foster care, hospitals, or residential schools/hospitals for the severely developmentally disabled or the chronically mentally ill. ()

32. Older Americans Act (OAA). Federal law which authorizes funding to states to provide supportive and nutrition services for the elderly. ()

33. Ombudsman. An individual or program providing a mechanism to receive, investigate, and resolve complaints made by, or on behalf of, residents of long-term care facilities, or persons aged sixty (60) and older living in the community. ()

34. Performance-Based Agreements. A written agreement between the ICOA and area agencies which establishes ~~payment for services based upon~~ output and outcome measures. ()

35. Personal Care Services (PCS). Services which include personal and medically-oriented procedures required to meet the physical needs of a patient convalescing at home or to provide for a long-term care client's on-going maintenance/support, in accordance with Section 39-5602 (f), Idaho Code. ()

36. Program. The Idaho Senior Services Program. ()

37. Planning and Service Area (PSA). Substate geographical area designated by the ICOA for which an area agency is responsible. ()

38. Provider. An AAA that provides services directly or another entity under contract with the AAA to provide a specific service(s). ()

39. Respite. Short-term, intermittent relief provided to full-time caregivers (individuals or families) of a functionally-impaired relative. ()

40. Shopping Assistance. Accompaniment and provision of assistance to an elderly individual for the purpose of purchasing food, medicine and other necessities; ~~purchasing of food, medicine and other necessities~~ for an elderly individual who is disabled or homebound. ()

41. Sliding Fee Scale. A fee scale ranging from zero percent (0%) to one hundred percent (100%) of the cost of services. Cost of services shall be based on the contractor's or provider's actual unit costs. A client's percentage (payment) shall be determined by ranking the client's household's annual income against the federally determined poverty guidelines for that year. ()

42. Supportive Service Plan (SSP). An individual support plan outlining an array of services or the components of an individual service required to maintain a client at home. For Adult Protection purposes the SSP shall address the available remedial, social, legal, medical, educational, mental health, or other services available to reduce risks and meet the care needs of a vulnerable adult. ()

43. Supportive Services Technician. AAA employee who is a paraprofessional working under the supervision of a licensed social worker or care coordinator assisting in the performance of specified tasks associated with investigation of Adult Protection reports or development and initiation of a SSP. The employee shall have a degree in a related field or a high school diploma and at least two (2) years' experience working with elderly or at-risk populations. ()

44. Transportation Services. Services designed to transport eligible clients to and from community facilities/resources for the purposes of applying for and receiving services, reducing isolation, or otherwise promoting independence. ()

45. Uniform Assessment Instrument (UAI). A comprehensive assessment instrument utilizing uniform criteria. The ICOA mandates use of a UAI in determining an applicant's need for care and services. ()

(BREAK IN CONTINUITY OF SECTIONS)

025. ~~CULTURAL~~ ACCOMMODATIONS.

01. Accommodations for Geographic Inaccessibility. All providers shall make and document efforts to locate and hire a part-time worker or generate a volunteer to meet the client service need. ()

~~02. Accommodations for Language. All providers providing services under these rules shall make accommodations to work with persons who speak a language other than English, and with those who have vision or hearing impairments.~~ ()

~~03. Cultural Accommodations. All providers shall accommodate cultural differences and take them into account when delivering services.~~ ()

04. Accommodations for Disabilities. All providers shall make accommodations to work with persons who have vision or hearing impairments or other disabilities. ()

026. FEES AND CLIENT CONTRIBUTIONS.

01. Poverty Guidelines. Clients whose income exceeds one hundred percent (100%) of poverty (as established by the United States Department of Health and Human Services) shall be required to pay a fee for service according to a variable fee schedule established by the ICOA. ()

02. Income Declaration. Income shall be determined by an annual client self-declaration. When a client's income increases or decreases, the client shall notify the provider for a redetermination of income. ()

03. Determining Income. For this purpose, income means gross household income from all sources, less the cost of medical insurance and expenditures for non-covered medical services and prescription drugs. Payments the client receives from owned property currently being leased shall be counted as income after expenses, i.e., insurance, taxes, water, sewer, and trash collection, if paid by the client, are deducted. In determining income for respite and adult day care clients, income means the gross income of the client as specified above but shall not include the income of any other person(s) who reside in the household. ()

04. Fee Based on Actual Cost. Assessed fee shall be a percentage of the provider's actual unit cost. ()

05. Fee Waived. The fee may be waived for clients who refuse to pay a fee if there is documented evidence that not providing the service would increase risk of harm to the client. ()

06. Fee Not Required. Fees are not required from clients receiving ~~care coordination~~, nutrition or transportation services. ()

07. Client Contributions. Clients whose annual income falls below poverty shall be given the opportunity to make voluntary contributions. ()

08. Use of Fees and Contributions. Providers shall maintain accounting records of all fees and contributions collected and of all monies expended from these sources. All monies derived from fees, contributions, or both, shall be used to offset the costs of providing the service(s) for which they were collected. ()

(BREAK IN CONTINUITY OF SECTIONS)

028. DISCLOSURE OF INFORMATION.

AAA employees' and contractors' disclosure of information about clients is limited by law. All information obtained from a client, whether verbal or written, and any records created from that information, shall be treated as confidential. The OAA requires that confidentiality regarding clients shall be followed thus: ()

01. Disclosure. An AAA provider or contractor may disclose to anyone the content of a client's communication only with the client's prior, informed consent. Without the client's prior, informed consent, the provider or contractor may: ()

a. Only disclose information for purposes directly related to the administration of the program under which the client is applying for or receiving benefits; or ()

b. Disclose client information to auditors and to persons conducting research with certain defined circumstances. ()

02. Client's Expectation of Privacy. Disclosure of information to others does not abrogate a client's expectation of privacy as protected by law. Those to whom disclosure is made have a duty to maintain the confidentiality of the disclosure. ()

03. Disclosure Required. The disclosure of information required for a coordinated assessment of a client and for coordinating delivery of services to a client is allowed between aging network providers and contractors and, if required, the Department. Disclosure to individuals outside that group shall not be authorized. ~~In determining income for client's of respite and adult day care services, income means the gross income of the client as specified above but shall not include the income of any other person(s) who reside in the household.~~ ()

029. DENIAL OF SERVICE.

An applicant shall be notified in writing of a denial of service and the right to appeal in accordance with IDAPA 15.01.20, Section 028, "Rules Governing Area Agency on Aging Operations". The request for services may be denied for any of the following reason(s): ()

01. Applicant Not In Need of Service. The applicant's functional or cognitive deficits are not severe enough to require services, ~~or applicant has adequate support through family or other sources.~~ ()

02. Family or Other Supports Adequate. Family, or other informal supports are adequate to meet applicants current needs. ()

03. Other Care Required. The client's needs are of such magnitude that more intensive supports, such as Medicaid PCS, attendant care, or referral for residential or nursing home placement are indicated. In such instances, alternatives shall be explored with the client and the client's legal representative and family, if available. Referrals shall be made by the provider, as appropriate. ()

04. Barriers to Service Delivery Exist. The applicant's home is hazardous to the health or safety of service workers. ()

05. Geographical Inaccessibility. ~~The cost of service delivery is prohibitive because the applicant's home is more than twenty (20) miles from the nearest point of service provision of Chore, Adult Day Care, Homemaker, Respite or Care Coordination Services. The applicant's home is more than twenty (20) miles from the nearest point of service provision of homemaker, chore, or respite and the provider can document efforts to locate a worker or volunteer to fill the service need have been unsuccessful.~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

040. TERMINATION OF SERVICE.

01. Documentation. Documentation of notice of termination shall be ~~duplicate~~ placed in the client's case record, signed, and dated by the provider. ()

02. Appeals Process. The client shall be informed of the appeals process, in accordance with IDAPA 15.01.20, Subsection 027.03, "Rules Governing Area Agency on Aging Operations". ()

03. AAA Services. AAA authorized services may be discontinued by the provider for any of the reasons listed below, or at the discretion of a program director or AAA director: ()

a. Services proved ineffective, insufficient, or inappropriate to meet client needs. ()

b. Other resources were utilized. ()

c. Client withdrew from the program or moved. ()

d. Family or other support to client increased. ()

e. Client placed in a long-term care facility. ()

f. Client died (~~if obituary in case file~~, no notification of termination required). ()

g. Client's functioning improved. ()

h. Client refused service. ()

i. Client's home is hazardous to the service provider (requires prior notification of the AAA Director with final approval being at the discretion of the AAA Director). ()

j. Client's home is not reasonably accessible. ()

k. Client's behavior is a threat to the safety of the provider (requires prior notification of the AAA Director with final approval being at the discretion of the AAA Director.) ()

l. Client verbally abuses or sexually harasses service provider. ()

m. Client refuses to pay fee determined for service. ()

n. Service provider is not available in locale. ()

o. Services are no longer cost effective. ()

04. Notification of Termination and Right to Appeal. Client shall be informed in writing of the reasons for ~~agency provider~~ initiated service termination and the right to appeal at least two (2) weeks prior to termination. Exceptions to the two (2) week advance notification of termination ~~shall will~~ be justified to the AAA Director with final approval being at the discretion of and approved in writing by the AAA Director. Appeal actions are the responsibility of the AAA. The client shall be referred to other services as appropriate. ()

041. HOMEMAKER.

01. Policy. Homemaker service is designed to provide assistance required to compensate for functional or cognitive limitations. Homemaker services provide assistance to eligible individuals in their own homes, or, based on an adult protection referral, in a caregivers home; to restore, enhance, or maintain their capabilities for self-care and independent living. Available family shall be involved in developing a supportive services plan for the client to ensure the formal services provided shall enhance any available informal supports provided. A client or legal representative shall have the right to accept or refuse services at any time. Homemaker providers shall reserve funds to support the expenditure of up to a maximum of ten percent (10%) of their annual Act funding to support emergency service requests and response to adult protection referrals. ()

02. Service Eligibility. Individuals are eligible for homemaker services if they meet any of the following requirements: ()

a. They have been assessed to have ADL deficits, IADL deficits, or both, which prohibit their ability to maintain a clean and safe home environment. ()

b. Clients over age sixty (60), who have been assessed to need homemaker service, may be living in the household of a family member (of any age) who is the primary caregiver. ()

c. They are Adult Protection referrals for whom homemaker service is being requested as a component of a SSP to remediate or resolve an adult protection complaint. ()

d. Vulnerable adults under age sixty (60), who have been assessed to need homemaker service are eligible to receive the service ~~only for~~ only for a maximum of three (3) consecutive months within a program year. ()

e. They are home health service clients who may be eligible for emergency homemaker service. ()

03. PCS. ~~Persons~~ Clients eligible to receive PCS through the Department are not eligible for homemaker services unless the services are determined to be needed on an interim, emergency basis until PCS is initiated. Interim emergency services shall not exceed two (2) months' duration. ()

04. Purpose of Service. ()

a. Maintain Independence and Dignity. To secure and maintain in a home environment the independence and dignity of clients who are capable of self-care with appropriate supportive services. ()

b. Prevent Institutionalization. To avoid or delay placement into long-term care institutions. ()

c. Remedy Harmful Living Arrangements. To promote the health and safety of the client. ()

d. Crisis Intervention. To assist the client through a crisis situation, if the homemaker service(s) required meet the client's needs and can be provided within the guidelines set forth in these rules. ()

05. Exclusions. ()

a. Meal Preparation. Homemakers shall not prepare meals for a client if home-delivered meals are available. ()

b. Transportation. Homemakers shall not transport a client unless the provider carries liability insurance. ()

c. Medical Judgments. Homemakers shall not make medical judgments nor any determinations regarding the application of advance directives. ()

d. Bathing and washing hair. Contractors shall obtain adequate and appropriate insurance coverage prior to assigning homemakers to assist clients with bathing and (or) washing hair. ()

06. Service Priorities. Once approved, clients shall be prioritized to receive homemaker services based on their needs, as determined through the ~~uniform assessment process~~ completion of the UAI. ~~Prioritization shall be~~ as follows: ()

a. Highest priority shall be given to clients with the greatest degree of functional or cognitive impairment; then ()

b. To clients lacking informal supports; then ()

c. To clients whose homes are in poor condition with respect to those circumstances which the homemaker service can remedy. ()

07. Homemaker Training and Supervision. All homemakers shall receive an employee orientation from the provider before performing homemaker services. Orientation shall include the purpose and philosophy of homemaker services, review of homemaking skills, program regulations, policies and procedures, proper conduct in relating to clients, and handling of confidential and emergency situations involving a client. ()

a. Cardiopulmonary Resuscitation (CPR). Homemakers shall complete CPR training within three (3) months of hire and shall maintain certification thereafter. ()

b. In-Service Training. ~~Contractors~~ Providers shall annually provide homemakers with a minimum of ten (10) hours training, including CPR, for the purpose of upgrading their skills and knowledge. ()

c. Providers shall assure that homemakers who assist clients with bathing or hair washing receive specific training in performing these services prior to being assigned to a client. ()

d. Homemaker Supervision. All ~~contractors~~ providers shall maintain written job descriptions for homemakers and shall have written personnel policies. All homemakers shall receive an annual performance evaluation. Homemaker supervisors shall be available to homemakers during work hours to discuss changes in client's circumstances, to resolve problems with schedules, or to respond to emergencies. ()

08. Medical Emergencies. In case of medical emergency, the homemaker shall immediately call 911 or the available local emergency medical service and, if appropriate, shall initiate CPR. ()

09. Conduct of Homemakers. Contractors shall insure, through personnel policies, orientation procedures, signed homemaker agreements, and supervision, that homemaker conduct is governed by the following restrictions. A copy of these restrictions, signed by the homemaker, shall be placed in each homemaker's personnel file. ()

a. Accepting Money or Loans. A homemaker shall not accept money or a loan, in any form, from a client. ()

b. Sale of Goods. A homemaker shall not solicit the purchase of goods, materials, or services. ()

c. Addresses and Telephone Numbers. A homemaker shall not provide a personal telephone number or home address to clients. ()

d. Private Work. A homemaker shall not work privately for a client of homemaker services. ()

e. Client's Residence. A homemaker shall not enter a client's residence in the absence of the client unless the client has given permission to enter to accomplish scheduled work and the permission is documented in the client file. ()

f. Proselytizing. A homemaker shall not engage in religious proselytizing during the course of employment. ()

g. Medication Administration. A homemaker shall not administer medications. The homemaker may remind a client to take medications, assist with removing the cap from a multi-dose or bubble pack container, and may observe the client taking medications. ()

h. Confidentiality. A homemaker shall regard all client communications and information about clients' circumstances as confidential. ()

i. Smoking. A homemaker shall not smoke in the home of a client. ()

10. Intake and Assessment. ()
- a. Normal Intake. Client contact shall be initiated within five (5) days of receipt of the referral, and an assessment shall be conducted within two (2) weeks of referral. ()
- b. Emergency Intake. ~~Client~~ Referrals indicating a crisis or potential crisis such as a marked decline in health or functional status, hospital discharge, or adult protection referral require a home visit be conducted to assess service need within one (1) working day of receipt of referral. If appropriate and available, a homemaker shall be assigned and service shall be initiated immediately. Such emergency homemaker service shall not exceed two (2) weeks' duration. Referrals assessed to need emergency service shall take precedence over applicants carried on a waiting list. ()
- c. Client Assessment. To determine the level of need and the type of service needed, the provider shall conduct an in-home assessment using the ~~ICOA uniform assessment tool~~. The assessment shall include: UAI. Service alternatives shall be discussed and referrals initiated as appropriate. ()
- i. ~~A Client Consent and Release of Information Form.~~ ()
- ii. ~~Information about client: Race, sex, age, and similar information.~~ ()
- iii. ~~Living arrangement and condition of home.~~ ()
- iv. ~~ICOA Income Declaration Form.~~ ()
- v. ~~Service alternatives shall be discussed and referrals initiated as appropriate.~~ ()
- d. Assessment Coordination. A client need not be re-assessed if an assessment completed within the past ninety (90) days by another human services agency provides the same information as the ICOA's UAI and the client signs a Release of Information form. A client assessment shall be completed if no current assessment from another agency is available. In either case, a home visit shall be included in the process of developing the client's individual SSP. ()
11. Individual Supportive Service Plan (SSP). A supportive service plan shall be signed by the client or legal representative prior to initiation of service. ()
- a. An approved plan shall reflect needed services to be provided by available family or others. ()
- b. Revision of the SSP. After services have been in place for one (1) month, the homemaker shall inform the supervisor of any modifications needed in the SSP, such as changes in hours of service or tasks to be performed. ()
- c. Reassessments of SSP. The SSP shall be updated at least annually. Any revisions to an SSP shall be initiated by the client prior to being put into effect. An SSP may be updated more often than annually if changes in a client's circumstances (i.e., functional or cognitive ability, living conditions, availability of supports) indicate a necessity for ~~re-evaluation~~ assessment. ()

042. CHORE.

01. Policy. Chore service is designed to be provided to individuals who reside in their own homes or who occupy individual rental units. Chore services for those individuals who rent housing shall not ~~replace~~ provide repairs or maintenance ~~which are customarily the landlord's responsibility~~ that are contractually the responsibility of the property owner. ()
02. Service Eligibility. Clients qualify to receive chore service if: ()
- a. They have been assessed to have ADL or IADL deficits which inhibit their ability to maintain their homes; ~~or yards, walkways, or lawns;~~ ()

- b. There are no available informal supports; ()
- c. Client Safety. Chore service is needed to improve the client's safety at home or to enhance the client's use of existing facilities in the home ~~the service is not needed on a continuing basis. The service objective can be achieved with work done on a one-time-only basis.~~ These objectives shall be accomplished through one-time or intermittent service to the client. ()
- 03. ~~Prioritization for Receipt of Chore Service~~ Service Priority. Service provision shall be prioritized based on client's degree of functional impairment. ()
- 04. Program Intake and Eligibility Determination. ()
 - a. A home visit shall be made within five (5) work days of the referral. ()
 - b. Client assessment shall be conducted utilizing the UAI. ()
 - c. If chore services are to be provided, the income declaration, service determination and work plan shall be completed prior to any work being done. The work plan shall be signed by both the client and the service provider. The work plan shall include a description of the work to be accomplished, the start and completion dates for such work, and a summary of any cost to the client (for labor or materials) the work shall incur. ()
 - d. If the client is not eligible for services, appropriate referrals shall be made. ()

043. ADULT DAY CARE.

- 01. Policy. Adult Day Care is designed to meet the needs of eligible participants whose functional or cognitive abilities have deteriorated. It is intended to provide relief for care providing family members. It is a comprehensive program which provides a variety of social and other related support services in a protective setting during any part of a day, but for a duration of less than twenty-four (24) hours. ()
- 02. Eligibility. Individuals eligible for adult day care include: ()
 - a. Those who have physical or cognitive disabilities affecting ADL or IADL functioning; ()
 - b. Those capable of being transported; ()
 - c. Those capable of benefiting from socialization, structured and supervised group-oriented programs; ()and
 - d. Those capable of self-care with supervision or cueing. ()
- 03. Enrollment Agreement. A signed enrollment agreement shall be completed to include: ()
 - a. Scheduled days of attendance; ()
 - b. Services and goals of the center; ()
 - c. Amount of fees and when due; ()
 - d. Transportation agreement, if appropriate; ()
 - e. Emergency procedures; ()
 - f. Release from liability (for field trips, etc.); ()
 - g. Conditions for service termination; ()

- h. A copy of the center's policy; and ()
- i. A SSP. ()
- 04. Staffing. Staff shall be adequate in number and skills to provide essential services. ()
 - a. There shall be at least two (2) responsible persons at the center at all times when clients are in attendance. One shall be a paid staff member. ()
 - b. The staff to client ratio shall be, at minimum, one to six (1:6). ()
 - c. Staff to client ratio shall be increased appropriately if the number of clients in day care increases or if the degree of severity of clients' functional or cognitive impairment increases. ()
 - d. Staff persons counted in the staff to client ratio shall be those who spend the major part of their work time in direct service to clients. ()
 - e. If the administrator is responsible for more than one (1) site or has duties not directly related to adult day care, a program manager shall be designated for each site. ()
 - f. Volunteers shall be included in the staff ratio only when they conform to the same standards and requirements as paid staff. ()
- 05. Services. Adult Day Care Programs shall, at a minimum, provide the following services: ()
 - a. Assistance with transferring, walking, eating, toileting; ()
 - ~~b. Transportation;~~ (→)
 - ~~e. Social services such as counseling and information and referral;~~ (→)
 - ~~db.~~ Recreation; ()
 - ~~ec.~~ Nutrition and therapeutic diets; and ()
 - ~~fd.~~ Exercise. ()
- 06. National Standards. Adult Day Care Programs shall operate under guidelines established by the ICOA in accordance with national standards developed by the National Council on Aging's National Institute on Adult Day Care. ()

044. RESPITE.

- 01. Policy. Respite is a volunteer-based program designed to encourage and support efforts of family caregivers to maintain functionally or cognitively-impaired elderly relatives at home. The family may utilize respite care to meet emergency needs, to restore or maintain the physical and mental well being of family caregivers, and provide socialization for the client. Respite volunteers provide companionship for the homebound client so the caregiver can attend to personal business or recreational interests outside the home. This allows the caregiver intervals of needed relief. The Respite Care Service provides no hands-on care. ()
- 02. Eligibility. ()
 - a. The client shall be homebound or have physical or cognitive impairments affecting ADL or IADL functioning to the extent twenty-four (24) hour supervision is required. ()
 - b. Functionally or cognitively-impaired persons under sixty (60) years of age living in the household

of a person sixty (60) years of age or older are ~~exempted from the eligibility exclusions of these rules~~ eligible to receive Respite. ()

- 03. Exclusions. ()
 - a. Respite care volunteers shall not perform housework, prepare meals, or provide any type of nursing or medical care. ()
 - b. Respite care volunteers shall not transport clients. ()
- 04. Service Priority. All approvals to receive respite services shall be based on an in-home visit and completion of the UAFI. ()
- 05. Volunteer Recruitment, Training, and Supervision. ()
 - a. Job Descriptions. All respite care programs shall have written job descriptions for volunteers. ()
 - b. Volunteer Screening. All respite care programs shall screen volunteers prior to placement. ()
 - c. Orientation. All respite care volunteers shall receive a minimum of three (3) hours orientation and training prior to placement. ()
 - d. Respite providers. Respite providers shall be available to volunteers to discuss changes in client circumstances, resolve scheduling problems, and respond to emergency situations. ()
- 06. Client ~~Recruitment Outreach~~. In coordination with Information & Assistance (I&A) and other referral sources, providers shall actively ~~recruit families in need of respite care~~ promote the program. ()

(BREAK IN CONTINUITY OF SECTIONS)

056. CARE COORDINATION.

01. Policy. Care coordination is ~~part of the community-based care system which promotes utilization of in-home and community-based care as preferred alternatives to institutional placement for functionally or cognitively impaired clients. Care coordination enhances the autonomy of eligible clients, considers client preferences, and promotes efficient use of available resources~~ a consumer-driven, social model case management service that empowers individuals and their families to make choices concerning in-home, community-based or institutional long-term care services. ()

02. Qualifications. Any person hired to fill the position of care coordination supervisor or care coordinator on or after July 1, 1998, shall have the qualifications identified in Subsections 010.08 and 010.10 of this chapter. ()

023. ~~Eligibility Service Priority. Service priority Eligibility is based on requirements cited in IDAPA 15.01.01, Section 021 of these rules and the following criteria:~~ ()

- a. Require ~~at least~~ minimal assistance with one or more ADLs or IADLs; and ()
- b. Require services from multiple health/social services providers; and ()
- c. Are unable to obtain the required health/social services for themselves; or ()
- d. Lack available family or friends who do not have family or friends who, can provide the needed assistance. ()

()

04. Screening and Referral. ()

a. The purpose of screening is to determine whether an older person needs service referral, assistance and client advocacy, or is a potential care coordination client who should receive a home visit and a comprehensive assessment. ()

b. Screening shall be provided over the telephone. Screening may also be provided in the field, if appropriate. ()

c. Screening shall usually be accomplished by the I&A component, Adult Protection, provider, or by a community agency. However, care coordination may receive a direct referral of a potential client who has not been screened. In such cases, care coordination shall conduct screening or refer the potential client to the I&A component for screening. ()

d. All Care Coordination Programs shall utilize the pre-screen and referral component of the UAI to screen potential clients. ()

e. Pre-referral screening shall be done to determine if a potential client meets the criteria for receipt of Care Coordination Services. If the potential client meets the criteria and agrees to the referral, the client shall be referred for a comprehensive assessment utilizing the UAI. ()

f. Referrals who do not meet the criteria for Care Coordination Services shall be referred for other appropriate services. ()

g. If notification was requested, the referral sources shall be notified of case disposition following the screening. ()

~~h. Screening shall include direct telephone contact with the eligible client being screened. Although third party information is valuable in developing an overall impression of a client's level of functioning, direct contact is necessary to confirm the client's need for, and willingness to, receive services. ()~~

05. Referral for Care Coordination. Referrals shall be accepted from any source and may include eligible clients who are seeking or already receiving other services. ()

06. Working Agreements. ()

a. ~~The Care Coordination Program shall identify the primary community resources utilized by older persons. When deemed necessary and appropriate, enter into working agreements with these primary community resources shall be developed utilized by older persons.~~ These resources may include AAA service providers, mental health centers, hospitals, home health agencies, legal services providers, and others. ()

b. Working agreements shall address at least the following: ()

i. How long each party shall take to respond to a request for service; ()

ii. Release of information procedures; ()

iii. Referral and follow-up procedures; ()

iv. How each party shall notify the other of program changes and non-availability of service; and ()

v. Procedures for working out problems between the two (2) parties. ()

07. Core Services. Care coordination provides responsible utilization of available informal (unpaid)

supports before arranging for formal (paid) services. The care coordinator and client shall work together in determining the frequency, and duration, of needed services. Services shall be arranged subsequent to approval by the client or legal representative. Services provided shall be recorded and monitored to insure cost effectiveness and compliance with the SSP. ()

a. Client assessment shall be conducted during a home visit and shall utilize the ~~ICOA~~ UAFI. ()

b. A client need not be re-assessed if an assessment completed within the past ninety (90) days by another human service agency provides the same information as the ICOA's UAI and the client signs a Release of Information form. ()

c. SSP. Based on the information obtained during the client assessment and input obtained from family or professionals familiar with the client, the care coordinator shall develop a written SSP which shall include at least the following: ()

i. Problems identified during the assessment; ()

ii. Exploration of opportunities for family and other informal support involvement to be included in development of the SSP; ()

iii. Overall goals to be achieved; ()

iv. Reference to all services and contributions provided by informal supports including the actions, if any, taken by the care coordinator to develop the informal support services; ()

v. Documentation of all those involved in the service planning, including the client's involvement; ()

vi. Schedules for care coordination monitoring and reassessment; ()

vii. Documentation of unmet need and service gaps; and ()

viii. References to any formal services arranged, including fees, specific providers, schedules of service initiation, and frequency or anticipated dates of delivery. ()

d. The SSP shall be reevaluated and updated by the care coordinator at least annually or when significant changes in the client's status occur; ()

e. A copy of the current SSP shall be provided to the ~~recipient~~ client or legal representative. ()

f. Case files shall be maintained for three (3) years following service termination. ()

08. Other Supportive Services. ()

a. Necessary Services. Care coordinators shall assist clients to obtain available benefits, entitlements, services, medically related devices, assistive technology, necessary home modifications, or other services required to fulfill unmet needs. ()

b. Social-Emotional Support. Care coordinators shall link clients and their families with available services which facilitate life adjustments and bolster informal supports. ()

c. Unmet Needs. To assist the AAA in future planning, care coordinators shall identify and document unmet client needs. ()

d. Other Informal Resources. In all cases, available informal supports shall be explored prior to utilization of formal services. ()

09. Structure and Role. Care coordination is a centralized evaluator and arranger of services and provides those activities previously outlined under "Service Functions". AAAs shall be the direct provider for care coordination services. The AAA is responsible for the implementation of the care coordination program. ()

a. Care coordinators shall actively advocate for services required by clients and shall coordinate service delivery between multiple agencies, individuals, and others. ()

b. All providers of Care Coordination Services shall carry insurance in the types and amounts which meet acceptable business and professional standards. ()

c. Providers shall conduct an orientation program for all new employees which covers, at least, local resources available, care coordination service delivery, confidentiality of information, and client rights. ()

d. In addition to the development and maintenance of the SSP ~~individual community service plan~~, program and client records shall be maintained to provide an information system which assures accountability to clients, the Care Coordination Program, and funding agencies, and which supplies data for AAA planning efforts. The information system established shall comply with the following ICOA requirements: ()

i. NAPIS Registration Form; ()

ii. Completed UAI; ()

iii. Pertinent correspondence relating specifically to the client; ()

iv. A narrative record of client and community contacts, including problems encountered and SSP modifications developed in response; ()

v. ~~Activity record describing client and community contacts.~~ (→)

vi. Completed SSP, signed by the client; ()

vii. Written consent and acceptance of Care Coordination Services and release of information forms; ()

viii. Any other documentation necessary for systematic care coordination and SSP continuity. ()

10. Standards of Performance. AAAs shall assure care coordination meets the requirements for service neutrality. An agency providing care coordination shall not be a direct provider of other in-home services without proper written justification and approval by the Director of the ICOA. ()

11. ~~Monitoring Evaluation.~~ Monitoring Evaluation is required to assure quality control. The AAA is responsible for monitoring care coordination activities for quality control and assurance. The AAA shall review client records to determine: ()

a. Services are being provided as outlined in the SSP; ()

b. Services are meeting the goals established in the SSP; ()

c. The client is satisfied with the service(s) being provided; ()

d. Changes in service have been authorized; ()

e. The SSP continues to be cost-effective; ()

f. Providers are noting observations and relating information about informal caregivers, additional actions required by the care coordinator, re-evaluations, amendments to the SSP, and client contacts. ()

IDAPA 15 - IDAHO COMMISSION ON AGING
15.01.01 - IDAHO SENIOR SERVICES PROGRAM
DOCKET NO. 15-0101-9702
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 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) 67-5003, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, September 3, page 41.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ken Wilkes, Supportive Services Manager at (208) 334-2219.

DATED this 30th day of October, 1997

Arlene D. Davidson, Director
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IDAPA 15
TITLE 01
Chapter 01

RULES GOVERNING IDAHO SENIOR SERVICES PROGRAM

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997, page 41.**

**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 15 - IDAHO COMMISSION ON AGING

15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAM

DOCKET NO. 15-0102-9701

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 July 1, 1998, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003, Idaho Code

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

The proposed rules have been amended in response to public comment and pursuant to Section 67-5227, Idaho Code. Section 001.01 and .02, Title and Scope was amended to add "Adult Protection". Section 003 was amended to further clarify the appeal process. Subsection 010.03 was amended to delete the word "social". Subsection 010.04 and .05 were deleted. Section 021 Administrative Requirements, was amended to change "contractual relationships" to "performance-based agreements." Subsection 021.02 was amended to change AP Social Worker to AP Worker, AP Technician to Supportive Services Technician, and to require that AP worker be a social worker licensed to practice in Idaho. Subsection 022.02 was amended to change the catchline from "Provision of Service Contracts" to "Performance -Based Agreements" and "contractual requirements" to "performance-based agreements". Subsection 031.02 was amended to add "and other standardized supplemental forms," to replace the word "direct" with "initial," and to change licensed social worker to AP worker. Subsection 031.04 was amended to add the sentence "In AP cases in which family members are experiencing difficulties in providing twenty-four (24) hour care for a functionally impaired relative, AP shall make appropriate referrals to available community services to provide needed assistance." Section 032 was amended to change Plan of Supportive Services to Supportive Services Plan, to add "substantiated cases", to add "law enforcement involvement", and to add "reviewing".

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, page 42 through 46.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Omar Valverde, 334-2220.

DATED this 28th day of October, 1997.

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IDAPA 15
TITLE 01
Chapter 02

RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAM

**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 97-9, September 3, 1997,
pages 42 through 46.**

**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. 15-0102-9701

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 15.01.02, "Rules Governing Area Agency Adult Protection (AP) Programs". ()

02. Scope. These rules relate to the authority and responsibilities of area agencies to provide Adult Protection services. ()

002. WRITTEN INTERPRETATIONS.

This agency ~~has no~~ may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the Director. ()

003. ADMINISTRATIVE APPEALS.

The ICOA ~~and its AAAs~~ shall provide recipients and provider organizations AAAs with opportunity to appeal administrative decisions related to these rules in accordance with IDAPA ~~15.01.20, Section 003, "Rules Governing Area Agency on Aging Operations."~~ 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General". ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

Any item not specifically defined below shall have the same meaning as those defined in Idaho Code or IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program". ()

01. Adult Protection (AP). Statutory protections safeguarding vulnerable adults through investigations of reports alleging abuse, neglect, self-neglect or exploitation, and arrangements for the provision of emergency or supportive services necessary to reduce or eliminate risk of harm. ()

02. Adult Protection Supervisor. AAA employee responsible for overseeing the provision of AP services. The Supervisor's duties include the direct supervision of AP staff, case assignments, the monitoring of case loads and documentation, and the maintenance of cooperative relationships with other agencies, organizations or groups serving vulnerable "at risk" populations. The employee shall be a social worker licensed to practice in Idaho. ()

03. Adult Protection ~~Social~~ Worker. AAA employee providing AP services. The ~~Social~~ Worker's duties include the investigation of AP reports, client risk assessment and the development of plans for supportive services and/or law enforcement referral. The employee shall be a social worker licensed to practice in Idaho. ()

~~04. Supportive Services Technician. AAA employee who is a paraprofessional working under the supervision of a licensed social worker assisting in the performance of specified tasks associated with the investigation of AP reports or the development and initiation of a supportive service plan. The employee shall have a degree in a related field or a high school diploma and at least two (2) years' experience working with elderly or at risk populations. ()~~

~~05. Plan of Supportive Services. A written description of the remedial, social, legal, medical, educational, mental health and other services available to reduce risk and meet the care needs of a vulnerable adult. ()~~

064. Injury or Serious Imposition of Rights. A situation of substantiated abuse, neglect or exploitation. ()

(BREAK IN CONTINUITY OF SECTIONS)

021. ADMINISTRATIVE REQUIREMENTS.

In accordance with section 67-5011, Idaho Code, the ICOA shall administer AP services through ~~contractual relationships~~ performance-based agreements with AAAs. Each AAA shall adhere to all administrative requirements relating to AP programs and those enumerated in IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program", unless a waiver is granted by the ICOA. ()

01. Staffing. Each AAA shall provide sufficient staffing to respond to AP complaints within the statutory time frames set forth in section 39-5304(2), Idaho Code. ()

02. Employee Qualifications. Each AAA shall adhere to standards set forth in rule for the education and licensing of AP program employees, including requirements for the AP Supervisor, AP ~~Social~~ Worker and AP Supportive Services Technician. Any person hired after July 1, 1998, to fill the position of AP Supervisor or AP Worker shall be a social worker licensed to practice in Idaho. ()

03. Program Reporting and Records. All AAA AP programs shall comply with the ICOA's requirements for reporting and investigative documentation, and shall utilize standardized forms provided by the ICOA. ()

04. Conflict of Interest. AP program employees and their immediate families shall not hold a financial interest in agencies, organizations and entities providing care for vulnerable adults. ()

05. Program Reviews. Upon prior notice and at reasonable intervals determined by ICOA, ICOA shall conduct on site program reviews of AAA AP programs. ()

022. PROVISION OF SERVICE REQUIREMENTS.

In accordance with section 67-5011, Idaho Code, each AAA shall assume all responsibilities cited in Chapter 53, Title 39, Idaho Code. ()

01. Direct Provision of Service. Each AAA shall provide AP as a direct service. ICOA may waive this requirement upon justification that such direct provision of AP service is not in the interest of effective service delivery. ()

02. ~~Provision of Service Contracts~~ Performance-Based Agreements. Each AAA shall provide AP services pursuant to ~~contractual requirements~~ performance-based agreements delineating the duties and obligations of each area agency AP program. ()

03. Court Visitors. No AP employee shall serve as a court appointed visitor in a guardianship or conservatorship proceeding involving a proposed ward who is or has been the alleged victim in an AP investigation. ()

(BREAK IN CONTINUITY OF SECTIONS)

031. INVESTIGATIVE REQUIREMENTS.

01. Vulnerability Determination. Upon investigating an AP report, each area agency shall determine whether an alleged victim is vulnerable as defined in section 39-5302, Idaho Code. If the alleged victim is not vulnerable as defined in section 39-5302, Idaho Code, AP may refer the complaint to the Ombudsman, Law Enforcement or other appropriate entity for investigation and resolution. ()

02. Assessment of Alleged Victim. An alleged victim's vulnerability and associated risk factors shall be determined through the administration of the UAI and other standardized supplemental forms. ~~Direct~~ Initial interviews and assessments of an alleged victim shall be conducted by an ~~licensed social worker~~ AP worker. ()

03. Investigative Findings. AP shall make one of two (2) investigative findings upon completion of an AP investigation: ()

a. Substantiated. AP determines that a report is valid based on sufficient evidence. ()

b. Unsubstantiated. AP determines that a complaint is invalid due to insufficient supporting evidence. This finding requires AP to close the case. ()

i. If an allegation is unsubstantiated, but the vulnerable adult has unmet ~~supportive~~ service needs, AP shall initiate appropriate referrals with consent of the vulnerable adult or his legal representative. ()

ii. A case shall be closed if AP determines that an allegation has been made in bad faith or for a malicious purpose. ()

iii. A case shall be closed if AP determines that an alleged victim is not a vulnerable adult. ()

04. Caretaker Neglect. In investigating a report of caretaker neglect, AP shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, AP shall make every effort to assist the primary caregiver in accessing program services necessary to reduce the risk to the vulnerable adult. In AP cases in which family members are experiencing difficulties in providing twenty-four (24) hour care for a functionally impaired relative, AP shall make appropriate referrals to available community services to provide needed assistance. ()

05. Referral to Law Enforcement. A substantiated report of abuse, neglect or exploitation is presumed to have caused a serious imposition of rights or injury to the alleged victim and shall be immediately referred to law enforcement pursuant to section 39-5310, Idaho Code. ()

06. Adult Protection and Ombudsman Coordination. Area agencies shall ensure that AP staff and the substate ombudsman maintain a written agreement establishing cooperative protocols in the investigation of complaints. ()

07. Confidentiality. All records relating to a vulnerable adult and held by an area agency are confidential and shall only be divulged as permitted pursuant to Sections 39-5307, 39-5304 (5), Idaho Code, and IDAPA 15.01.01, Section 018, "Rules Governing Idaho Senior Services Program". ()

032. SUPPORTIVE SERVICES AND CASE CLOSURE.

01. ~~Plan of Supportive Services Plan.~~ If determined necessary to reduce risk to a vulnerable adult, in substantiated cases, AP shall assist in the development and initiation of a ~~plan of supportive services~~ the SSP with the consent of the vulnerable adult or his legal representative. ()

02. Documentation of Client Consent. A vulnerable adult's consent, refusal to grant consent, or withdrawal of consent to a ~~plan of supportive services~~ SSP shall be documented in the client case record. ()

03. Case Review. ~~The implemented plans of supportive service~~ SSP shall be reviewed annually or more frequently based on the circumstances of each individual case. ()

04. Case Closure. AP shall close a case under the following circumstances: ()

a. AP shall close a substantiated case upon a determination that ~~a plan of supportive services~~ an initiated SSP or law enforcement involvement has successfully reduced the risk to the vulnerable adult. ()

b. AP may close a case if another program or agency has agreed to assume responsibility to monitoring and reviewing implementation of ~~a plan of supportive services~~ an SSP. ()

05. Suspense File. Closed cases shall be maintained in a suspense file until formal action is completed by law enforcement and/or the courts in the following instances: ()

a. Cases referred by AP to law enforcement for criminal investigation and prosecution as determined necessary by the law enforcement agency. ()

b. Cases referred by AP for guardianship/conservatorship proceedings. ()

IDAPA 15 - IDAHO COMMISSION ON AGING
15.01.02 - RULES GOVERNING SENIOR HOMEMAKER PROGRAM

DOCKET NO. 15-0102-9702

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 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) 67-5003, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, September 3, page 47.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ken Wilkes, Supportive Services Manager at (208) 334-2219.

DATED this 30th day of October, 1997

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IDAPA 15
TITLE 01
Chapter 02

RULES GOVERNING SENIOR HOMEMAKER PROGRAM

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997, page 47.**

**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 15 - IDAHO COMMISSION ON AGING

15.01.03 - RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM

DOCKET NO. 15-0103-9701

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 July 1, 1998, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

The proposed rules have been amended in response to public comment and to make clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Section 010, Definitions, 010.04 Complainant was amended to add "substate" before the word "ombudsman" in two places. Section 010, Definitions, 010.10, "Long-term Care Facility. Skilled nursing facilities as defined in IDAPA 16.03.02.002.33, "Rules for Skilled Nursing & Intermediate Care Facilities in Idaho." Residential care facilities as defined in IDAPA 16.03.22, "Rules for Residential Care Facilities in Idaho." was added. Section 010, Definitions, 010.11 "Resident. Resident as defined in IDAPA 16.03.22, "Rules for Residential Care Facilities in Idaho." was added. Section 020, Administrative Requirements, 020.01 Procedures, was amended by deleting: "Each AAA shall provide the ombudsman with private office space conducive to holding confidential meetings. They shall also supply secretarial support, telephone, and supplies adequate for full time operation of the program." Section 020, Administrative Requirements, 020.02", Space. Each AAA shall provide space assuring privacy for Substate ombudsmen to hold confidential meetings." was added. Section 020, "Administrative Requirements" 020.02, Supervision. was amended to read ".03". and "State Ombudsman" was amended to read "Office". Section 020. "Administrative Requirements" 020.03 Forms, was changed to ".04" Forms. Section 020, "Administrative Requirements," 020.04. Conflict of Interest. was changed to "020.05 Conflict of Interest" and 020.04.c. was amended to add the word "substate". Section 020, "Administrative Requirements" 020.05 Travel Funds, was changed to ".06" Travel Funds and was amended to delete the words "adequate" and "all" and to amend "activity" to "activities". Section 020 "Administrative Requirements" 020.06 Activity Report. "Activity" was deleted and amended to 020.07 "Program" Report. "On the twentieth day following the end of the quarter, each AAA shall submit to ICOA a report documenting ombudsman program activity for the quarter just ended." was deleted. "All substate ombudsman programs shall comply with ICOA's reporting requirements." was added. Section 020, "Administrative Requirements" 020.07. Program Reviews, was changed to ".08" Program Reviews. Section 020 "Administrative Requirements" 020.08 Adult Protection and Ombudsman Coordination. was amended to ".09", Adult Protection and Ombudsman Coordination. Section 020, "Administrative Requirements" 020.09, State Agreements. was amended to ".10". State Agreements. Section 021, Staffing. 021.01. Minimum Qualifications. c. the word "two" was deleted and replaced with the word "one". Section 021. Staffing, 021.02. Fair Hiring. is amended to delete the words "fair" and "In filling the Substate ombudsman position, the AAA shall follow fair hiring practices in compliance with EEO and Affirmative Action guidelines." The following was added: "The Office shall be included in the process of interviewing and selecting applicants. The AAA shall make the final selection from the top three (3) applicants." Section 021, Staffing, 021.02.a. and b. will be deleted. Section 031, Designation of Authority of AAA, will be amended by deleting "State Ombudsman" and adding "Office". Section 031, Designation of Authority of AAA, 031.01. Designation of Authority. The word "substate" shall be added in two places. Section 031, Designation of Authority of AAA, 031.02. Grounds for Revocation or Termination. will be amended to add "substate". Section 032, Handling of Complaints, 032.01 "Non-Jurisdictional Complaints. Substate ombudsmen may respond to complaints made by or on behalf of under age sixty (60) long-term care residents where such action will: 021.01.a. Benefit other residents, or; 021.01.b. Provide the only viable avenue of assistance available to the complainant." will be added. Section 032, Handling of Complaints, 032.01. Conflict of Interest will be amended to ".02", Conflict of Interest. Section 032, Handling of Complaints, 032.02. Complaints. will be amended to ".03" Complaints. The word "substate" will be added. Section 032, Handling of Complaints, 032.03. Guardianship. will be amended to ".04". Guardianship. Section 032, Handling of Complaints, 032.04 Court Visitor, will be amended to ".05" Court Visitor. Section 032, Handling of Complaints, 032.05. Legal Documents. will be amended to ".06" Legal Documents. Section 033, Access, 033.01, Visitation will be amended by adding "substate" in two places.

Section 033, Access, 033.02 Investigation, will be amended by adding "substate" in two places. Section 033, Access, 033.03 Privacy, will be amended by adding "substate". Section 041, Written Consent, 041.04, Requirements for Informing Client or Resident, will be amended by adding "substate". Section 042, Confidentiality, will be amended by adding "substate". Section 042, Confidentiality, 042.03 Confidential Records, Subsection 042.03.d. will be amended by deleting "state ombudsman program" and adding "Office". Section 042, Confidentiality, 042.04, Request for Anonymity, will be amended by adding "substate" in three places. The word "shall" will be changed to "may".

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 48 through 54.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Cathy Hart, 334-4693.

DATED this 28th day of October, 1997.

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IDAPA 15
TITLE 01
Chapter 03

RULES GOVERNING OMBUDSMAN FOR THE ELDERLY PROGRAM

**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 97-9, September 3, 1997,
pages 48 through 54.**

**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. 15-0103-9701

002. WRITTEN INTERPRETATIONS.

This agency ~~has no~~ may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the Director. ()

003. ADMINISTRATIVE APPEALS.

The ICOA ~~and its AAAs~~ shall provide ~~recipients and provider organizations~~ AAAs with opportunity to appeal administrative decisions related to these rules in accordance with IDAPA 15.01.20, ~~Section 003, "Rules Governing Area Agency on Aging Operations."~~ 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

Any item not specifically defined below shall have the same meaning as those defined in IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program", and OAA, Section 711, and Idaho Code. ()

01. Access. Right to enter long-term care facility upon notification of person in charge. ()

02. Affected Parties. Long-term care facilities, state or county departments or agencies, or others against whom a complaint has been lodged. ()

03. Area III. Planning and service area made up of: Canyon, Valley, Boise, Gem, Elmore, Washington, Ada, Adams, Payette, and Owyhee counties. ()

04. Complainant. The substate ombudsman or any individual or organization who registers a complaint with the substate ombudsman. ()

05. Complaint Investigation/Resolution. Activities related to receiving, analyzing, researching, observing, interviewing, verifying or resolving a complaint through advocacy, facilitation, conciliation, mediation, negotiation, representation, referral, follow-up, or education. ()

06. Complaints. Allegations made by or on behalf of eligible clients, whether living in long-term care facilities or in the community. ()

07. Designation. Process by which the Office approves the location of substate ombudsman programs within AAAs and delegates to such programs the authority to carry out the purposes of the program. ()

08. Non-Jurisdictional Complaints. Complaints made by or on behalf of residents of long-term care facilities ~~who are under the age of sixty (60) or complaints concerning persons outside the statutory jurisdiction of an ombudsman.~~ ()

09. Office. Office of the State Ombudsman for the Elderly pursuant to Title 67, Chapter 50, Idaho Code, Sections 67-5009. ()

40. ~~Omission. The act of leaving out or neglecting to include:~~ Long-Term Care Facility. Skilled nursing facilities as defined in IDAPA 16.03.02, Subsection 002.33, "Rules for Skilled Nursing and Intermediate Care Facilities in Idaho", and residential care facilities as defined in IDAPA 16.03.22, "Rules for Residential Care Facilities in Idaho". ()

11. Resident. Resident as defined in IDAPA 16.03.22, "Rules for Residential Care Facilities in Idaho". ()

142. Substate Ombudsman. An individual associated with a designated local Ombudsman for the Elderly Program, who performs the duties of ombudsman. ()

(BREAK IN CONTINUITY OF SECTIONS)

020. ADMINISTRATIVE REQUIREMENTS.

Each AAA substate ombudsman program shall meet all administrative requirements as cited in OAA, Section 712 (a), and Title 67, Chapter 50, Idaho Code, Section 67-5009, unless granted a waiver by the ICOA. ()

01. Procedures. All substate ~~O~~mbudsmen shall follow procedures outlined in the ~~O~~mbudsman for the Elderly Procedures Manual. ~~Each AAA shall provide the ombudsman with private office space conducive to holding confidential meetings. They shall also supply secretarial support, telephone, and supplies adequate for full time operation of the program.~~ ()

~~02. Space. Each AAA shall provide space assuring privacy for substate ombudsmen to hold confidential meetings.~~ ()

~~03. Supervision. Substate ~~O~~mbudsmen shall operate under the direct supervision of the ~~State Ombudsman Office~~ for all complaint handling activities and are considered subdivisions of the Office.~~ ()

~~04. Forms. All substate ~~O~~mbudsmen shall utilize standardized forms provided by the Office.~~ ()

~~05. Conflict of Interest. AAAs shall ensure that the substate ~~O~~mbudsmen shall not be part of an organization which:~~ ()

a. Is responsible for licensing and certifying skilled nursing or residential care facilities under IDAPA 16.03.22, "Rules for Residential Care Facilities in Idaho"; ()

b. Provides skilled nursing or living care or is an association of such a provider; or ()

c. May impair the ability of the substate ombudsmen to investigate and resolve complaints objectively and independently. ()

~~06. Travel Funds. Each AAA shall provide adequate travel funds for the substate ombudsman program to carry out all activities related to complaint investigations.~~ ()

~~07. Activity Program Report. On the twentieth day following the end of the quarter, each AAA shall submit to ICOA a report documenting ombudsman program activity for the quarter just ended. All substate ombudsman programs shall comply with ICOA's reporting requirements.~~ ()

~~08. Program Reviews. Each AAA shall submit to a program review of substate ombudsman programs at reasonable intervals deemed necessary by the ICOA.~~ ()

~~09. Adult Protection and Ombudsman Coordination. Each AAA shall ensure that Adult Protection staff and the substate ombudsman maintain a written agreement establishing cooperative protocols in the investigation of complaints.~~ ()

~~10. State Agreements. All substate programs shall honor and carry out state-level agreements between the Office and other agencies of government.~~ ()

021. STAFFING.

Pursuant to the OAA, Section 712, in order to meet minimum requirements established for the position of substate ombudsman, each AAA shall seek applicants having the following qualifications. ()

- 01. Minimum qualifications: ()
 - a. Any person hired to fill the position of substate ombudsman on or after July 1, 1998, shall have: ()
 - b. A current Idaho social work license; ()
 - c. Minimum of ~~two (2)~~ one (1) year's experience working with the elderly; ()
 - d. Ability to effectively communicate verbally and in writing; ()
 - e. Knowledge of long-term care issues and resources; ()
 - f. Demonstrated ability to interpret and apply relevant local, state and federal laws, rules, regulations, and guidelines; ()
 - g. Demonstrated ability to work independently; ()
 - h. Demonstrated skill in interviewing techniques; and ()
 - i. Demonstrated ability to collect data, conduct interviews and to form conclusions. ()
- 02. ~~Fair Hiring. In filling the substate ombudsman position, the AAA shall follow fair hiring practices in compliance with EEO and Affirmative Action guidelines.~~ ()
 - ~~a-~~ a- The Office shall be included in the process of interviewing and selecting applicants for the substate ombudsman position. ()
 - ~~b-~~ The AAA shall make the final selection from the top three (3) applicants. ()

(BREAK IN CONTINUITY OF SECTIONS)

031. DESIGNATION OF AUTHORITY OF AAA.

The ~~State Ombudsman Office~~ shall designate an entity as a substate ombudsman. ()

01. Designation of Authority. Each AAA shall directly provide, through a contract agreement with the ICOA, a substate ~~Ombudsman~~ Program employing at least one (1) full-time substate ~~Ombudsman~~ whose function shall be to carry out the duties of the Ombudsman for the Elderly Program. AAAs I, II, IV, V and VI shall employ one (1) full-time substate Ombudsman; AAA III shall employ two (2) full-time substate Ombudsmen. An AAA may petition ICOA in writing for a waiver of this requirement. ()

02. Grounds for Revocation or Termination. In revoking a designated substate ombudsman program, the ICOA shall provide due process in accordance with applicable law and IDAPA 04.11.01, Section 000 et seq., "Idaho Rules of Administrative Procedure of the Attorney General". ()

- a. Following termination of a substate ombudsman program, the ICOA shall perform the duties of the substate program. ()
- b. Following termination of a substate ombudsman program, the ICOA shall withdraw funding for the substate program for the remainder of the funding period. ()
- c. An AAA's appeal of ICOA's termination of its substate ombudsman program shall be governed by

the Adjudicatory Rules of Practice and Procedures in Claims Relating to Contracts and Grants Funded under Title III, OAA. ()

032. HANDLING OF COMPLAINTS.

The Ombudsman for the Elderly Program has jurisdiction to accept, identify, investigate, and resolve complaints made by, or on behalf of, persons aged sixty (60) or older, living in the community or in long-term care facilities. The Office and the substate Ombudsmen shall ensure that persons aged sixty (60) or older have regular and timely access to services provided through the Office. The Ombudsman for the Elderly Program shall represent the interests of older persons before governmental agencies and shall seek to protect the health, safety, welfare and rights of older persons. ()

01. Non-Jurisdictional Complaints. Substate ombudsmen may respond to complaints made by or on behalf of under age sixty (60) long-term care residents where such action will: ()

a. Benefit other residents; or: ()

b. Provide the only viable avenue of assistance available to the complainant. ()

~~042.~~ Conflict of Interest. Substate Ombudsmen shall refer to the Office any complaint involving AAA staff or contractors. ()

~~023.~~ Complaints. Complaints concerning substate Ombudsmen, or relative to a substate Ombudsman's official duties, shall be directly referred to the ICOA. The ICOA, upon completing an investigation of such complaint(s), shall provide findings and recommendations to the AAA. ()

~~034.~~ Guardianship. The substate Ombudsmen shall not serve as an ex-officio or appointed member of any Community Board of Guardian, nor file an affidavit to the court for guardianship. ~~The substate Ombudsmen may only function as a court visitor in cases not involving any AAA employee.~~ ()

~~045.~~ Court Visitor. The substate Ombudsmen shall not act as court visitor in any guardianship/conservatorship proceeding concerning a client of the AAA or its' providers past or current client. ()

~~056.~~ Legal Documents. Substate Ombudsmen shall not, in their capacity as Ombudsmen, act as a notary or a witness of signatures for legal documents. ()

033. ACCESS.

The Office shall ensure that representatives of the Office have access to long-term care facilities and residents as well as appropriate access to medical and social records needed to investigate complaints. ()

01. Visitation. For visitation purposes, substate Ombudsmen shall have access to long-term care facilities during regular business hours. Visiting substate Ombudsmen shall: ()

a. Notify the person in charge upon entering the facility; ()

b. Be allowed to visit common areas of the facility and the rooms of residents if consent is given by the resident; ()

c. Seek out residents who consent to communicate privately; and ()

d. Communicate privately and without restriction with any resident who consents to the communication. ()

02. Investigation. Substate ombudsmen ~~Ombudsman~~ shall have access to facilities for the purpose of conducting investigations. ~~A~~ substate ombudsman conducting an investigation shall: ()

a. Notify the person in charge upon entering the facility; ()

- b. Be allowed to visit common areas of the facility and the rooms of residents if consent is given by the resident; ()
 - c. Seek out residents who consent to communicate privately; ()
 - d. Communicate privately and without restriction with any resident who consents to the communication; and ()
 - e. Inspect a resident's records under conditions set forth in the OAA, Section 712. ()
03. Privacy. Substate Ombudsmen shall have statutory authority to visit facilities and residents in facilities unescorted by facility personnel. See Section 67-5009, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

041. WRITTEN CONSENT.

The eOffice shall ensure appropriate access to review medical and social records of a resident. (See OAA, Section 712)
()

01. Resident Written Consent. Access to confidential records requires the written consent of the resident or legal representative. ()

02. Lack of Consent. If the client is unable to provide written or oral consent, or the legal representative is unavailable to provide consent, the substate Ombudsmen, with approval of the eOffice may inspect available client records, including medical records that are necessary for investigation of a complaint. ()

03. Consent Refused. If a substate Ombudsman has been refused access to records by legal representative but has reasonable cause to believe that the legal representative is not acting in the best interest of the client, the substate Ombudsman may, with the approval of the eOffice, inspect client records, including medical records. ()

04. Requirements for Informing Client or Resident. The substate ombudsman shall inform the complainant or resident regarding: ()

- a. Who will receive the information; ()
- b. What information will be disclosed; and ()
- c. The purpose for which the information is being disclosed. ()

042. CONFIDENTIALITY.

The Office shall be the custodian of all ~~statewide~~ substate ombudsman program records including, but not limited to, records and files containing personal information relative to complainants and residents of long-term care facilities. Requests for release of confidential information shall be submitted to the Office for approval or denial. Release of information shall be granted pursuant to OAA, Section 721(e). ()

01. Storage of Records. Client records shall be maintained in locked storage. Case records inactive for two (2) years or longer may be expunged. As required by law, release of these records shall be limited to persons authorized by the Office. ()

02. Performance Evaluations. For performance evaluation purposes, direct supervisors shall have access to client files maintained by substate Ombudsmen. ()

03. Confidential Records. Records to be safeguarded include, but are not limited to, long-term care and

- community-based complaint files including: ()
- a. Notes of interviews with complainants and clients or collateral contacts; ()
 - b. All copies of residents' medical records or diagnoses; ()
 - c. All records relevant to complaint investigations; ()
 - d. All memoranda generated by the ~~state ombudsman program~~ Office or by another agency office during the evaluation and resolution of a complaint; ()
 - e. All photographs, video tapes, tape recordings, etc. pertaining to complaint investigation; ()
 - f. All memoranda or letters generated during evaluation or resolution of a complaint; ()
 - g. Written documentation that parties affected by ombudsman opinions or recommendations have been notified; and ()
 - h. Information containing unverified complaints about long-term care facility owners, administrators, staff or other persons involved in the long-term care system or in other service programs. ()
04. Request for Anonymity. The ~~substate~~ ombudsman shall honor a resident's or complainant's request to remain anonymous. If investigation of a complaint requires that a resident's or complainant's name be divulged in order for the investigation to proceed, the ~~substate~~ ombudsman shall so inform the resident or complainant. If the resident or complainant insists on maintaining anonymity, the ~~substate~~ ombudsman ~~shall~~ may terminate the investigation. ()

043. DISCLOSURE.

The Office shall be the only entity having authority to authorize disclosure of substate ~~O~~mbudsmen files maintained by the program except when the ICOA is subpoenaed by the court to disclose pertinent records. ()

IDAPA 15 - IDAHO COMMISSION ON AGING
15.01.03 - RULES GOVERNING CARE COORDINATION FOR THE ELDERLY

DOCKET NO. 15-0103-9702

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 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) 67-5003, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9 September 3, page 55.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ken Wilkes, Supportive Services Manager at (208) 334-2219.

DATED this 30th day of October, 1997

Arlene D. Davidson, Director
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IDAPA 15
TITLE 01
Chapter 03

RULES GOVERNING CARE COORDINATION FOR THE ELDERLY

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997, page 55.**

**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 15 - IDAHO COMMISSION ON AGING

15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS

DOCKET NO. 15-0120-9701

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 July 1, 1998, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

The proposed rules have been amended in response to public comment and pursuant to Section 67-5227, Idaho Code. Section 003 was amended to further clarify the appeal process. Subsection 010.03, Blind Negotiation, was changed to a ten (10) percent difference between bids. Subsection 010.08, Performance-Based Agreement, was amended to read "statement of work" rather than "scope of work". Section 034.02.c. was changed to eliminate the word "plans" and to read: "...state or federal budgets". Section 042.03, Multi-Year Contracts, was changed from three (3) to four (4) years. Section 052, Area Plans, was changed from 1999 to 1998. Section 055, AAA Assessments of Providers, was changed to read "performance-based agreement" instead of "grant agreement". The last sentence in Subsection 056.01, Reporting Forms, was eliminated.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 56 through 63.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ken Wilkes, 334-2219.

DATED this 28th day of October, 1997.

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**IDAPA 15
TITLE 01
Chapter 20**

RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS

**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 97-9, September 3, 1997, pages 56 through 63.

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. 15-0120-9701

002. WRITTEN INTERPRETATIONS.

This agency ~~has no~~ may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the Director. ()

003. ADMINISTRATIVE APPEALS.

The ICOA and its AAAs shall provide service recipients and provider organizations with opportunity to appeal administrative decisions as follows: ()

01. AAA Designation. Any organization denied AAA designation through a competitive bidding process may appeal the decision in accordance with IDAPA 38.05.01, "Rules of the Division of Purchasing." ()

02. AAA Provider Contracts. Any organization denied an AAA contract through a competitive bidding process may appeal the decision in accordance with IDAPA 38.05.01, "Rules of the Division of Purchasing." ()

03. Recipients of Service. AAAs shall develop fair and impartial hearing procedures and shall provide an opportunity for a hearing according to ~~those procedures~~ IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General", for any individual who is denied or terminated from a service. ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

Any item not specifically defined below shall have the same meaning as those listed in IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program". ()

01. Bidder/Offerer/Proposer. An eligible organizational entity which submits to the AAA a proposal to provide specific service(s). ()

02. Bidders' Conference. A meeting conducted by the AAA to review the materials and information described in the RFP and to respond to questions from organizations that submit letters of intent and are interested in completing proposals on specific services. ()

03. Blind Negotiation. A process which takes place between the AAA and bidders after the local

evaluation committee has “scored” proposals and has determined that there is no significant difference, ~~five to ten~~ percent (5—10%), between bids. In this case, the AAA has the authority to select the proposal most advantageous to the AAA. ()

() 04. Blind Review. A proposal reviewing process which conceals the identify of the submitting organization. ()

05. Contract. A legally binding, written agreement between two (2) or more parties which outlines the terms and provisions to which both parties agree. ()

06. Evaluation Committee. A group of individuals selected to review proposing organizations’ completed proposals. ()

07. Letter of Intent. A written communication submitted by a potential bidder soliciting a request for proposal to provide a specific service. ()

08. Performance-Based Agreement. A contract or grant which expresses priorities and directions through a ~~scope~~ statement of work and which serves as the basis for program review/assessment through the year. ()

09. Request for Proposal (RFP). A document issued by the AAA, describing in detail the service to be contracted and how it is to be delivered. ()

10. Sole Source. Documentation that only one (1) eligible, available provider is interested in providing a specific service. ()

11. Statement of Work. The precise, definitive statement of what is expected of the provider. It shall answer such questions as what, how, when, where, and sometimes, why. ()

(BREAK IN CONTINUITY OF SECTIONS)

034. AAA BUDGETS.

01. Budget Forms. As part of their agreement with the ICOA, each AAA shall submit, on forms provided by the ICOA, a budget for agency operations. The AAA shall maintain sufficient detail in budget and expenditure records to ~~support responses to questions subsequently posed~~ respond to requests by the ICOA, ~~AAA, Administration on Aging, legislators, or members of the general public.~~ ()

02. Budget Revisions. Budget revisions shall be provided to the ICOA: ()

a. In order to process transfers in Title III programs; ()

b. To reflect holdbacks or midyear increases in state or federal spending; or ()

c. If there is a change in spending ~~plans~~ which exceeds ten percent (10%) or ten thousand dollars (\$10,000) within state ~~funds or Title III B services~~ or federal budgets. ()

(BREAK IN CONTINUITY OF SECTIONS)

042. CONTRACT MANAGEMENT REQUIREMENTS.

AAAs shall follow State Procurement Practices in awarding contracts, in accordance with IDAPA 38.05.01, “Rules of the Division of Purchasing”. ()

01. Competitive Bids. The AAAs shall accept competitive bids and shall develop contracts for provision of programs and services authorized and funded under the OAA of 1965, as amended, and Sections 67-5007 and 67-5008, Idaho Code. ()

02. Incorporation of Non-Profit Agency Contractors. All private non-profit agency contractors shall be incorporated as 501(c)(3) organizations. All contracts between the AAA and service providers shall contain sufficient program and financial information to ensure all activities comply with the Area Plan, the Act, federal regulations, and the rules of the ICOA. ()

03. Multi-Year Contracts. The AAA may award multi-year contracts not to exceed ~~three (3)~~ four (4) years. The AAA shall maintain documentation which justifies the reason(s) a multi-year contract was awarded. Justification for a multi-year contract shall include, but is not limited to, the following: ()

- a. More than one (1) year is necessary to complete the project or service; ()
- b. More than one (1) year is necessary to justify substantial cost savings; ()
- c. A multi-year contract award is necessary to allow the provider opportunity to increase and demonstrate capacity to operate a particular service; or ()
- d. Results of evaluation justify continuance of the contract with the existing provider. ()

04. Appeals. When there is competition for specific services, the bidder who does not receive the award has a right to appeal the decision. The AAA is required to include information in the RFP describing the appeal procedure available to non-selected organizations. ()

05. Noncompetitive Negotiation. Noncompetitive negotiation of contracts is allowable if the AAA follows IDAPA 38.05.01, "Rules of the Division of Purchasing". ()

06. Execution of Contracts. The AAA is required to demonstrate prudent execution of any agreements (contracts) between the agency and public or private (for-profit or non-profit) organizations receiving state or federal funds. ()

07. Standard Contracts. The AAA shall develop a standard contract format to be used in those instances where no special format is required by ICOA. The AAA shall develop procedures assuring that recipients of contracts are made fully aware of responsibilities and obligations under the approved Area Plan. Upon approval of contracts under the Area Plan, the AAA shall maintain file copies of contracts, criteria used to approve contracts, copies of the approved proposals, and any amendments. ()

08. Contract Management Activities. Contract management encompasses those AAA activities which shall take place after a contract has been executed. The AAA shall assure that each executed contract is performed, as written, by both the provider and the AAA. ()

09. Contract Management Staff. The AAA shall assign a staff person to assure that contracts are properly administered, monitored, and reviewed on a continuing basis. ()

10. Close Out or Termination. The close out or termination phase of a contract begins when one (1) or more of certain steps are initiated to bring the contract to an end and concludes with the final settlement of all contract matters. Close out may entail such steps as: ()

- a. Issuance of stop work orders, termination notices, etc.; ()
- b. Negotiation and adjudication of disputes and appeals; ()
- c. Negotiation and execution of releases; ()

- d. Final payment; and ()
- e. Other pertinent procedures. ()
- 11. Close Out or Termination Procedures. Close out or termination includes the following procedures: ()
 - a. Upon termination of contract, the AAA may require the provider to return any property specifically produced or acquired under the contract. The provisions of the "Treatment of Assets" clause contained in the contract document shall apply in such property transfer. ()
 - b. The AAA shall pay the provider the agreed upon price, if separately stated, for goods and services accepted by the AAA and for the amount agreed upon by the provider and the AAA for: ()
 - i. Completed work and services for which no separate price is stated; ()
 - ii. Partially completed work and services; ()
 - iii. Other property or services which are accepted by the AAA; and ()
 - iv. The protection and preservation of property, unless the termination is for default, in which case the AAA shall determine the extent of liability of the contracting agency. ()
 - c. Failure to agree with such determination shall be regarded as a dispute concerning a question of fact within the meaning of the "Disputes" clause of the written contract document. The AAA may withhold, from any amounts due the provider for such completed work or services, such sum as the AAA determines to be necessary to protect the AAA from loss resulting from outstanding liens or claims of former holders. ()
- 12. Non-Exclusivity of Rights and Remedies. The rights and remedies of the AAA provided in this part shall not be exclusive and are in addition to any other rights and remedies provided by law or under the terms of the contract document. ()
- 13. Provider Termination Responsibilities. After receipt of a notice of termination, the provider shall: ()
 - a. Stop work under the contract on the date and to the extent specified in the notice; ()
 - b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated; ()
 - c. Settle all outstanding liabilities and all claims arising out of such termination of order and contract. ()
 - d. Transfer title to the AAA and deliver in the manner, at the time, and to the extent, if any, directed by the AAA, any property which, if the contract had been completed, would have been required to be furnished to the AAA; ()
 - e. Complete performance of such part of the work as shall not have been terminated by the AAA; and ()
 - f. Take such action as may be necessary, or as the AAA may direct, for the protection and preservation of the property related to the contract, which is in the possession of the provider and in which the AAA has or may acquire an interest. ()

(BREAK IN CONTINUITY OF SECTIONS)

052. AREA PLANS.

Each AAA shall submit an area plan to the ICOA by close of business May 15, 1999~~8~~, and every four (4) years thereafter. The area plan shall be submitted in a uniform format prescribed by the ICOA to meet the requirements of the OAA and all pertinent federal regulations. ()

(BREAK IN CONTINUITY OF SECTIONS)

055. AAA ASSESSMENTS OF PROVIDERS.

AAAs shall conduct, at a minimum, bi-annual on-site assessments of each of their providers. Such assessments shall comply with the terms of the ~~grant~~ performance-based agreement with the ICOA. Such reviews shall be on file for ICOA review. ()

056. REPORTING REQUIREMENTS.

01. Reporting Forms. Each AAA shall submit to the ICOA such reports as are specified by the ICOA, in such format and on such schedule as is established by the ICOA, in fulfillment of all federal and state requirements. ~~The reports are due in the ICOA office twenty (20) calendar days after the end of the reporting period.~~ ()

02. Verification of Service Provider Reports. The AAAs shall conduct ongoing verification of service provider reports in accordance with the terms of the grant agreement with the ICOA. ()

03. Reporting Deficiencies. If reports are late, incorrect, or incomplete, the ICOA shall withhold funds from the AAA, in accordance with terms of the agreement between the ICOA and the AAA, until a correct report is received by the ICOA. ()

(BREAK IN CONTINUITY OF SECTIONS)

068. COLLECTION AND ACCOUNTABILITY OF PARTICIPANT CONTRIBUTIONS.

01. Participant Contribution Confidentiality. All participants shall be given the opportunity to contribute to programs operated with Administration on Aging funds. The method of collection shall respect the privacy of the participant, and provide for confidentiality of the fact and amount of the contribution. ()

02. State Funds Cost Sharing. State-funded Adult Day Care, Chore, Homemaker, and Respite Services identified in IDAPA 15.01.01, Subsection 016.06, "Rules Governing Idaho Senior Services Program", shall be provided on a cost-sharing basis, with a sliding fee scale. ()

03. Payment for Service. Persons under the age of sixty (60), who are not spouses of eligible participants, shall pay the full cost of meals, as published by the meal provider. No eligible person shall be denied services because of inability to pay. ()

04. Used to Support Service. Service contributions shall be used to support the service from which they were generated. ()

05. Security For Cash Collections. The service provider collecting funds shall provide for security of cash collected by having two (2) people involved in the collection and counting process. ()

IDAPA 15 - IDAHO COMMISSION ON AGING
15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES
DOCKET NO. 15-0121-9701
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 July 1, 1998, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

The proposed rules have been amended in response to public comment and pursuant to Section 67-5227, Idaho Code. Section 003 was amended to further clarify the appeal process. Subsection 010.02.b. Definitions, was amended to add "makes the referral". Subsection 011.02.a. and b. were eliminated. Subsection 011.03 was amended to eliminate the requirement to participate in the Eighty/Twenty (80/20) Commodity program. Subsection 021.04, Reporting Requirements, was amended to eliminate the words "contractors and". Subsection 023.01, Transportation, was amended to require that continuing efforts are made to make transportation services available. Section 031.02, Legal Assistance, as amended to change three (3) percent to a "minimum percentage". Subsection 031.03.iii. was amended to eliminate the eight (8) hour requirement. Subsection 031.04 was amended to eliminate subsections 031.04.a. and b. Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, page 64 through 68.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ed Wimmer, 334-2218.

DATED this 28th day of October, 1997.

Arlene D. Davidson, Director
Idaho Commission on Aging
700 W. Jefferson, Room 108
PO Box 83720
Boise, Idaho 83720-0007
Telephone: (208) 334-3833 Fax: (208) 334-3033

IDAPA 15
TITLE 01
Chapter 21

RULES GOVERNING OLDER AMERICANS ACT SERVICES

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

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

**The complete original text was published in the
Idaho Administrative Bulletin, Volume 97-9, September 3, 1997,
pages 64 through 68.**

**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. 15-0121-9701

002. WRITTEN INTERPRETATIONS.

This agency ~~has no~~ may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the Director. ()

003. ADMINISTRATIVE APPEALS.

The ICOA ~~and its AAAs~~ shall provide ~~recipients and provider organizations~~ AAAs with opportunity to appeal administrative decisions related to these rules in accordance with IDAPA ~~15.01.20, Section 003, "Rules Governing Area Agency on Aging Operations."~~ 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

Any item not specifically defined below shall have the same meaning as those defined in Idaho Code or IDAPA 15.01.01, "Rules Governing Idaho Senior Services Programs." ()

01. Access services. Transportation, Outreach, Information and Assistance and Case Management. ()
02. I&A. Information and Assistance Services initiated by an older person or their representative that: ()
 - a. Provides current information about services available within the community, including information

about assistive technology; ()

b. Assesses the problem(s), determines the appropriate available service(s), and makes the referral; ()

c. To the maximum extent practicable, by establishing adequate follow-up procedures, ensures that the client receives the needed service(s) and is made aware of other available services. ()

03. Legal Assistance. Advice, counseling, or representation by an attorney or by a paralegal under the supervision of an attorney. ()

04. Meal Site. A facility or location where eligible persons (and spouses) assemble for a meal, either site prepared or catered. ()

05. Outreach Service. A service which actively seeks out older persons, identifies their service needs, and provides them with information and assistance to link them with appropriate services. ()

06. Rural. Communities having a population of fewer than twenty thousand (20,000) persons. ()

07. USDA Eighty/Twenty (80/20) Commodity Program. Federal program in which the participating AAA agrees to accept a minimum of twenty percent (20%) of its total entitlement in commodities with the balance of eighty percent (80%) being paid in cash at the current USDA reimbursement rate. ()

011. NUTRITION SERVICES.

01. Applicability of Federal Regulations. The ICOA incorporates, by reference, all federal and state statutes and requirements governing the administration, operation and management of the congregate and home-delivered meal programs. ()

~~02. Minimum Requirements. The minimum requirements for nutrition services are as follows: ()~~

~~a. Meal sites in operation in rural areas prior to July 1, 1998, shall, by July 1, 2002, increase the number of meal days to a minimum of three (3) meal days per week. ()~~

~~b. Any meal site not meeting all requirements shall request a waiver from the ICOA; ICOA may or may not grant the requested waiver. ()~~

~~ea. Client's eligibility to receive home-delivered meals shall be based upon the degree to which ADLs/IADLs limit ability to independently prepare meals. ()~~

~~eb. The AAA shall ensure providers comply with all state and local fire, health, sanitation, safety, building, and zoning laws, ordinances, or codes; ()~~

~~ec. Have a valid permit to operate a food service establishment: ()~~

~~i. Are in compliance with the Federal Occupational Safety and Health Administration (O.S.H.A.) requirements; ()~~

~~ii. Pass the Food Safety and Sanitation course in compliance with IDAPA 16.02.19, Subsection 400.02, "Rules Governing Food Safety and Sanitation Standards for Food Establishments (UNICODE)"; and ()~~

~~fiii. Comply with the provisions of the Americans with Disabilities Act (PL 101-336). ()~~

032. USDA Eighty/Twenty (80/20) Commodity Program Participation Requirements. All AAA nutrition service providers shall participate in the USDA Eighty/Twenty (80/20) Commodity program. ()

(BREAK IN CONTINUITY OF SECTIONS)

021. INFORMATION AND ASSISTANCE.

01. Information Regarding Opportunities. Each AAA shall, in accordance with Section 306, OAA, directly provide area-wide toll-free I&A telephone service. ()

02. Client Screening. I&A shall provide client screening in coordination with Care Coordination, Adult Protection, and Ombudsman services. ()

03. Screening. Each I&A program shall utilize the UAI to screen potential clients. ()

04. Reporting Requirements. I&A ~~contractors and~~ service providers shall maintain records as required by the ICOA, and shall report to the ICOA the number of persons who use the service. Such records shall include information about the purpose and date of incoming calls, referrals of callers to other service providers, and any follow-up information regarding the outcome of referrals. ()

(BREAK IN CONTINUITY OF SECTIONS)

023. TRANSPORTATION.

01. Available Services. Each AAA, in accordance with Section 306, OAA, shall assure that continuing efforts are made to make transportation services ~~are~~ available to older individuals residing within the geographical boundaries of the PSA. ()

02. Transportation to Meal Sites. Where appropriate, the AAA shall assure transportation to congregate meal sites is available. ()

IDAPA 15 - IDAHO COMMISSION ON AGING

15.01.30 - RULES GOVERNING SENIOR COMMUNITY SERVICES EMPLOYMENT PROGRAM

DOCKET NO. 15-0130-9701

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

The proposed rules have been amended to make clerical corrections and pursuant to Section 67-5227, Idaho Code. Section 003 was amended to further clarify the appeal process.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, page 69 through 71.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Melinda Adams, 334-2289.

DATED this 28th day of October, 1997.

Arlene D. Davidson, Director
Idaho Commission on Aging
700 W. State, Room 108
PO Box 83720
Boise, Idaho 83720-0007
Telephone: (208) 334-3833 Fax: (209) 334-3033

**IDAPA 15
TITLE 01
Chapter 30**

RULES GOVERNING SENIOR COMMUNITY SERVICES EMPLOYMENT PROGRAM

**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 97-9, September 3, 1997,
pages 69 through 71.**

**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. 15-0130-9701

002. WRITTEN INTERPRETATIONS.

This agency ~~has no~~ may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the Director. ()

003. ADMINISTRATIVE APPEALS.

The ICOA ~~and its AAAs~~ shall provide ~~recipients and provider organizations~~ AAAs with opportunity to appeal administrative decisions related to these rules in accordance with ~~IDAPA 15.01.20, Section 003, "Rules Governing Area Agency on Aging Operations."~~ 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ()

(BREAK IN CONTINUITY OF SECTIONS)

012. COORDINATION.

01. Coordination Among JTPA Older Worker Programs, SCSEP, and Workforce Development Initiatives. Each subgrantee must demonstrate the coordination of ICOA administered SCSEP services with five percent (5%) JTPA Older Worker Program services with and workforce development initiatives ~~and ICOA administered SCSEP services.~~ ()

02. Coordination Between JTPA Older Worker and SCSEP Service Providers. ~~Whenever~~ If the Area Agency on Aging (AAA) does not operate the JTPA Older Worker Program or the SCSEP in its PSA, the AAA must enter into a formal coordination agreement with the local service provider. ()

IDAPA 15 - IDAHO COMMISSION ON AGING
15.01.31 - RULES GOVERNING OLDER WORKER JOB TRAINING
PARTNERSHIP ACT (JTPA) PROGRAM

DOCKET NO. 15-0131-9701

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1998, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

The proposed rules have been amended to make clerical corrections and pursuant to Section 67-5227, Idaho Code. Section 003 was amended to further clarify the appeal process.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, pages 72 and 73.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Melinda Adams, 334-2289.

DATED this 28th day of October, 1997.

Arlene, D. Davidson, Director
700 W. Jefferson, Room 108
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Telephone: (208) 334-3833 Fax: (208) 334-3033

IDAPA 15
TITLE 01
Chapter 31

RULES GOVERNING OLDER WORKER JOB TRAINING
PARTNERSHIPACT (JTPA) PROGRAM

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 97-9, September 3, 1997,
pages 72 and 73.

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. 15-0131-9701

002. WRITTEN INTERPRETATIONS.

This agency ~~has no~~ may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the Director. ()

003. ADMINISTRATIVE APPEALS.

The ICOA ~~and its AAAs~~ shall provide ~~recipients and provider organizations~~ subgrantees with opportunity to appeal administrative decisions in accordance with ~~IDAPA 15.01.20, Section 003, "Rules Governing Area Agency on Aging Operations." Addendum to Contract, General Provisions and Assurances Governing the Job Training Partnership Act, Section 115, "Appeals Procedures."~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

012. COORDINATION.

01. Coordination Among JTPA, Workforce Development Initiatives, and ICOA Administered SCSEP Programs. Each subgrantee must demonstrate the coordination of five percent (5%) JTPA Older Worker Program services with workforce development initiatives and ICOA administered SCSEP services, IDAPA 15.01.30, "Rules Governing Senior Community Services Employment Program." ()

02. Coordination Between JTPA and SCSEP Service Providers. ~~Whenever~~ If the Area Agency on Aging (AAA) does not operate the JTPA Older Worker Program or the SCSEP in its PSA, the AAA must enter into a formal coordination agreement with the local service provider. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 16-0102-9704

NOTICE OF NEGOTIATED RULE-MAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 04.11.01.810 to 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation in an informal, negotiated rulemaking process prior to the initiation of formal rulemaking procedures by the agency. The negotiated rulemaking action is authorized by Idaho Code Section 39-105. The formal rulemaking action is authorized by Idaho Code Sections 39-105, 39-107, and 39-3601 et seq. and is being conducted to meet the requirements of the Federal Water Pollution Control Act (Clean Water Act).

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

Negotiated rulemaking is needed to develop new beneficial use categories and criteria and to designate as many new waters as possible based on appropriate data as directed by Idaho Code Section 39-3601 et seq. Additionally, the Department of Health and Welfare (Department) plans to remove those sections of the surface water rule which contain outdated ground water quality standards and address other nomenclature changes. The rule will have a statewide affect on water bodies.

The text of the rule will be developed by the Department in conjunction with an advisory committee made up of persons having interests in the development of this rule. The goal of the negotiated rulemaking process will be to develop by consensus the text of a recommended rule. If a consensus is reached, a draft of the rule, incorporating the consensus and any other appropriate information, recommendations, or materials, will be transmitted to the Department for consideration and use in the formal rulemaking process. If a consensus is unable to be achieved on particular issues, the negotiated rulemaking process may result in a report specifying those areas on which consensus was and was not reached, together with arguments for and against positions advocated by various participants. At the conclusion of the negotiated rulemaking process, the Department intends to commence formal rulemaking with the publication of a proposed rule, using and taking into consideration the results of the negotiated rulemaking process. The formal rulemaking process shall be a part of the state's 1998-2000 triennial review of the water quality standards. The final rule is expected to be in place and effective upon the conclusion of the 1999 session of the Idaho Legislature.

A meeting of the advisory committee is scheduled for January 6, 1998 from 8 a.m. to 5 p.m. in Conference Room D of the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho.

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

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposal to initiate negotiated rulemaking. All written comments must be received by the undersigned on or before December 24, 1997.

DATED this 3rd day of December, 1997.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208) 373-0481

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-9704

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 39-106(I), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the September 3, 1997, Administrative Bulletin, Volume 97-9, pages 96 through 112.

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

DATED this 3rd day of December 1997.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 04

RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997,
pages 96 through 112.**

**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
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-9706
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202 (b) and 39-106 (l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 17, 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: Idaho's Food Stamp employment and training program currently serves only four counties: Ada, Bannock, Canyon and Kootenai. Idaho will be expanding its employment and training program to serve all forty-four counties to better serve the able-bodied adult population in Idaho. Able-bodied adults in all counties will have the opportunity to participate in a workfare program. Participation in a workfare program meets the able-bodied adult work requirement. A participant in work fair participates in work experience activities at a work site. The participants are engaged at the work site for a number of hours not to exceed the amount of their household's Food Stamp allotment divided by the Federal minimum wage. The rules for Idaho's Food Stamp employment and training program will be vacated in the existing chapter and incorporated into the rules governing the Food Stamp Program.

The exemptions for JSAP have also been modified. TAFI participants will now be mandatory participants in JSAP. This change will enable the Department to use the TAFI participant's Food Stamp allotment in determining the number of hours the participant must participate in work opportunity activities.

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 and to confer a benefit.

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

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before December 24, 1997.

DATED this 3rd day of December, 1997.

Sherri Kovach
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. 16-0304-9706

224. HEAD OF HOUSEHOLD FOR ~~WORK PROGRAMS~~ JSAP.

In households with only adult members, the head of household for ~~work programs~~ JSAP is the principal wage earner. In households with children, the household may designate any adult household member with children as the head of the household, as long as all adult members agree to the selection. If all adult household members do not agree to the selection or decline to select an adult parent as head of household, the Department will designate the principal wage earner as the head of the household or permit the household to make another selection. The principal wage earner can be a household member excluded from the Food Stamp program. The principal wage earner conditions and limits are described below: ~~(6-1-94)(1-1-98)T~~

01. Household Member With Most Earned Income. The principal wage earner is the household member with the most earned income in the two (2) months before the month of ~~work programs~~ JSAP violation. ~~(6-1-94)(1-1-98)T~~

02. Person Designated by Household. The principal wage earner is designated by the household, when there is no principal source of earned income in the two (2) months before the month of ~~work programs~~ JSAP violation. ~~(6-1-94)(1-1-98)T~~

03. Parent as Principal Wage Earner. The principal wage earner is never a person of any age, living with a parent or person acting as a parent, if the parent is: ~~(6-1-94)~~

- a. Registered for work; ~~or Exempt from work registration based on participation in JOBS.~~ ~~(6-1-94)(1-1-98)T~~
- b. Getting unemployment compensation benefits; ~~or~~ ~~(6-1-94)(1-1-98)T~~
- c. Working a minimum of thirty (30) hours per week; ~~or~~ ~~(6-1-94)(1-1-98)T~~
- d. Receiving weekly earnings equal to Federal minimum wage multiplied by thirty (30) hours. ~~(6-1-94)(1-1-98)T~~

225. DESIGNATING NEW PRINCIPAL WAGE EARNER.

A person meeting the requirements in Section 224 can be designated the new principal wage earner. The designation must not be changed if the principal wage earner has a period of ineligibility for violation of ~~work programs~~ JSAP requirements. The principal wage earner can be changed after the sanction period ends. ~~(6-1-94)(1-1-98)T~~

226. JOB SEARCH ASSISTANCE PROGRAM (JSAP).

The JSAP program is designed to help Food Stamp recipients become self-sufficient. ~~Persons living in Ada, Bannock, Canyon, and Kootenai counties are required to participate in the JSAP program.~~ ~~(6-1-94)(1-1-98)T~~

01. JSAP ~~Registration Status~~. All household members ~~living in JSAP counties~~, unless exempt, must ~~register for participate in~~ JSAP. Household members who are on strike must ~~register for participate in~~ JSAP. Members who are not migrants in the job stream must ~~register for participate in~~ JSAP. ~~Registration must be done before certification, recertification, or when a client's JSAP status changes from exempt to mandatory. Determine the JSAP status of a participant at certification, recertification, and when household changes occur.~~ ~~(6-1-94)(1-1-98)T~~

02. JSAP Information. Explain, both in writing and orally, the JSAP requirement, rights, responsibilities, and the result of failure to comply. ~~JSAP information is listed below:~~ ~~(6-1-94)(1-1-98)T~~

- a. ~~JSAP sets up employment and training activities. Inform registrants JSAP will set up employment and training activities at their initial JSAP interview.~~ ~~(6-1-94)~~
- b. ~~Clients must cooperate with JSAP. Inform registrants of the requirement to cooperate with JSAP.~~ ~~(6-1-94)~~

- e. ~~Household disqualified for failure to cooperate. Inform registrants of the penalties imposed when the head of household fails to comply with JSAP.~~ (9-22-96)T
- d. ~~Member disqualified for failure to cooperate. Inform registrants of the penalties imposed when a member who is not the head of household fails to comply with JSAP.~~ (9-22-96)T
- e. ~~Not appearing for interview is failure to cooperate. Inform registrants failure to comply includes not appearing, without good cause, for either a first or second JSAP interview.~~ (6-1-94)
- f. ~~JSAP will notify household of JSAP appointments. Inform registrants JSAP will notify households of interview appointments.~~ (6-1-94)
- g. ~~JSAP will notify household of employment and training. Inform registrants JSAP will notify households of their employment and training activities and requirements.~~ (6-1-94)
- h. ~~Right to appeal. Inform registrants they have the right to request a fair hearing.~~ (6-1-94)
- 03. ~~Examiners Must Report Changes to JSAP. Report changes to JSAP. Send a report of registration changes on the day the Examiner learns of a change listed below:~~ (6-1-94)
 - a. ~~Client becomes exempt. A client becomes exempt from registration after registering with JSAP.~~ (6-1-94)
 - b. ~~Client terminated. A client is terminated from participation during the certification period.~~ (6-1-94)
 - e. ~~Client moves from county. A client moves from the county.~~ (6-1-94)
 - d. ~~Client moves within county. A client changes his address within the same JSAP jurisdiction.~~ (6-1-94)

227. EXEMPTIONS FROM JSAP FOR HOUSEHOLD MEMBERS NOT PARTICIPATING IN TAFI.
Exemptions from JSAP for Household members listed below are exempt from JSAP registration and participation not participating in the TAFI program are listed in Subsections 227.01 through 227.12. (6-1-94)(1-1-98)T

- 01. ~~Parents and Caretakers of Child Under Six (6) Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6). If the child becomes six (6) during the certification period, the parent or caretaker must register at the next scheduled recertification, unless exempt for another reason.~~ (6-1-94)
- 02. ~~Parents and Caretakers of An Incapacitated Person. A parent or caretaker responsible for the care of a person incapacitated due to illness or disability.~~ (6-1-94)
- 03. ~~Incapacitated Person. A person physically or mentally unfit for employment. If a disability is claimed which is not evident, proof to support the disability can be required. Proof includes, but is not limited to, receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist.~~ (6-1-94)
- 04. ~~Persons Enrolled Half Time. Persons enrolled at least half-time in any recognized school, training programs or institutes of higher education. To be exempt from ~~work registration~~ JSAP, students enrolled at least half-time in an institution of higher education must meet the FCS student definition.~~ (7-1-97)T(1-1-98)T
- 05. ~~SSI Applicant. A person applying for SSI may have registration waived until determined SSI eligible and exempt from JSAP. A person applying for SSI may have registration waived until determined SSI ineligible and must register for JSAP.~~ (6-1-94)
- 06. ~~Employed Person. An employed person is working at least thirty (30) hours per week, or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. An employed person is also a migrant or~~

seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (6-1-94)

07. Self-Employed Person. A person is self-employed if he is working a minimum of thirty (30) hours per week or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. (6-1-94)

08. Addicts or Alcoholics. Regular participants in a drug or alcoholic treatment and rehabilitation program are exempt from JSAP. (6-1-94)

09. Unemployment Insurance (UI) Applicant/Recipient. A person getting UI is exempt from JSAP. A person applying for, but not getting UI, if required to register for work with the DOE as part of the UI application process is exempt from JSAP. (6-1-94)

~~10. TAFI Participants. TAFI participants complying with the program's work requirements are exempt. The exemption ends if the participant fails to comply with the TAFI work requirements. (7-1-97)T~~

140. Children Under Sixteen (16) Years of Age. Persons younger than sixteen (16) are exempt from JSAP. If a child turns sixteen (16) within a certification period, he must register at recertification, unless exempt for another reason. (6-1-94)

~~121. Sixteen (16) or Seventeen (17) Year Old. A household member age sixteen (16) or seventeen (17) is exempt if the person is: Not the head of the household or attending school at least half-time or enrolled in an employment and training program at least half-time. (6-1-94)~~

~~132. Age Sixty (60) or Older. A person sixty (60) or older is exempt from JSAP. (6-1-94)~~

228. EXEMPTIONS FROM JSAP FOR HOUSEHOLD MEMBERS PARTICIPATING IN TAFI.

Exemptions from JSAP for household members participating in the TAFI program are listed in Subsections 228.01 through 228.03. (1-1-98)T

01. Reasonable Distance. Appropriate child care is not available within a reasonable distance from the participant's home or work site. (1-1-98)T

02. Relative Child Care. Informal child care by relatives or others is not available or is unsuitable. (1-1-98)T

03. Child Care Not Available. Appropriate and affordable child care is not available. (1-1-98)T

2289. CLIENTS PARTICIPANTS LOSING JSAP EXEMPT STATUS.

If an exempt household member becomes mandatory, the Department must notify the client participant of the registration and the JSAP requirements. The household member must be registered for JSAP. Mandatory JSAP participants must sign a JSAP agreement. (6-1-94)(1-1-98)T

229. FAILURE TO COMPLY WITH JSAP.

Failure to comply with JSAP includes failure to participate, refusing to provide information to determine employability, refusing a job, reducing earnings, or quitting a JSAP-referred job without good cause. JSAP staff will decide if a client did not comply. JSAP staff will notify the Department the client failed to comply, without good cause. Impose the sanctions for failure to comply with JSAP. (9-22-96)T

230. JSAP PROGRAM COMPONENTS.

Before placement in a JSAP component, participants must negotiate and sign a JSAP agreement. Subsections 230.01 through 230.03 list JSAP program components. (1-1-98)T

01. Job Search. Participants must register for work with the Department of Labor, and actively search for employment. During the first two (2) months after Food Stamp approval, participants must complete at least twelve (12) hours of job search each month. After the first two (2) months, job search activity will be negotiated with the participant. Job search activities include job readiness activities. (1-1-98)T

02. Work Opportunities. Participants are assigned to Work Opportunities placements to learn practical expectations and demands of employment, and improve technical skills. Participants are not employed by the placement site. Participants are required to engage in Work Opportunities, up to the number of hours determined by dividing the monthly Food Stamp allotment by the Federal minimum wage. Placement at a particular site must not exceed thirteen (13) weeks. (1-1-98)T

03. Skills Training. Participants are assigned to skills training to improve basic skills and employability. Skills training includes, but is not limited to, the following: (1-1-98)T

231. ASSIGNMENT TO COMPONENT.

The Department must notify JSAP participants of assigned components, assigned activities and time frames for completion of activities. The notice must include a description of any supportive services provided. (1-1-98)T

232. SUPPORTIVE SERVICES.

Supportive services, with a cost to the JSAP participant, may be paid by the Department. The maximum monthly supportive service payment is twenty-five dollars (\$25). (1-1-98)T

233. SUPPORTIVE SERVICES OVERPAYMENTS.

The Department must attempt recovery of supportive services overpayments, if a participant commits fraud or provides inaccurate information. Recovery is made by withholding the overpayment amount from future payments. (1-1-98)T

234. PARTICIPATION DEFERRAL.

A mandatory participant may get a deferral from JSAP requirements when good cause exists. (1-1-98)T

235. FAILURE TO COMPLY.

Failure to comply includes failure, without good cause, to sign a JSAP agreement, to meet participation requirements, to conduct a job search, or participate in workfare for the required number of hours. (1-1-98)T

236. GOOD CAUSE.

Good cause is a valid reason for not meeting JSAP participation requirements. (1-1-98)T

2307. SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.

When the Department is told a JSAP ~~client~~ participant failed or refused to comply, without good cause, sanctions listed below in Subsections 237.01 through 237.03 must be applied. In determining which sanction to impose, sanctions for voluntary quit or reduction in work hours must be considered. (9-22-96)T(1-1-98)T

01. Head of Household. If the noncomplying member is the head of the household, the entire household will be ineligible. The household's period of ineligibility shall not exceed six (6) months. The household is not eligible for the greater of the sanction periods listed below or until the sanctioned member complies ~~or becomes exempt from JSAP.~~ End the household's sanction, before the penalty period ends, if the sanctioned member becomes exempt from JSAP. (9-22-96)T(1-1-98)T

a. First failure to comply. The greater of the date the member ~~excess~~ corrects the sanction, ~~becomes exempt~~ or one (1) month. (9-22-96)T(1-1-98)T

b. Second failure to comply. The greater of the date the member ~~excess~~ corrects the sanction ~~becomes exempt~~ or three (3) months. (9-22-96)T(1-1-98)T

c. Third failure to comply and subsequent failures. - Six (6) months sanction for the household. The sanctioned member remains sanctioned until he complies ~~or becomes exempt.~~ (9-22-96)T(1-1-98)T

02. Not Head of Household. If the noncomplying member is not the head of the household, the person is excluded as a household member. The person cannot get Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person is not eligible for the greater of the sanction periods listed below, ~~or until he complies,~~ or becomes exempt from JSAP. End the household's sanction, before the penalty period ends, if the sanctioned member becomes exempt from JSAP. (9-22-96)T(1-1-98)T

- a. First failure to comply. The greater of the date the person ~~enures~~ corrects the sanction or one (1) month. ~~(9-22-96)F(1-1-98)T~~
- b. Second failure to comply. The greater of the date the person ~~enures~~ corrects the sanction or three (3) months. ~~(9-22-96)F(1-1-98)T~~
- c. Third failure to comply and subsequent failures. The greater of the date the person ~~enures~~ corrects the sanction or six (6) months. ~~(9-22-96)F(1-1-98)T~~

03. Joins Another Household. If a sanctioned household member leaves the original household and joins another Food Stamp household, sanctions apply: As head of household, the entire new household is ineligible for the remainder of the sanction period or until other conditions for ending JSAP sanctions are met. If not the head of household, the person is treated as an excluded household member. The person cannot get Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person is excluded for the rest of the sanction period, or until conditions for ending JSAP sanctions are met. (6-1-94)

2348. NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.

Send the household a Notice of Decision when a ~~client participant~~ has failed to comply with JSAP requirements. The Notice of Decision must contain data listed ~~below in Subsections 238.01 through 238.05. The notice must be mailed within five (5) days of receiving the sanction request from JSAP.~~ If Notice of Decision is sent, and the Department proves the member complied by the effective date of the action, the action to end Food Stamps does not take effect. ~~(4-1-97)F(1-1-98)T~~

01. Sanction Period. The Notice of Decision must include the proposed sanction period. (6-1-94)
02. Reason for Sanction. The Notice of Decision must include the reason for sanction. (6-1-94)
03. Ability to Reapply after Sanction. If the head of household is ineligible the Notice of Decision must say the household may reapply. ~~The household cannot be eligible until the sanction period ends and the head of household complies. If the ineligible member is not the head of the household, the member is added back when the sanction period ends and the member complies.~~ ~~(9-22-96)F(1-1-98)T~~
04. Actions to End Sanction. The Notice of Decision must include the actions the sanctioned person must take to end the sanction. (6-1-94)
05. Right to Appeal. The Notice of Decision must tell the household of it's right to a fair hearing. ~~The household may contest a decision of mandatory status, or a denial, reduction, or termination of benefits, due to failure to comply with JSAP.~~ ~~(6-1-94)(1-1-98)T~~

2329. RIGHT TO APPEAL SANCTION.

The ~~client participant~~ has the right to appeal the decision to sanction. The ~~household participant~~ may contest a decision of mandatory status or a denial, reduction, or termination of benefits, due to failure to comply with JSAP. Appeals are conducted under Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 350, "Rules Governing Contested Cases and Declaratory Rulings." The Department will notify JSAP of the fair hearing. ~~(6-1-94)(1-1-98)T~~

23340. JSAP SANCTION BEGINS.

The sanction period begins the first (1st) month after the Notice of Decision, unless a fair hearing is requested. (6-1-94)

2341. ENDING SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.

Households or household members sanctioned for not complying with JSAP are ineligible until a condition listed below is met. (6-1-94)

01. Fair Hearing Reversal. Sanction ends if a fair hearing reverses the sanction. (6-1-94)

02. Sanctioned Member Becomes Exempt. Sanction ends if the sanctioned member becomes exempt from JSAP. (9-22-96)T
03. Sanctioned Member Leaves Household. Sanction ends if the sanctioned member leaves the Household. (6-1-94)
04. New Head of Household. Sanction ends if a new eligible individual joins the household and is the new head of household. (6-1-94)
05. Six (6) Months Elapse for Sanctioned Household. The household's sanction ends if six (6) months elapse. The sanction for the individual member continues until he becomes exempt or complies. (9-22-96)T
06. Member Complies with JSAP. Sanction ends if the member, who refused to comply with a JSAP requirement, complies, ~~by completing or resuming the assignment~~ The member must complete corrective action and has served the minimum sanction period. This must be proved by JSAP staff. (9-22-96)T(1-1-98)T

242. CORRECTIVE ACTION.

A mandatory participant can requalify for Food Stamps after a sanction. The participant must contact the Department and request an opportunity to comply. The participant must show that failure to comply has ended. Before certifying failure to comply has ended, the Department may require the participant to attend an assigned activity for up to two (2) weeks, to show willingness to comply with JSAP. (1-1-98)T

~~2435.~~ -- ~~23645.~~ (RESERVED).

~~23746. TAFI OR UNEMPLOYMENT INSURANCE (UI) WORK REQUIREMENTS.~~

Household members, exempt from ~~work registration~~ JSAP due to UI or TAFI work requirements, must comply with UI or TAFI conditions. JSAP requirements must be comparable to UI or TAFI work requirements. (7-1-97)T(1-1-98)T

~~23847. COMPARE UI AND TAFI WORK REQUIREMENTS TO JSAP REQUIREMENTS.~~

Compare UI and TAFI work requirements to JSAP requirements. Assure UI or TAFI work requirements do not exceed JSAP requirements when a household member refuses or fails without good cause to comply with UI or TAFI work requirements. ~~Assure UI or TAFI work requirements do not exceed JSAP requirements when a household member loses or is denied TAFI due to failure to comply with UI or TAFI work requirements.~~ When the UI or TAFI work requirements exceed JSAP requirements, sanctions cannot be imposed. (7-1-97)T(1-1-98)T

~~23948. SANCTIONS FOR FAILURE TO COMPLY WITH TAFI WORK OR UI REQUIREMENTS.~~

When the Department finds a member failed or refused to comply, with UI or TAFI work requirements, without good cause, sanctions listed in Subsections ~~23948.01~~ through ~~23948.03~~ must be applied. (7-1-97)T(1-1-98)T

01. Head of Household. If the noncomplying member is the head of the household, the entire household will be ineligible. The household is not eligible until the conditions for ending TAFI work requirement or UI sanctions are met. (7-1-97)T(1-1-98)T

02. Not Head of Household. If the noncomplying member is not the head of the household, the person is excluded as a household member. The person cannot get Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. Exclusion continues until conditions for ending TAFI work requirement or UI sanctions are met. (7-1-97)T(1-1-98)T

03. Joins Another Household. If a sanctioned household member leaves the original household and joins another Food Stamp household, sanctions apply: As head of household, the entire new household is ineligible for the remainder of the sanction period or until other conditions for ending TAFI work requirement or UI sanctions are met. If not the head of household, the person is treated as an excluded household member. The person cannot get Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person is excluded for the rest of the sanction period, or until conditions for ending TAFI work requirement or UI sanctions are met. (7-1-97)T(1-1-98)T

2409. ENDING SANCTIONS FOR FAILURE TO COMPLY WITH ~~TAFI WORK OR~~ UI REQUIREMENTS.

Households or household members sanctioned for not complying with ~~TAFI work or~~ UI requirements are ineligible until one (1) of the conditions listed in Subsections 2409.01 through 2409.05 is met. ~~(7-1-97)F(1-1-98)T~~

01. Fair Hearing Reversal. Sanction ends if a fair hearing reverses the sanction. (6-1-94)
02. Sanctioned Member Becomes Exempt. Sanction ends if the sanctioned member becomes exempt from work registration JSAP. ~~(6-1-94)~~(1-1-98)T
03. Sanctioned Member Leaves Household. Sanction ends if the sanctioned member leaves the Household. (6-1-94)
04. Six (6) Months Elope for Sanctioned Household. The household's sanction ends if six (6) months elapse. (9-22-96)T
05. Member Complies with ~~TAFI work or~~ UI. Sanction ends if the member, who refused to comply with a ~~TAFI work or~~ UI requirement, complies. By completing or resuming The member must complete or resume the assignment and has served the minimum sanction period. This must be proved by ~~TAFI or~~ UI staff. ~~(7-1-97)F(1-1-98)T~~

24150. NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH ~~TAFI WORK OR~~ UI REQUIREMENTS.

Send the household a Notice of Decision when a ~~client participant~~ fails to comply with ~~TAFI work or~~ UI requirements. The notice must be sent within ten (10) working days of the date the Department finds the household did not comply, without good cause. ~~The notice must contain information listed below:~~ ~~(7-1-97)F(1-1-98)T~~

- ~~01. Sanction Period. The Notice of Decision must give the proposed sanction period. (6-1-94)~~
- ~~02. Reason for Sanction. The Notice of Decision must give the reason for sanction. (6-1-94)~~
- ~~03. Ability to Reapply after Sanction. The Notice of Decision must tell the household or disqualified member they may reapply when the sanction period ends. (6-1-94)~~
- ~~04. Actions to End Sanction. The Notice of Decision must give the actions the sanctioned person must take to end the sanction. (6-1-94)~~
- ~~05. Right to Appeal. The Notice of Decision must tell the household of it's right to a fair hearing. The household may contest a decision of mandatory status, or a denial, reduction, or termination of benefits, due to failure to comply with TAFI work or UI requirements. (7-1-97)F~~

24251 -- 24453. (RESERVED).

245. WORK REGISTRATION IN COUNTIES WITHOUT A JSAP PROGRAM.

All household members, living in counties not served by JSAP, must be registered for work before certification, recertification, and when their status changes to mandatory. This includes members on strike. This does not include migrants in the job stream. (6-1-94)

246. HOUSEHOLD MEMBERS EXEMPT FROM WORK REGISTRATION IN NON JSAP COUNTIES.

Household members listed below are exempt from work registration. (6-1-94)

01. Parents and Caretakers of Child Under Six (6) Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6). If the child becomes six (6) during the certification period, the parent or caretaker must register at the next scheduled recertification, unless exempt for another reason. (6-1-94)
02. Parents and Caretakers of An Incapacitated Person. A parent or caretaker responsible for the care of a person incapacitated due to illness or disability. (6-1-94)

~~03. Incapacitated Person. A person physically or mentally unfit for employment. If a disability is claimed which is not evident, proof to support the disability can be required. Proof includes, but is not limited to, receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist. (6-1-94)~~

~~04. Persons Enrolled Half Time. Persons enrolled at least half time in any recognized school, training programs or institutes of higher education. To be exempt from work registration, students enrolled at least half time in an institution of higher education must meet the FCS student definition. (7-1-97)T~~

~~05. SSI Applicant. A person applying for SSI may have work registration waived until determined SSI eligible and exempt. A person applying for SSI may have work registration waived until determined SSI ineligible and then must register. (6-1-94)~~

~~06. Employed Person. An employed person is working at least thirty (30) hours per week, or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. An employed person is also a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (6-1-94)~~

~~07. Self-Employed Person. A person is self-employed if he is working a minimum of thirty (30) hours per week or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. (6-1-94)~~

~~08. Addicts or Alcoholics. Regular participants in a drug or alcoholic treatment and rehabilitation program are exempt. (6-1-94)~~

~~09. Unemployment Insurance (UI) Applicant/Recipient. A person getting UI is exempt. A person applying for, but not getting UI, if required to register for work with the DOE as part of the UI application process. (6-1-94)~~

~~10. TAFI Participants. TAFI participants complying with the program's work requirements are exempt. The exemption ends if the participant fails to comply with the TAFI work requirements. (7-1-97)T~~

~~11. Children Under Sixteen (16) Years of Age. Persons younger than sixteen (16) are exempt. If a child turns sixteen (16) within a certification period, he must register at recertification, unless exempt for another reason. (6-1-94)~~

~~12. Sixteen (16) or Seventeen (17) Year Old. A household member age sixteen (16) or seventeen (17) is exempt if the person is not the head of the household. A household member age sixteen (16) or seventeen (17) is exempt if the person is attending school at least half time. A household member age sixteen (16) or seventeen (17) is exempt if the person is enrolled in an employment and training program at least half time. (6-1-94)~~

~~13. Age Sixty (60) or Older. A person sixty (60) or older is exempt. (6-1-94)~~

~~247. FAILURE TO REGISTER FOR WORK.~~

~~If a person refuses to register for work, the Department will determine if there is good cause. (6-1-94)~~

~~248. GOOD CAUSE AND FAILURE TO REGISTER FOR WORK.~~

~~Good cause for failure or refusal to register for work includes, but is not limited to, reasons listed below: (6-1-94)~~

~~01. Personal Difficulties. Personal difficulties include: Health problems. Structured drug and alcohol treatment. Jailed or necessary court appearances. Conflicts with proved and practiced religious and ethical beliefs. (6-1-94)~~

~~02. Family Emergency. Family emergencies include: Crisis in family health. Unexpected failure of arrangements for child care. Child legal or behavior problems. (6-1-94)~~

~~03. Inability to Reach Work Site. Environmental barriers include: Weather conditions preventing the person from reaching the work site. Unexpected loss of transportation. Housing or utility problems requiring~~

~~immediate attention.~~

~~(6-1-94)~~

~~04. Work Site Problems. Work site problems include: A temporary layoff from a regular, full-time job. The person must be able to return to the job within ninety (90) days. Up to ninety (90) days delayed start for a verified job hire for regular, full-time employment. Work site conditions not meeting legal or local standards of health and safety, hours, pay, or benefits. Alleged discrimination in the educational or training activity or on the job site.~~

~~(6-1-94)~~

~~249. SANCTIONS FOR FAILURE TO COMPLY WITH WORK REGISTRATION.~~

~~When the Department determines a failure to comply with work registration was without good cause, sanctions listed below must be applied. In determining which sanction to impose, previous sanctions for voluntary quit or reduction in work hours must be considered.~~

~~(9-22-96)†~~

~~01. Head of Household. If the member not complying is the head of the household, the entire household will be ineligible. The household's period of ineligibility shall not exceed six (6) months. The household is not eligible for the greater of the sanction periods listed below, or until the sanctioned member complies, or becomes exempt from work registration.~~

~~(9-22-96)†~~

~~a. First failure to comply. The greater of the date the member cures the sanction becomes exempt or one (1) month.~~

~~(9-22-96)†~~

~~b. Second failure to comply. The greater of the date the member cures the sanction becomes exempt or three (3) months.~~

~~(9-22-96)†~~

~~e. Third failure to comply and subsequent failures. Six (6) months for the household. The member remains sanctioned until he complies or becomes exempt.~~

~~(9-22-96)†~~

~~02. Not Head of Household. If the noncomplying member is not the head of the household, the person is an excluded household member. The person cannot get Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person is not eligible for the greater of the sanction periods listed below, or until he complies, or becomes exempt from work registration.~~

~~(9-22-96)†~~

~~a. First failure to comply. The greater of the date the person cures the sanction or one (1) month.~~

~~(9-22-96)†~~

~~b. Second failure to comply. The greater of the date the person cures the sanction or three (3) months.~~

~~(9-22-96)†~~

~~e. Third failure to comply and subsequent failures. The greater of the date the person cures the sanction or six (6) months.~~

~~(9-22-96)†~~

~~03. Joins Another Household. If a sanctioned household member leaves the original household and joins another food stamp household the sanctions below apply. As head of household, the entire new household is ineligible for the remainder of the sanction period or until conditions for ending JSAP sanctions are met. If not the head of household, the person is an excluded household member. The person cannot get Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person is excluded for the rest of the sanction period, or until conditions for ending sanctions are met.~~

~~(6-1-94)~~

~~250. NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH WORK REGISTRATION.~~

~~Send the household a Notice of Decision when a client fails to comply with work registration requirements. The notice must be mailed at least ten (10) days before the effective date. The notice must be sent within ten (10) working days of the date the Department finds the noncompliance was without good cause. The notice must contain information listed below:~~

~~(6-1-94)~~

~~01. Sanction Period. The Notice of Decision must include the proposed sanction period.~~

~~(6-1-94)~~

~~02. Reason for Sanction. The Notice of Decision must include the reason for sanction.~~

~~(6-1-94)~~

~~03. Ability to Reapply after Sanction. The Notice of Decision must disclose the household or disqualified member may reapply when the sanction period ends. (6-1-94)~~

~~04. Actions to End Sanction. The Notice of Decision must include the actions the sanctioned person must take to end the sanction. (6-1-94)~~

~~05. Right to Appeal. The Notice of Decision must tell the household of it's right to a fair hearing. The household may contest a decision of mandatory status, or a denial, reduction, or termination of benefits, due to failure to comply with work registration. (6-1-94)~~

~~251. WORK REGISTRATION SANCTION BEGINS.~~

~~The sanction period begins the first month after the Notice of Decision, unless a fair hearing is requested. (6-1-94)~~

~~252. ENDING WORK REGISTRATION SANCTION.~~

~~Households or household members sanctioned for not complying with work registration are ineligible until a condition listed below is met. (6-1-94)~~

~~01. Fair Hearing Reversal. Sanction ends if a fair hearing reverses the sanction. (6-1-94)~~

~~02. Sanctioned Member Becomes Exempt. Sanction ends if the sanctioned member becomes exempt from work registration. (9-22-96)T~~

~~03. Sanctioned Member Leaves Household. Sanction ends if the sanctioned member leaves the Household. (6-1-94)~~

~~04. New Head of Household. Sanction ends if a new eligible individual joins the household and is the new head of household. (6-1-94)~~

~~05. Six (6) Months Elapse. The household's sanction ends if six (6) months elapse. The sanction for the individual member continues until he becomes exempt or complies. (9-22-96)T~~

~~06. Member Complies with Work Registration. Sanction ends if the member who refused to comply with the work registration requirement, complies by registering and has served the minimum sanction period. (9-22-96)T~~

~~253. WORK REGISTRATION AND INCOME REPORTING.~~

~~Households must report the acceptance of employment or receipt of earnings by any member of the household within ten (10) calendar days. Job Service notice to the Department does not waive this household responsibility. (6-1-94)~~

254. ABAWD WORK REQUIREMENT.

To participate in the Food Stamp program, persons must meet one (1) of the conditions in Subsections 254.01 through 254.03. Persons not meeting one (1) of the conditions in Section 254 may not participate in the Food Stamp program as a member of any household for more than three (3) full months (consecutive or otherwise) in a thirty-six (36) month period. (12-1-96)T

01. Work for Twenty (20) Hours or More Per Week. The Pperson Mmust Wwork for Ttwenty (20) Hhours or Mmore Pper Wweek, Aaveraged Mmonthly. The person must be paid money for the work. (12-1-96)T(1-1-98)T

02. Participate in JSAP. The Pperson Mmust Pparticipate Iin and Ccomply Wwith the Rrequirements of the JSAP Pprogram. The person must participate in and comply with the requirements of the JSAP program (other than job search or job search training), the JTPA program or a program under section 236 of the Trade Act of 1974 for twenty (20) hours or more per week. (12-1-96)T(1-1-98)T

03. Participate in Work Opportunities. The Pperson Mmust Pparticipate Iin and Ccomply Wwith the Rrequirements of ~~The Idaho Work Experience Program (IWEP)~~ a Work Opportunities program. (12-1-96)T(1-1-98)T

255. REGAINING ELIGIBILITY.

Persons whose three (3) month eligibility has expired may regain eligibility for Food Stamps. During a calendar month the person must meet one (1) of the work requirements in Subsections 255.01 through 255.04. After the person regains eligibility, they must continue meeting the work requirement to get Food Stamps. (12-1-96)T

01. ~~Work Eighty (80) Hours.~~ The ~~person must~~ ~~work~~ ~~Eighty (80) or more~~ ~~Hours.~~ (12-1-96)T(1-1-98)T

02. ~~Participation in JSAP.~~ The person must participate in and comply with the requirements of the JSAP program (other than job search or job search training), the JTPA program or a program under section 236 of the Trade Act of 1974 for eighty (80) or more hours. (12-1-96)T(1-1-98)T

03. ~~The Person Must Participate In and Comply~~ Work Opportunities. The person must participate in and comply with the requirements of ~~the Idaho Work Experience Program (IWEP)~~ a Work Opportunities program. (12-1-96)T(1-1-98)T

04. Three (3) Additional Months Food Stamps After Regaining Eligibility. A person who met the work requirement but lost a job through no fault of their own may get Food Stamps for three (3) consecutive months. For applicants, the three (3) consecutive months begins the first full month of benefits. For participants, the three (3) consecutive months begins the month following the month the person no longer meets the work requirement. A person is eligible for the additional three (3) consecutive months only once in a thirty-six (36) month period. (12-1-96)T(1-1-98)T

256. EXEMPTIONS FROM THE ABAWD WORK REQUIREMENT.

Persons meeting a condition in Subsections 256.01 through 256.05 are exempt from the ABAWD work requirement. (12-1-96)T

01. Age. Persons under eighteen (18) and over fifty (50) years of age. (12-1-96)T

02. Disability. Persons medically certified as physically or mentally unfit for employment. Proof of the disability is required. (12-1-96)T

03. Parental Responsibility. Parents or step parents with children under eighteen (18) years old in the household. In the absence of a parent in the household, one adult household member exercising parental control over children under eighteen (18) years old in the household. (12-1-96)T

04. Pregnancy. Pregnant persons. (12-1-96)T

05. ~~JSAP or Work Registration Exempt.~~ Persons exempt from JSAP ~~or work registration~~ are also exempt from the ABAWD work requirement. (12-1-96)T(1-1-98)T

(BREAK IN CONTINUITY OF SECTIONS)

262. HEAD OF HOUSEHOLD FOR VOLUNTARY QUIT OR REDUCTION OF WORK HOURS.

In households with only adult members, the head of household for voluntary quit or reduction of work hours is the principal wage earner. In households with children, the household may designate any adult household member with children as the head of the household, as long as all adult members agree to the selection. If all adult household members do not agree to the selection or decline to select an adult parent as head of household, the Department will designate the principal wage earner as the head of the household or permit the household to make another selection. The principal wage earner can be a household member excluded from the Food Stamp program. The principal wage earner conditions and limits are described below: (9-22-96)T

01. Household Member With Most Earned Income. The principal wage earner is the household

member with the most earned income in the two (2) months before the month of voluntary quit. (6-1-94)

02. Person Designated by Household. The principal wage earner is designated by the household, when there is no principal source of earned income in the two (2) months before the month of voluntary quit. (6-1-94)

03. Parent as Principal Wage Earner. The principal wage earner is never a person of any age living with a parent or person acting as a parent, if the parent is: ~~(6-1-94)(1-1-98)T~~

a. ~~r~~Registered for work; ~~or; exempt from work registration based on participation in JOBS;~~ ~~(6-1-94)(1-1-98)T~~

b. ~~g~~Getting unemployment compensation benefits; ~~or;~~ ~~(6-1-94)(1-1-98)T~~

c. ~~w~~Working a minimum of thirty (30) hours per week; ~~or; and~~ ~~(6-1-94)(1-1-98)T~~

d. ~~r~~Receiving weekly earnings equal to Federal minimum wage multiplied by thirty (30) hours. ~~(6-1-94)(1-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

275. ENDING VOLUNTARY QUIT OR REDUCTION OF WORK HOURS PENALTY.

Eligibility may be re-established after a voluntary quit or work reduction penalty period has elapsed for an otherwise eligible household or household member when a condition in Subsection 275.01 is met. Eligibility may be reestablished before the end of the penalty period for an otherwise eligible household or household member when a condition in Subsection 275.02 is met. (9-22-96)T

01. Ending Voluntary Quit or Reduction Penalty After Penalty Period Has Elapsed. (9-22-96)T

a. Member gets a job. The penalty member gets new employment comparable in salary or hours to the job the person quit. Comparable employment may entail fewer hours or a lower net salary than the job which was quit. To be comparable, the hours for the new job cannot be less than twenty (20) hours per week. To be comparable, the salary or earnings for the new job cannot be less than Federal minimum wage multiplied by twenty (20) hours per week. (9-22-96)T

b. Member increases hours to more than thirty (30) hours per week. The penalty member's hours of work are restored to the average number of hours per week before reduction. (9-22-96)T

c. Six (6) months elapse. The penalty for the household ends if six (6) months elapse. The sanction for the individual member continues until a condition for ending the penalty is met. (9-22-96)T

02. Ending Voluntary Quit or Reduction Penalty Before the End of the Penalty Period. (9-22-96)T

a. Member leaves household. The penalty member leaves the household. The penalty follows the member who caused it. If the penalty member joins another household as the head of household, the new household is ineligible for the greater of balance of the penalty period, or the date the member complies. The household's penalty period cannot exceed six (6) months. (9-22-96)T

b. The household's penalty ends when the head of household changes because a new and otherwise eligible member joins the household as head of household. The penalty period continues for the penalty member for the greater of the length of the minimum penalty period or the date he complies. (9-22-96)T

c. Member becomes exempt. The penalty member becomes exempt from ~~work registration~~ JSAP requirements. The voluntary quit penalty does not end if the member becomes exempt due to ~~JOBS program participation.~~ Application or receipt of Unemployment Insurance. ~~(9-22-96)T(1-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

280. EXEMPTIONS FROM THE COOPERATION REQUIREMENT.

The parent or individual will not be required to provide information about the absent or alleged parent or otherwise cooperate in establishing paternity or obtaining support if good cause for not cooperating exists. Good cause for failure to cooperate must be proved. Notify the parent or individual in writing of the right to claim a good cause exemption at application and recertification. (7-1-97)T

01. Good Cause Defined. Good cause for failure to cooperate in obtaining support is listed below: (7-1-97)T

a. Rape or incest. Proof the child was conceived as a result of incest or forcible rape. (7-1-97)T

b. Physical or emotional harm. Proof the absent parent may inflict physical or emotional harm to the children, the participant or individual exercising parental control. This must be supported by medical evidence, police reports, or as a last resort, an affidavit from a knowledgeable source. (7-1-97)T

02. Procedures for a Good Cause Claim. A parent or individual claiming good cause for failure to cooperate must submit a notarized statement to the Department identifying the child for whom the exemption is claimed. The statement must list the reasons for the good cause claim. Allow the individual twenty (20) days to supply evidence supporting the claim. Evidence submitted must be reviewed by the EE or SRS and his Supervisor. A decision on the claim must be made within thirty (30) days of the claim. Food Stamps must not be delayed, denied or stopped pending a decision on a good cause claim. The final decision on the claim will be made by the Self Reliance staff after consultation with CSS. (7-1-97)T

03. Good Cause Decision. Waive the cooperation requirement if good cause exists. Take no further action to establish paternity or obtain support. If good cause does not exist, notify the parent or individual of the decision, the cooperation requirement and that the case will be referred to CSS. Disqualify the parent or individual who subsequently refuses to cooperate. ~~(7-1-97)T~~(7-1-97)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING AID TO THE AGED, BLIND AND DISABLED

DOCKET NO. 16-0305-9703

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 Section(s) 56-202(b); 39-1061(l), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the September 3, 1997 Administrative Bulletin, Volume 97-9, pages 113 through 119.

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

DATED this 3rd day of December, 1997.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 05

RULES GOVERNING AID TO THE AGED, BLIND AND DISABLED

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997,
pages 113 through 119.**

**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
16.03.05 - RULES GOVERNING AID TO THE AGED, BLIND AND DISABLED
DOCKET NO. 16-0305-9705
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-106 (l) and 56-202 (b), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 17, 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: Increases the Aged, Blind and Disabled (AABD) income limits to pass along the 1998 Social Security cost of living adjustment.

Adds two groups of Specified Medicare Beneficiaries entitled to Medicaid help for payment of their Medicare Part B premiums.

Adds a definition of sole beneficiary of trust and adds treatment of a home placed in a revocable trust.

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 and to confer a benefit.

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

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before December 24, 1997.

DATED this 3rd day of December 1997.

Sherri Kovach
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. 16-0305-9705

003. DEFINITIONS.

The following definitions apply to this chapter:

(1-1-93)

01. Adult Foster Care Home. An adult foster care home is a family home where an adult lives when he is not able to live in his own home. An adult foster care home participant needs family care, help in daily living, protection, security, and encouragement toward independence. An adult foster care home must not serve more than two (2) adults. It must be certified under Idaho Department of Health and Welfare Rules, IDAPA 16.03.1922, "Rules For Adult Foster Residential Care Homes Facilities in Idaho". An exception to the two (2) person limit is made for a 1501 home, as defined in the above-cited rules. An adult foster care home is not a room and board home, adult residential care facility serving more than two (2) adults, nursing home, or institutional facility. ~~(7-1-97)T~~(1-1-98)T

02. Adult Residential Care Facility. An adult residential care facility is one (1) or more buildings making up a facility or residence. It may be operated on a profit or nonprofit basis, to provide ~~twenty-four (24) hour~~ nonmedical care. The facility must care for three (3) or more persons, eighteen (18) years of age or older, not related to the owner. The persons need personal care or assistance and supervision for daily living activities or for their protection. An adult residential care facility must be licensed by the Department's Facility Standards Program. ~~(1-1-93)T~~(1-1-98)T

03. Applicant. A person who has applied for public assistance from the Department, and whose application has not been fully processed. (1-1-93)

04. Child. A child is under age eighteen (18), or under twenty-one (21) and attending school. If the child is at least age eighteen (18) he must regularly attend a school, college, university, or vocational or technical training designed to prepare him for gainful employment. A child is not married. A child is not the head of a household. (1-1-93)

05. Department. The Idaho Department of Health and Welfare. (1-1-93)

06. Direct Deposit. The electronic deposit of a participant's grant to the participant's personal account with a financial institution. (9-1-97)T

07. EBT Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16.03.20, "Rules Governing Electronic Benefits Transfer (EBT) of Public Assistance and Food Stamps." (9-1-97)T

08. Electronic Benefits Transfer. A method of issuing a grant to a participant, a participant's guardian or a holder of a limited power of attorney for EBT payments in behalf of the participant. (9-1-97)T

09. Essential Person. A person of the participant's choice whose presence in the household is essential to the participant's well-being. The essential person renders specific services, which must be provided for a participant to live at home. (7-1-97)T

10. Grant. A payment made electronically to a participant, a participant's guardian, or a holder of a limited power of attorney for EBT payments in behalf of a participant. (9-1-97)T

11. Ineligible Child. A child under age twenty-one (21) who does not receive AABD, and lives with the AABD participant. (7-2-97)T

12. Ineligible Parent. A natural or adoptive father or mother, or a stepparent, who does not receive AABD and lives in the same household as a child. (9-1-97)T

13. Ineligible Spouse. A participant's husband or wife, living with the participant, not receiving AABD is an ineligible spouse. The non-AABD husband or wife, of the parent of a child participant, living with the child and his parent, is an ineligible spouse. (7-1-97)T

14. Inmate. A person living in an institution and receiving treatment or services from the institution. The treatment or services must fit the participant's needs. A person is not an inmate if he is getting training in a public educational or vocational training institution. A person is not an inmate if he is temporarily in a public institution for an emergency. (7-1-97)T

15. Medicaid. The Federally-aided program for medical care (Title XIX, Social Security Act). (1-1-93)

16. Medical Assistance Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, "Rules Governing Medical Assistance." (7-1-94)
17. Medicaid for Families with Children Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families with Children." (7-1-97)T
18. Participant. An individual applying for or receiving assistance. (7-1-97)T
19. Room and Board. A living arrangement in which the participant purchases lodging (room) and meals (board). (7-1-97)T
20. School. A grade school, junior high school, high school, junior college, college, university, or vocational or technical training, including the Job Corps Program, designed to fit the trainee for gainful employment. (1-1-93)
21. Sole Beneficiary. The only beneficiary of a trust, including a beneficiary during the grantor's life and a beneficiary by the grantor's will. (1-1-98)T
- ~~24~~2. TAFI Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16.03.08, "Temporary Assistance for Families in Idaho." (7-1-97)T
- ~~22~~3. Working Day. A calendar day when regular office hours are observed by the state of Idaho. (1-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

407. BASIC ALLOWANCE.

The basic allowance is budgeted for participants not living in a nursing facility. The participant's living situation listed in Subsections 407.01 through 407.09 of these rules must be used to determine his basic allowance. (7-1-97)T

01. Living Alone. A participant must be budgeted five hundred ~~twelve~~ twenty-two dollars (\$~~5122~~ 5422) monthly as a basic allowance, if there is one (1) person in the AABD grant. (~~7-1-97~~)T(1-1-98)T
02. Living with Essential Person. The essential person is chosen by the participant. The presence of the essential person, in the household, must be essential to the participant's well being. The essential person must give services to the participant that would have to be provided anyway if the participant lived alone. The participant must decide if an essential person he lives with is to be included in his AABD grant. The needs, income, and resources of the essential person included in the AABD grant, must be counted in determining the AABD grant. The monthly total basic allowance for the participant and the essential person is seven hundred ~~twenty-two~~ thirty-eight dollars (\$~~72238~~ 72238). (~~7-1-97~~)T(1-1-98)T
03. Living with Another Participant. The other participant must not be the AABD participant's spouse. The AABD participant must be budgeted a basic allowance of five hundred ~~twelve~~ twenty-two dollars (\$~~5122~~ 5422) monthly, if there is one (1) person in the AABD grant. (~~7-1-97~~)T(1-1-98)T
04. Living with Participant Spouse. If the AABD participant lives with his AABD participant spouse in the same household, the basic allowance is based on two (2) persons in the AABD grant. The two (2) AABD spouses in the AABD grant must be budgeted a basic allowance of seven hundred ~~twenty-two~~ thirty-eight dollars (\$~~72238~~ 72238) monthly. (~~7-1-97~~)T(1-1-98)T
05. Living in Another Person's Household. A participant living in another person's household must be budgeted a basic allowance of five hundred ~~twelve~~ twenty-two dollars (\$~~5122~~ 5422) monthly for one (1) person in the AABD grant. For two (2) persons in the AABD grant, the basic allowance is seven hundred ~~twenty-two~~ thirty-eight

dollars (~~\$722~~38) monthly.

~~(7-1-97)F(1-1-98)T~~

06. Living with TAFI Child. A participant living with his TAFI child must be budgeted five hundred ~~twelve~~ twenty-two dollars (~~\$54~~22) monthly as a basic allowance, if there is one (1) person in the AABD grant. If there are two (2) persons in the AABD grant the basic allowance for two (2) participants is seven hundred ~~twenty-two~~ thirty-eight dollars (~~\$722~~38) monthly.

~~(7-1-97)F(1-1-98)T~~

07. Living in Hotel or Rooming House. A participant, living in a hotel or rooming house, must be budgeted the basic allowance of five hundred ~~twelve~~ twenty-two dollars (~~\$54~~22) monthly. A participant and his AABD spouse, living in a hotel or rooming house must be budgeted the basic allowance for two (2) participants, seven hundred ~~twenty-two~~ thirty-eight dollars (~~\$722~~38) monthly.

~~(7-1-97)F(1-1-98)T~~

08. Room and Board, Adult Care, or Foster Care. An AABD participant living in a room and board home, a licensed adult residential care facility, or a licensed adult foster care home is budgeted a basic allowance of fifty-eight dollars (\$58) monthly.

(7-1-97)T

09. SIGRIF. An AABD participant living in a semi-independent group residential facility must be budgeted a basic allowance of three hundred forty-nine dollars (\$349) monthly. A participant living with his participant spouse in a SIGRIF must be budgeted a basic allowance of three hundred and forty-nine dollars (\$349) monthly.

(7-1-97)T

408. ROOM AND BOARD ALLOWANCES.

Each client living in a room and board home must be budgeted a basic allowance of fifty-eight dollars (\$58) monthly. The client is budgeted a special needs allowance if he has a guide dog. Each AABD client living in a room and board home is budgeted the actual amount paid for room and board, but not more than four hundred ~~eighty-nine~~ ninety-nine dollars (~~\$489~~99) monthly. A minor child living with parents is not budgeted for room and board.

~~(1-1-97)F(1-1-98)T~~

409. LICENSED ADULT RESIDENTIAL CARE FACILITY ALLOWANCES.

Each client living in a licensed adult residential care facility must be budgeted a basic allowance of fifty-eight dollars (\$58) monthly. The client is budgeted a special needs allowance if he has a guide dog. A client's allowance for the licensed adult residential care facility is the monthly allowance for his level of care. If the client gets a lower level of care than his assessed level, his allowance must be for the lower level of care. Care levels and monthly allowances are listed in Subsections 409.01 through 409.03.

(1-1-95)

- 01. Level I. Seven hundred and ~~sixty-seven~~ seventy-seven dollars (~~\$767~~77). ~~(1-1-97)F(1-1-98)T~~
- 02. Level II. Eight hundred and ~~thirty-four~~ forty-four dollars (~~\$834~~44). ~~(1-1-97)F(1-1-98)T~~
- 03. Level III. Nine hundred and ~~two~~ twelve dollars (~~\$90~~12). ~~(1-1-97)F(1-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

424. LICENSED ADULT FOSTER CARE HOME ALLOWANCES.

Each client living in a licensed adult foster care home must be budgeted a basic allowance of fifty-eight dollars (\$58) monthly. The client is budgeted a special needs allowance if he has a guide dog. A client's allowance for the licensed adult foster care home is the cost for the level of care. The allowance must not exceed the monthly allowance for his level of care. If the client gets a lower level of care than his assessed level, his allowance must be for the lower level of care. Care levels and monthly allowances are listed in Subsections 424.01 through 424.03.

(1-1-95)

- 01. Level I. Seven hundred ~~sixty-seven~~ seventy-seven dollars (~~\$767~~77). ~~(1-1-97)F(1-1-98)T~~
- 02. Level II. Eight hundred ~~thirty-four~~ forty-four dollars (~~\$834~~44). ~~(1-1-97)F(1-1-98)T~~
- 03. Level III. Nine hundred ~~two~~ twelve dollars (~~\$90~~12). ~~(1-1-97)F(1-1-98)T~~

(BREAK IN CONTINUITY OF SECTIONS)

429. SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITY ALLOWANCE.

The Adult Residential Care Committee (ARCC) must certify need for care, before the semi-independent group residential facility allowances can be budgeted. Each client living in a semi-independent group residential facility must then be budgeted a basic allowance of three hundred forty-nine dollars (\$349) monthly. The client must be budgeted a special needs allowance if he has a guide dog. A client's monthly semi-independent group residential facility allowance is two hundred ~~sixty-one~~ seventy-one dollars (\$~~267~~1) monthly. ~~(1-1-97)F(1-1-98)T~~

01. Verifying Need for Semi-Independent Group Residential Facility Care. A client living in a semi-independent group residential facility must show need for this type of care. A statement from the Adult Residential Care Committee (ARCC) in the case file must certify the client's need for semi-independent group residential care. After need for care is certified, no redetermination of need for care is required. (1-1-93)

02. Need For Care Not Approved by ARCC. When the ARCC shows the client does not require semi-independent group residential facility care, or no longer requires such care, his allowances must not exceed those of a client living independently. (1-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

634. PERSON ENTITLED TO HOME AND COMMUNITY BASED SERVICES (HCBS).

An aged, blind or disabled person not eligible for SSI or AABD in his own home, because of income deeming or income limits, is eligible for Medicaid if he meets the conditions of this section. The waiver granted the Department, by the U.S. Department of Health and Human Services, to provide Medicaid to persons meeting HCBS criteria is in effect. (1-1-93)

01. Conditions for HCBS Medicaid. The client must meet the requirements in this Section for one of the two HCBS waiver coverage groups. The two HCBS waiver coverage groups are HCBS-NF and HCBS-DD. (7-1-95)

a. Age. The client must be at least twenty-one (21) years old. (1-1-93)

b. AABD Criteria. The client, if under age sixty-five (65), must meet the AABD blindness or disability criteria. (1-1-94)

c. AABD Resource Limit. The client must meet the AABD single person resource limit of two thousand dollars (\$2,000). The AABD resource exclusions are used to compute countable resources. (7-1-93)

d. HCBS Income Limit. Income for HCBS-NF must not exceed nine hundred and ~~thirty-five~~ fifty-five dollars (\$~~935~~55). Income for HCBS-DD must not exceed three (3) times the Federal SSI benefit payable monthly to a single person. The AABD income exclusions and disregards are used to compute countable income. ~~(1-1-97)F(1-1-98)T~~

e. The HCBS-NF client must meet the medical conditions for nursing facility care in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, Subsection 160.09, "Rules Governing Medical Assistance". The HCBS-DD client must meet the medical conditions for ICF/MR care in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, Subsection 143, "Rules Governing Medical Assistance." (7-1-97)

f. The HCBS-NF client must be capable of being maintained in his own home with Personal Care Services (PCS) furnished under the Department's HCBS waiver ("PCS under the waiver"). To qualify as receiving

PCS under the waiver, the client must require and receive more than sixteen (16) hours of PCS during at least one (1) week of each month. (See Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, Section 146, "Rules Governing Medical Assistance.") There must be a physician's plan of care identifying services necessary to maintain the client at home. The HCBS-DD client must be capable of being maintained in the community. The community is the client's home or a living arrangement approved by the ACCESS Unit. The ACCESS Unit is defined in Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, Section 003, "Rules Governing Medical Assistance." The community is not a hospital, nursing facility, ICF/MR, licensed Adult Residential Care Facility or Adult Foster Care home. (7-1-95)

g. The estimated cost of caring for the HCBS-NF client at home must not exceed the statewide average cost of care for the client's level of care. The estimated cost of home care is the Medicaid reimbursement rate for services required for the HCBS-NF client's care at home using the physician's orders. The Regional Medicaid Unit (RMU) will make the home care cost estimate for the HCBS-NF client. The estimated cost of caring for the HCBS-DD client in the community does not affect the client's eligibility. (7-1-95)

h. The estimated cost of care in a nursing facility for an HCBS-NF client not living in a facility is the statewide average rate for the level of care he requires, charge by the type of facility where the client would be placed if he were not living at home. (7-1-95)

02. HCBS-NF Medicaid Effective Date. Medicaid under HCBS is effective the first thirty (30) consecutive day period, the client required and received Personal Care Services (PCS) under the HCBS waiver. PCS under the waiver is described in Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, Section 146, "Rules Governing Medical Assistance." Medicaid is effective the first (1st) day of the month, in the month the thirty (30) consecutive days start. The client must be otherwise eligible. The RMU decides if the client is likely to meet the thirty (30) consecutive days' rule. He meets the rule, even though he may not actually receive personal care services throughout the thirty (30) day period. The thirty (30) consecutive days can be a combination of home care, and nursing facility care, so long as the client is not hospitalized at the beginning of the thirty (30) consecutive days. If the client is not likely to meet the thirty (30) consecutive days' requirement, Medicaid must be denied. (7-1-95)

03. HCBS-DD Medicaid Effective Date. Medicaid is effective the first thirty (30) consecutive day period the client required and received or is likely to receive HCBS-DD waiver services. The HCBS-DD waiver services are described in Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, Section 143, "Rules Governing Medical Assistance." Medicaid is effective the first day of the month, in the month the thirty (30) consecutive days start. The client must be otherwise eligible. The ACCESS Unit makes the determination the client meets the thirty (30) consecutive days' rule. The client meets the rules even though he may not actually receive waiver services throughout the thirty (30) day period. If the client is not likely to meet the thirty (30) consecutive days' rule, Medicaid must be denied. (7-1-95)

04. Client Living With Spouse. A married HCBS-NF or HCBS-DD client living with his spouse can choose the method of computing his income and resources for Medicaid eligibility. If the client lives at home with his spouse, and his spouse is not an HCBS client, he can choose between the SSI method, CP method, and the FSI method. If his spouse is also an HCBS client or is living in a nursing home, the couple can choose between the SSI method and the CP method, but each must use the same method. (7-1-95)

05. Requiring and Receiving Services. As a condition of HCBS Medicaid eligibility, the HCBS-NF client must continue to require and receive waiver PCS, under the physician's plan of care. The HCBS-DD client must continue to require and receive HCBS-DD waiver services, under the physician's plan of care. Medicaid under HCBS-NF or HCBS-DD must be stopped when there is any lapse in need for or receipt of waiver services, more than thirty (30) days. (7-1-95)

a. The Bureau of Medicaid Policy-Acute/Facility Care must monitor delivery of waiver services for HCBS-NF clients to assure this requirement continues to be met. The Bureau of Medicaid Policy-Acute/Facility Care must notify the Examiner within five (5) working days if it determines a lapse in delivery of HCBS-NF waiver services will exceed thirty (30) days. (7-1-95)

b. The Bureau of Medicaid Policy-Coordinated Care and the Division of Family and Community Services must monitor delivery of waiver services for HCBS-DD clients to assure this requirement continues to be

met. The Bureau of Medicaid Policy and Reimbursement or the Division of Family and Community Services must notify the Examiner within five (5) working days if either unit determines a lapse in delivery of HCBS-DD waiver services will exceed thirty (30) days. (7-1-95)

06. Limit on HCBS Clients Served. The annual limit on the number of unduplicated count Medicaid recipients eligible to receive HCBS-NF waiver services will be the limit established each calendar year by Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, Section 146, "Rules Governing Medical Assistance". The annual limit on the number of unduplicated count Medicaid recipients eligible to receive HCBS-DD waiver services will be the limit established each calendar year by the Bureau of Medicaid Policy under Idaho Department of Health and Welfare Rules, Title 03, Chapter 09, Section 143, "Rules Governing Medical Assistance". A person who applies for HCBS Medicaid, after the annual limit on HCBS-NF or HCBS-DD waiver clients is reached, must be denied Medicaid. (7-1-95)

(BREAK IN CONTINUITY OF SECTIONS)

643. SPECIFIED LOW INCOME MEDICARE BENEFICIARY (SLMB).

The Department pays ~~all or part of the~~ Medicare Part B premiums for ~~an a~~ SLMB, depending on the participant's SLMB group. A person meeting the eligibility requirements in Subsections 643.01 through 643.04 of these rules is SLMB eligible. ~~Benefits for an SLMB not receiving Medicaid are limited to Department payment of Medicare Part B premiums.~~ (1-1-93)(1-1-98)T

01. SLMB Nonfinancial Eligibility Requirements. (1-1-93)

a. Medicare Part A. The SLMB must be entitled to hospital insurance under Part A of Medicare at the time of his application. The Department will not pay the Part A premium for a client not entitled to Part A. The effective date a person is entitled to Part A of Medicare is shown on his Medicare card issued by SSA. If the person is not able to furnish proof of his entitlement by showing his Medicare card, the Department must assist him to obtain this proof from SSA. (1-1-93)

b. Residence, citizenship, medical support cooperation, SSN. The SLMB must meet the Medicaid eligibility requirements of residence, citizenship, medical support cooperation and SSN. An applicant meets citizenship and SSN requirements if enrolled in Part a of Medicare. The person's SSN is considered verified for Medicaid purposes. (7-1-96)

02. SLMB Financial Eligibility Requirements. (1-1-93)

a. Income. ~~Monthly income must exceed one hundred ten percent (110%), but must exceed one hundred percent (100%), of the official poverty line defined by the Federal Office of Management and Budget for 1993 and 1994. The monthly income must not exceed one hundred twenty percent (120%) of the official poverty line in 1995 and years after 1995.~~ Income is computed with AABD cash assistance methods. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual federal poverty guideline revision is published. (1-1-93)(1-1-98)T

b. Income limits. ~~The monthly income limit depends on the SLMB group. The single person limit is based on a family of one (1). The couple limit is based on a family of two (2). The monthly income limit for SLMB Group I is up to one hundred twenty percent (120%) of the Federal poverty guideline. Monthly income for SLMB Group II is at least one hundred twenty percent (120%) and not more than one hundred thirty-five percent (135%) of the Federal poverty guideline. The monthly income limit for SLMB Group III is at least one hundred thirty-five percent (135%) and not more than one hundred seventy-five percent (175%) of the Federal poverty guideline. The single person income is one hundred ten percent (110%) of the poverty line for a family of one (1) person. The couple income limit is one hundred ten percent (110%) of the poverty line for a family of two (2) persons.~~ (1-1-93)(1-1-98)T

03. Income Budget Choice. The SLMB has the CP or the SSI method choice for income budgeting. The income limit for a married client choosing the CP method is the couple income limit if both spouses are applying

for Medicaid and live together or were living together on the first (1st) day of the month. The income limit is the single person limit if only one (1) spouse is applying or if the couple is not living together or was not living together on the first (1st) day of the month. If either or both of the spouses is an HCBS client, the couple is not regarded as living together. The resource budget choice must be the same as the income budget choice. (1-1-93)

04. Resources. Countable resources are determined using the resource computation methods of the AABD cash assistance program. (1-1-93)

05. Resource Limit. Resources for a single SLMB must not exceed the limit of four thousand dollars (\$4,000). A couple's total resources must not exceed the limit of six thousand dollars (\$6,000). (1-1-93)

06. Resource Budget Choice. The SLMB has the CP or SSI choice for resource computation. The resource limit for a married client choosing the CP method is the couple resource limit if both spouses are applying for Medicaid and live together or were living together on the first day of the month. The resource limit is the single person limit if only one spouse is applying for Medicaid if the couple is not living together, or was not living together the first day of the month. If either or both of the spouses is an HCBS client, the couple is not regarded as living together. The resource budget choice must be the same as the income budget choice. (1-1-93)

07. Coverage Limits. Medicaid pays the Medicare Part B premium for SLMB Group I. There is no annual limit on participants served. Medicaid pays the Medicare Part B premium for SLMB Group II. There is an annual limit on participants served, based on availability of Federal funds. New applications are denied when the annual limit is reached. Medicaid pays part of the Medicare Part B premium for SLMB Group III. The Medicaid payment is the increase in the Part B premium described in Section 4732 of Public Law 105-33. New applications are denied when the annual limit is reached. (1-1-98)T

078. Application Forms. A person not receiving Medicaid must file a written application for SLMB on forms provided by the Department. (1-1-93)

089. Effective Dates. SLMB coverage begins on the first (1st) day of the application month. SLMB may be backdated up to three (3) calendar months before the month of application. SLMB can be provided for each backdated month the client meets all SLMB eligibility requirements. (1-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

691. TREATMENT OF ASSETS TRANSFERRED TO A TRUST.

Assets transferred to a trust are treated as shown in Subsections 691.01 through 691.03 of these rules. (7-1-94)

01. Revocable Trust. The body (corpus) of a revocable trust is a resource. Payments from the trust to or for the client participant are income. Any other payments from the trust are considered an asset transfer, triggering an asset transfer penalty period. A revocable burial trust is a burial fund subject to treatment under Section 233 of these rules. The home and adjoining property loses its exclusion when transferred to a revocable trust, unless the participant or spouse is the sole beneficiary of the trust. The home is excluded again if removed from the trust. The exclusion restarts the next month. (7-1-97)(1-1-98)T

02. Irrevocable Trust. The part of the body of an irrevocable trust, from which corpus or income payments could be made to or for the client participant, is a resource. Payments made to or for the client participant are income. Payments from the trust for any other reason are asset transfers, triggering the asset transfer penalty. Any part of the trust from which payment cannot be made to, or for the benefit of, the client participant under any circumstances, is an asset transfer. The effective date of the transfer is the date the trust was established, or the date payments to the client participant were foreclosed. The value of the trust, for calculating the transfer penalty, includes any payments made from that portion of the trust after the date the trust was established or payments were foreclosed. An irrevocable burial trust is a burial fund subject to treatment under Section 233 of these rules unless any funds in the trust are payable for any purpose other than the client's participant's funeral and related expenses. A trust may provide that funds not needed for the client's participant's funeral expenses are available to reimburse Medicaid, or to

go to the ~~client's~~ participant's estate.

~~(7-1-97)~~(1-1-98)T

03. Trust with Pension Money. Treat a trust established for the benefit of a person where all the money in the trust comes from the person's pensions, Social Security and his other income, as described in Subsection 691.01 or 691.02 of these rules, unless exempt from treatment as an asset transfer under Subsection 706.02 of these rules. The institutionalized person must be the sole beneficiary of the trust. The trust must be irrevocable. However, the trust document may include a revocability clause that will allow the trust to be revocable only for the circumstance where the client leaves the nursing facility or HCBS for a reason other than death, and is no longer eligible for Medicaid because of excess income. An income trust exempted from the asset transfer penalty under this Subsection, before July 1, 1994, and not meeting the requirements of this Subsection, as revised July 1, 1994, must be amended to keep the exemption. The client must obtain the necessary amendments within ninety (90) days of the date he was mailed a Department notice that his income trust no longer meets the exemption criteria. The trust must not provide for payments for a purpose other than for income used to calculate patient liability or client participation, unless the payments meet the hardship exemption in Subsection 693.12 of these rules. This hardship exemption is only for a trust for an HCBS client. Money paid into a pension trust is income for Medicaid eligibility the month received, unless the client lives in long-term care and is eligible for Medicaid except for excess income, or lives at home and is eligible for HCBS Medicaid except for excess income. The trust must be exempt from a trust penalty by Subsection 706.02 of these rules. Money paid into a pension trust is income for patient liability as provided in Subsection 611.07 of these rules. Income transferred to the trust as income used to calculate patient liability or client participation, and not used for that purpose, is subject to the asset transfer penalty in Section 690 of these rules, unless the income meets the hardship exemption in Subsection 693.12 of these rules. This hardship exemption is only for a trust for an HCBS client. (7-1-96)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.06 - RULES GOVERNING REFUGEE RESETTLEMENT ASSISTANCE

DOCKET NO. 16-0306-9701

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(I), 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 September 3, 1997 Administrative Bulletin, Volume 97-9, pages 120 through 129.

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

DATED this 3rd day of December, 1997.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 06

RULES GOVERNING REFUGEE RESETTLEMENT ASSISTANCE

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997,
pages 120 through 129.**

**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 PROGRAM
DOCKET NO. 16-0309-9709
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective October 1, 1996, July 1, 1997 and January 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202 (b), 56-203 (g), and 56-203 (I), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 17, 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: IDAPA 16.03.09.16.01.a.xix., excludes the Department authorized wheelchairs with specialized seating systems from the content of care for Intermediate Care Facilities for the Mentally Retarded. IDAPA 16.03.09.160.01.h., is changed to allow exceptions only up to the time of the prospective rate system in the Rules Governing Provider Reimbursement on October 1, 1996. IDAPA 16.03.09.160.03.b., has been clarified to exclude payment for date of discharge when an ICF/MR client is transferred between homes owned by the same provider. IDAPA 16.03.09.160.04.b.i. - ii., have been changed to count leave of absence days on a calendar year basis. IDAPA 16.03.09.160.06.a.iii., is updated to reflect current client income standards regarding provider notice to the appropriate Department's Field Office.

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

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

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before December 24, 1997.

DATED this 3rd day of December, 1997.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
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TEXT OF DOCKET NO. 16-0309-9709

160. LONG-TERM CARE.

01. Care and Services Provided.

(1-16-80)

- a. Nursing Facility Care. The minimum content of care and services for nursing facility patients must include the following (see also Subsection 180.04): (7-1-94)
- i. Room and board; and (1-16-80)
 - ii. Bed and bathroom linens; and (1-16-80)
 - iii. Nursing care, including special feeding if needed; and (1-16-80)
 - iv. Personal services; and (1-16-80)
 - v. Supervision as required by the nature of the patient's illness; and (1-16-80)
 - vi. Special diets as prescribed by a patient's physician; and (1-16-80)
 - vii. All common medicine chest supplies which do not require a physician's prescription including but not limited to mouthwashes, analgesics, laxatives, emollients, burn ointments, first aid cream, protective creams and liquids, cough and cold preparations, and simple eye preparations; and (1-16-80)
 - viii. Dressings; and (1-16-80)
 - ix. Administration of intravenous, subcutaneous, and/or intramuscular injections and infusions, enemas, catheters, bladder irrigations, and oxygen; and (1-16-80)
 - x. Application or administration of all drugs; and (1-16-80)
 - xi. All medical supplies including but not limited to gauzes, bandages, tapes, compresses, cottons, sponges, hot water bags, ice bags, disposable syringes, thermometers, cellucotton or any other type of pads used to save labor or linen, and rubber gloves; and (1-16-80)
 - xii. Social and recreational activities; and (1-16-80)
 - xiii. Items which are utilized by individual patients but which are reuseable and expected to be available, such as bed rails, canes, crutches, walkers, wheel chairs, traction equipment, and other durable medical equipment. (11-10-81)
- b. Intermediate Care-Mentally Retarded. The minimum content of care and services for ICF/MR must include the services identified in Subsections 160.01.a. and Subsection 180.08, and social and recreational activities. DHW authorized purchases of specialized wheelchair and seating systems, and any authorized repairs related to the seating system, which are paid to a medical vendor directly by DHW will not be included in the content of care of ICFs/MR. The specialized wheelchairs and seating systems must be designed to fit the needs of a specific ICF/MR resident and cannot be altered to fit another client cost effectively. (~~7-1-94~~)(7-1-97)T
- c. Direct Care Staff. Direct Care staff in an ICF/MR are defined as the present on-duty staff calculated over all shifts in a twenty-four (24) hour period for each defined residential living unit. Direct care staff in an ICF/MR include those employees whose primary duties include the provision of hands-on, face-to-face contact with the clients of the facility. This includes both regular and live-in/sleep-over staff. It excludes professionals such as psychologists, nurses, and others whose primary job duties are not the provision of direct care, as well as managers/ supervisors who are responsible for the supervision of staff. (5-25-93)
- d. Level of Involvement. Level of involvement relates to the severity of an MA recipient's mental retardation. Those levels, in decreasing level of severity, are: profound, severe, moderate, and mild. (5-25-93)
- e. Direct Care Staffing Levels. The reasonable level of direct care staffing provided to an MA recipient in an ICF/MR setting will be dependent upon the level of involvement and the need for services and supports of the recipient as determined by the Department, or its representative, and will be subject to the following

constraints: (7-1-94)

i. Direct care staffing for a severely and profoundly retarded recipient residing in an ICF/MR must be a maximum of sixty-eight point twenty five (68.25) hours per week. (5-25-93)

ii. Direct care staffing for a moderately retarded recipient residing in an ICF/MR must be limited to a maximum of fifty-four point six (54.6) hours per week. (5-25-93)

iii. Direct care staffing for a mildly retarded recipient residing in an ICF/MR must be limited to a maximum of thirty four point one two five (34.125) hours per week. (5-25-93)

f. The annual sum total level of allowable direct care staff hours for each residential living unit will be determined in the aggregate as the sum total of the level of staffing allowable for each resident residing in that residential living unit as determined in Subsection 160.01.e. (5-25-93)

g. Phase-in Period. If enactment of Subsection 160.01.e. requires a facility to reduce its level of direct care staffing, a six (6) month phase-in period will be allowed from the date of the enactment of this section, without any resulting disallowances. Should disallowances result, the hourly rate of direct care staff used in determining disallowances will be the weighted average of the hourly rates paid to a facility's direct care staff, plus the associated benefits, at the end of the phase-in period. (5-25-93)

h. Exceptions. Should a provider be able to show convincing evidence documenting that the annual aggregate direct care hours as allowed under this section will compromise their ability to supply adequate care to the clients, as required by federal regulations and state rules, within an ICF/MR residential living unit and that other less costly options would not alleviate the situation, the Department will approve an additional amount of direct care hours sufficient to meet the extraordinary needs. This adjustment will only be available up through September 30, 1996. ~~(5-25-93)~~(10-1-96)T

02. Conditions of Payment. (2-25-93)

a. As a condition of payment by the Department for long-term care on behalf of MA recipients, each fully licensed long-term care facility is to be under the supervision of an administrator who is currently licensed under the laws of the state of Idaho and in accordance with the rules of the Bureau of Occupational Licenses. (5-25-93)

b. Nursing facilities and ICF/MR facilities will be reimbursed in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 10, "Rules Governing Medicaid Provider Reimbursement in Idaho." (5-25-93)

03. Post-eligibility Treatment of Income. Where an individual is determined eligible for MA participation in the cost of his long term care, the Department must reduce its payment to the long term care facility by the amount of his income considered available to meet the cost of his care. This determination is made in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.03.05.585, "Rules Governing Eligibility for Aid for Families with Dependent Children (AFDC)." (5-25-93)

a. The amount which the MA recipient receives from SSA as reimbursement for his payment of the premium for Part B of Title XVIII (Medicare) is not considered income for patient liability (see Subsection 165.02 and Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 05, Subsection 522.02.c., "Rules Governing Eligibility for the Aged, Blind and Disabled (AABD).") (5-25-93)

b. Payment by the Department for the cost of long term care is to include the date of the recipient's discharge only if the discharge occurred after 3 p.m. and is not discharged to a related ICF/MR provider. If a Medicaid patient dies in a nursing home, his date of death is covered regardless of the time of occurrence. If an admission and a discharge occur on the same date, then one (1) day of care shall be deemed to exist. ~~(11-1-86)~~(10-1-96)T

04. Payments for Periods of Temporary Absence. Payments may be made for reserving beds in long-term care facilities for recipients during their temporary absence if the facility charges private paying patients for reserve bed days, subject to the following limitations: (10-22-93)

- a. Facility Occupancy Limits. Payment for periods of temporary absence from long term care facilities will not be made when the number of unoccupied beds in the facility on the day preceding the period of temporary absence in question is equal to or greater than the larger of: (4-6-83)
- i. Five (5) beds; or (4-6-83)
 - ii. Five percent (5%) of the total number of licensed beds in the facility. (4-6-83)
- b. Time Limits. Payments for periods of temporary absence from long term care facilities will be made for: (4-6-83)
- i. Therapeutic home visits for other than ICF/MR residents of up to three (3) days per visit and not to exceed a total of fifteen (15) days ~~in any consecutive twelve (12) month period per calendar year~~ so long as the days are part of a treatment plan ordered by the attending physician. ~~(12-22-88)~~(1-1-98)T
 - ii. Therapeutic home visits for ICF/MR residents of up to thirty-six (36) days ~~in any consecutive twelve (12) month period per calendar year~~ so long as the days are part of a written treatment plan ordered by the attending physician. Prior approval from the RMU must be obtained for any home visits exceeding fourteen (14) consecutive days. ~~(10-22-93)~~(1-1-98)T
- c. Limits on Amount of Payments. Payment for reserve bed days will be the lesser of the following: (4-6-83)
- i. Seventy-five percent (75%) of the audited allowable costs of the facility unless the facility serves only ICF/MR residents, in which case the payment will be one hundred percent (100%) of the audited allowable costs of the facility; or (12-22-88)
 - ii. The rate charged to private paying patients for reserve bed days. (4-6-83)
05. Payment Procedures. Each long term care facility must submit its claims to the Department in accordance with the procedures established by the Department. The Department will not pay for a claim in behalf of a MA recipient unless the information on the claim is consistent with the information in the Department's computer eligibility file. (11-10-81)
06. Long-Term Care Facility Responsibilities. In addition to the responsibilities set forth in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 10, "Rules Governing Medicaid Provider Reimbursement in Idaho," each long term care facility administrator, or his authorized representative, must report: (7-1-94)
- a. The following information to the appropriate Field Office within three (3) working days of the date the facility has knowledge of: (7-13-89)
 - i. Any readmission or discharge of a recipient, and any temporary absence of a recipient due to hospitalization or therapeutic home visit; and (7-13-89)
 - ii. Any changes in the amount of a recipient's income; and (1-16-80)
 - iii. When a recipient's account has exceeded one thousand ~~four~~ eight hundred dollars (\$1,4800) for a single individual or two thousand ~~one~~ eight hundred ~~forty~~ eighty dollars (\$2,150 800) for a married couple; and ~~(11-10-81)~~(7-1-97)T
 - iv. Other information about a recipient's finances which potentially may affect eligibility for MA. (11-10-81)
 - b. PASARR. All Medicaid certified nursing facilities must participate in, cooperate with, and meet all requirements imposed by, the Preadmission Screening and Additional Resident Review program (hereafter

"PASARR") as set forth in 42 CFR, Part 483, Subpart C, which, pursuant to Idaho Code Section 67-5229, is incorporated by reference herein. (10-20-96)T

i. Background and purpose. The purpose of these provisions is to comply with and implement the PASARR requirements imposed on the state by federal law. The purpose of those requirements is to prevent the placement of individuals with mental illness (MI) or mental retardation (MR) in a nursing facility (NF) unless their medical needs clearly indicate that they require the level of care provided by a nursing facility. This is accomplished by both pre-admission screening (PAS) and additional resident review (ARR). Individuals for whom it appears that a diagnosis of MI or MR is likely are identified for further screening by means of a Level I screen. The actual PASARR is accomplished through a Level II screen where it is determined whether, because of the individual's physical and mental condition, he or she requires the level of services provided by an NF. If the individual with MI or MR is determined to require an NF level of care, it must also be determined whether the individual requires specialized services. PASARR applies to all individuals entering or residing in an NF, regardless of payment source. (10-20-96)T

ii. Policy. It is the policy of the Department that the difficulty in providing specialized services in the NF setting makes it generally inappropriate to place individuals needing specialized services in an NF. This policy is supported by the background and development of the federal PASARR requirements, including the narrow definition of MI adopted by federal law. While recognizing that there are exceptions, it is envisioned that most individuals appropriate for NF placement will not require services in excess of those required to be provided by NFs by 42 CFR 483.45. (11-6-93)

iii. Inter-agency agreement. The state Medicaid agency will enter into a written agreement with the state mental health and mental retardation authorities as required in 42 CFR 431.621(c). This agreement will, among other things, set forth respective duties and delegation of responsibilities, and any supplemental criteria to be used in making determinations. (11-6-93)

(1) The "State Mental Health Authority" (hereafter "SMHA") is the Division of Family and Community Services of the Department, or its successor entity. (11-6-93)

(2) The "State Mental Retardation or Developmental Disabilities Authority" (hereafter "SDDA") is the Division of Family and Community Services of the Department, or its successor entity. (11-6-93)

iv. Coordination. The PASARR process is a coordinated effort between the state Medicaid agency, the SMHA and SDDA, independent evaluators and NFs. PASARR activities, to the extent possible, will be coordinated through the Regional Medicaid Units (RMUs). RMUs will also be responsible for record retention and tracking functions. However, NFs are responsible for assuring that all screens are obtained and for coordination with the RMU, independent MI evaluators, the SMHA and SDDA, and their designees. Guidelines and procedures on how to comply with these requirements can be found in "Statewide PASARR Procedures," a reference guide. (11-6-93)

(1) Level I Screens. All required Level I reviews must be completed and submitted to the RMU, prior to admission to the facility. (11-6-93)

(2) Level II Screens. When a NF identifies an individual with MI and/or MR through a Level I screen, or otherwise, the NF is responsible for contacting the SMHA or SDDA (as appropriate), or its designee, and assuring that a level II screen is completed prior to admission to the facility, or in the case of an existing resident, completed in order to continue residing in the facility. (11-6-93)

(3) Additional Resident Reviews (ARR). An individual identified with MI and/or MR must be reviewed and a new determination made promptly after a significant change in his/her physical or mental condition. The facility must notify the RMU of any such change within two (2) working days of its occurrence. For the purpose of this section, significant change for the client's mental condition means a change which may require the provision of specialized services or an increase in such services. A significant change in physical condition is a change that renders the client incapable of responding to MI or D.D. program interventions. (10-20-96)T

v. Determinations. Determinations as to the need for NF care and determinations as to the need for specialized services should not be made independently. Such determinations must often be made on an individual basis, taking into account the condition of the resident and capability of the facility to which admission is proposed to

furnish the care needed. When an individual identified with MI and MR is admitted to a NF, the NF is responsible for meeting that individual's needs, except for the provision of specialized services. (7-1-94)

(1) Level of care. (11-6-93)

(a) Individual determinations. Must be based on evaluations and data as required by these rules. (11-6-93)

(b) Categorical determinations. Recognizing that individual determinations of level of care are not always necessary, those categories set forth as examples at 42 CFR 483.130(d) are hereby adopted as appropriate for categorical determinations. When NF level of care is determined appropriate categorically, the individual may be conditionally admitted prior to completion of the determination for specialized services. However, conditional admissions cannot exceed seven (7) days, except for respite admissions, which cannot exceed thirty (30) consecutive days in one (1) calendar year. (11-6-93)

(2) Specialized services. Specialized services for mental illness as defined in 42 CFR 483.120(a)(1), and for mental retardation as defined in 42 CFR 483.120(a)(2), are those services provided by the state which due to the intensity and scope can only be delivered by personnel and programs which are not included in the specialized rehabilitation services required of nursing facilities under 42 CFR 483.45. The need for specialized services must be documented and included in both the resident assessment instrument and the plan of care. (11-6-93)

(a) Individual determinations. Must be based on evaluations and data as required by these rules. (11-6-93)

(b) Group determinations. Categorical determinations that specialized services are not needed may be made in those situations permitted by 42 CFR 483.130. The same time limits, imposed by Subsection 160.06.b.v.(a)(2) shall apply. (11-6-93)

vi. Penalty for non-compliance. No payment shall be made for any services rendered by a NF prior to completion of the Level I screen and, if required, the Level II screen. Failure to comply with PASARR requirements for all individuals admitted or seeking admission may also subject a NF to other penalties as part of certification action under 42 CFR 483.20. (11-6-93)

vii. Appeals. Discharges, transfers, and preadmission screening and additional resident review (PASARR) determinations may be appealed to the extent required by 42 CFR, Part 483, Subpart E, which, pursuant to Idaho Code, 67-5229, is incorporated by reference herein. Appeals under this paragraph shall be made in accordance with the fair hearing provisions of the Idaho Department of Health and Welfare, "Rules Governing Contested Case Proceedings and Declaratory Rulings," IDAPA 16, Title 05, Chapter 03, Section 300. A Level I finding of MI or MR is not an appealable determination. It may be disputed as part of a Level II determination appeal. (10-20-96)T

viii. Automatic repeal. In the event that the Preadmission Screening and Annual Resident Review program is eliminated or made non-mandatory by act of congress, the provisions of Subsection 160.06.b. of this chapter shall cease to be operative on the effective date of any such act, without further action. (11-6-93)

07. Provider Application and Certification. (1-16-80)

a. A facility can apply to participate as a nursing facility. (7-1-94)

b. A facility can apply to participate as an ICF/MR facility. (1-16-80)

08. Licensure and Certification. (7-13-89)

a. Upon receipt of an application from a facility, the Licensing and Certification Agency must conduct a survey to determine the facility's compliance with certification standards for the type of care the facility proposes to provide to MA recipients. (7-13-89)

b. If a facility proposes to participate as a skilled nursing facility, Medicare (Title XVIII) certification

and program participation is required before the facility can be certified for Medicaid. The Licensing and Certification Agency must determine the facility's compliance with Medicare requirements and recommend certification to the Medicare Agency. (7-1-94)

c. If the Licensing and Certification Agency determines that a facility meets Title XIX certification standards for nursing facility care or ICF/MR, the Section must certify to the appropriate branch of government that the facility meets the standards for NF or ICF/MR types of care. (7-1-94)

d. Upon receipt of the certification from the Licensing and Certification Agency, the Bureau may enter into a provider agreement with the long-term care facility. (7-13-89)

e. After the provider agreement has been executed by the Facility Administrator and by the Chief of the Bureau, one (1) copy must be sent by certified mail to the facility and the original is to be retained by the Bureau. (11-10-81)

09. Determination of Entitlement to Long-Term Care. Entitlement to MA participation in the cost of long-term care exists when the individual is eligible for MA and the RNR has determined that the individual meets the criteria for NF or ICF/MR care and services. Entitlement must be determined prior to authorization of payment for such care for an individual who is either a recipient of or an applicant for MA. (7-1-94)

a. The criteria for determining a MA recipient's need for either nursing facility care or intermediate care for the mentally retarded must be as set forth in Subsections 180.03 or 180.08. In addition, the IOC/UC nurse must determine whether a MA recipient's needs could be met by non-inpatient alternatives including, but not limited to, remaining in an independent living arrangement or residing in a room and board situation. (7-1-94)

b. The recipient can select any certified facility to provide the care required. (11-10-81)

c. The final decision as to the level of care required by a MA recipient must be made by the IOC/UC Nurse. (7-1-94)

d. The final decision as to the need for DD or MI active treatment must be made by the appropriate Department staff as a result of the Level II screening process. (7-13-89)

e. No payment must be made by the Department on behalf of any eligible MA recipient to any long-term care facility which, in the judgment of the IOCT/UCT is admitting individuals for care or services which are beyond the facility's licensed level of care or capability. (7-1-94)

10. Authorization of Long-Term Care Payment. If it has been determined that a person eligible for MA is entitled to MA participation in the cost of long-term care, and that the facility selected by the recipient is licensed and certified to provide the level of care the recipient requires, the Field Office will forward to such facility an "Authorization for Long-Term Care Payment" form HW 0459. (7-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9710

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective July 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), 56-203(g) and 56-203(i), Idaho Code.

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

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the September 3, 1997 Administrative Bulletin, Volume 97-9, pages 139 and 140 and a correction to the temporary rule in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 35 and 36.

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

DATED this 3rd day of December, 1997.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

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 97-9, September 3, 1997, pages 139 and 140 and a correction to the temporary rule in the Idaho Administrative Bulletin, Volume 97-10, October 1, 1997, pages 35 and 36.

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. 16-0309-9710

110. LABORATORY AND RADIOLOGY SERVICES.

01. Qualifications. Laboratories in a physician's office or a physician's group practice association, except when physicians personally perform their own patients' laboratory tests, must be certified by the Idaho Bureau of Laboratories and be eligible for Medicare certification for participation. All other Idaho laboratories must fulfill these requirements. (2-15-86)

02. Payment Procedures. Payment for laboratory tests can only be made to the actual provider of that service. An exception to the preceding is made in the case of an independent laboratory that can bill for a reference laboratory. A physician is not an independent laboratory. (2-15-86)

a. The payment level for clinical diagnostic laboratory tests performed by or personally supervised by a physician will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be a rate established by the Department. (2-15-86)

b. The payment level for clinical diagnostic laboratory tests performed by an independent laboratory will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be at a rate established by the Department. (2-15-86)

c. The payment level for clinical diagnostic laboratory tests performed by a hospital laboratory for anyone who is not an inpatient will be at a rate established by the Department that is no higher than Medicare's fee schedule as described in Section 085. The payment level for other laboratory tests will be at a rate established by the Department. (12-31-91)

d. Collection fees for specimens drawn by vein puncture or catheterization are payable only to the physician or laboratory who draws the specimen. (2-15-86)

03. Mammography Services. Idaho Medicaid will cover screening or diagnostic mammographies performed with ~~certified or certifiable~~ mammography equipment and staff which is considered certifiable or certified by the Bureau of Laboratories. (~~7-1-97~~)T(7-1-97)T

a. Screening mammographies will be limited to one (1) per calendar year for women who are forty (40) or more years of age. No physician's referral or orders are required except for clients enrolled in Healthy Connections. (7-1-97)T

b. Diagnostic mammographies will be covered when a physician orders the procedure for a patient of any age who is at high risk. (7-1-97)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9709
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective October 1, 1996, July 1, 1997 and January 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202 (b), 56-203 (g), and 56-203 (I), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 17, 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: IDAPA 16.03.09.160.01.b., excludes the Department authorized wheelchairs with specialized seating systems from the content of care for Intermediate Care Facilities for the Mentally Retarded. IDAPA 16.03.09.160.01.h., is changed to allow exceptions only up to the time of the prospective rate system in the Rules Governing Provider Reimbursement on October 1, 1996. IDAPA 16.03.09.160.03.b., has been clarified to exclude payment for date of discharge when an ICF/MR client is transferred between homes owned by the same provider. IDAPA 16.03.09.160.04.b.i. - ii., have been changed to count leave of absence days on a calendar year basis. IDAPA 16.03.09.160.06.a.iii., is updated to reflect current client income standards regarding provider notice to the appropriate Department's Field Office.

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

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

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before December 24, 1997.

DATED this 3rd day of December, 1997.

Sherri Kovach
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. 16-0309-9709

160. LONG-TERM CARE.

01. Care and Services Provided.

(1-16-80)

- a. Nursing Facility Care. The minimum content of care and services for nursing facility patients must include the following (see also Subsection 180.04): (7-1-94)
- i. Room and board; and (1-16-80)
 - ii. Bed and bathroom linens; and (1-16-80)
 - iii. Nursing care, including special feeding if needed; and (1-16-80)
 - iv. Personal services; and (1-16-80)
 - v. Supervision as required by the nature of the patient's illness; and (1-16-80)
 - vi. Special diets as prescribed by a patient's physician; and (1-16-80)
 - vii. All common medicine chest supplies which do not require a physician's prescription including but not limited to mouthwashes, analgesics, laxatives, emollients, burn ointments, first aid cream, protective creams and liquids, cough and cold preparations, and simple eye preparations; and (1-16-80)
 - viii. Dressings; and (1-16-80)
 - ix. Administration of intravenous, subcutaneous, and/or intramuscular injections and infusions, enemas, catheters, bladder irrigations, and oxygen; and (1-16-80)
 - x. Application or administration of all drugs; and (1-16-80)
 - xi. All medical supplies including but not limited to gauzes, bandages, tapes, compresses, cottons, sponges, hot water bags, ice bags, disposable syringes, thermometers, cellucotton or any other type of pads used to save labor or linen, and rubber gloves; and (1-16-80)
 - xii. Social and recreational activities; and (1-16-80)
 - xiii. Items which are utilized by individual patients but which are reuseable and expected to be available, such as bed rails, canes, crutches, walkers, wheel chairs, traction equipment, and other durable medical equipment. (11-10-81)
- b. Intermediate Care-Mentally Retarded. The minimum content of care and services for ICF/MR must include the services identified in Subsections 160.01.a. and Subsection 180.08, and social and recreational activities. DHW authorized purchases of specialized wheelchair and seating systems, and any authorized repairs related to the seating system, which are paid to a medical vendor directly by DHW will not be included in the content of care of ICFs/MR. The specialized wheelchairs and seating systems must be designed to fit the needs of a specific ICF/MR resident and cannot be altered to fit another client cost effectively. (~~7-1-94~~)(7-1-97)T
- c. Direct Care Staff. Direct Care staff in an ICF/MR are defined as the present on-duty staff calculated over all shifts in a twenty-four (24) hour period for each defined residential living unit. Direct care staff in an ICF/MR include those employees whose primary duties include the provision of hands-on, face-to-face contact with the clients of the facility. This includes both regular and live-in/sleep-over staff. It excludes professionals such as psychologists, nurses, and others whose primary job duties are not the provision of direct care, as well as managers/ supervisors who are responsible for the supervision of staff. (5-25-93)
- d. Level of Involvement. Level of involvement relates to the severity of an MA recipient's mental retardation. Those levels, in decreasing level of severity, are: profound, severe, moderate, and mild. (5-25-93)
- e. Direct Care Staffing Levels. The reasonable level of direct care staffing provided to an MA recipient in an ICF/MR setting will be dependent upon the level of involvement and the need for services and supports of the recipient as determined by the Department, or its representative, and will be subject to the following constraints:

(7-1-94)

i. Direct care staffing for a severely and profoundly retarded recipient residing in an ICF/MR must be a maximum of sixty-eight point twenty five (68.25) hours per week. (5-25-93)

ii. Direct care staffing for a moderately retarded recipient residing in an ICF/MR must be limited to a maximum of fifty-four point six (54.6) hours per week. (5-25-93)

iii. Direct care staffing for a mildly retarded recipient residing in an ICF/MR must be limited to a maximum of thirty four point one two five (34.125) hours per week. (5-25-93)

f. The annual sum total level of allowable direct care staff hours for each residential living unit will be determined in the aggregate as the sum total of the level of staffing allowable for each resident residing in that residential living unit as determined in Subsection 160.01.e. (5-25-93)

g. Phase-in Period. If enactment of Subsection 160.01.e. requires a facility to reduce its level of direct care staffing, a six (6) month phase-in period will be allowed from the date of the enactment of this section, without any resulting disallowances. Should disallowances result, the hourly rate of direct care staff used in determining disallowances will be the weighted average of the hourly rates paid to a facility's direct care staff, plus the associated benefits, at the end of the phase-in period. (5-25-93)

h. Exceptions. Should a provider be able to show convincing evidence documenting that the annual aggregate direct care hours as allowed under this section will compromise their ability to supply adequate care to the clients, as required by federal regulations and state rules, within an ICF/MR residential living unit and that other less costly options would not alleviate the situation, the Department will approve an additional amount of direct care hours sufficient to meet the extraordinary needs. This adjustment will only be available up through September 30, 1996. ~~(5-25-93)~~(10-1-96)T

02. Conditions of Payment. (2-25-93)

a. As a condition of payment by the Department for long-term care on behalf of MA recipients, each fully licensed long-term care facility is to be under the supervision of an administrator who is currently licensed under the laws of the state of Idaho and in accordance with the rules of the Bureau of Occupational Licenses. (5-25-93)

b. Nursing facilities and ICF/MR facilities will be reimbursed in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 10, "Rules Governing Medicaid Provider Reimbursement in Idaho." (5-25-93)

03. Post-eligibility Treatment of Income. Where an individual is determined eligible for MA participation in the cost of his long term care, the Department must reduce its payment to the long term care facility by the amount of his income considered available to meet the cost of his care. This determination is made in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.03.05, Section 585, "Rules Governing Eligibility for Aid for Families with Dependent Children (AFDC)." (5-25-93)

a. The amount which the MA recipient receives from SSA as reimbursement for his payment of the premium for Part B of Title XVIII (Medicare) is not considered income for patient liability (see Subsection 165.02 and Idaho Department of Health and Welfare Rules, IDAPA 16.03.05, Subsection 522.02.c., "Rules Governing Eligibility for the Aged, Blind and Disabled (AABD).") (5-25-93)

b. Payment by the Department for the cost of long term care is to include the date of the recipient's discharge only if the discharge occurred after 3 p.m. and is not discharged to a related ICF/MR provider. If a Medicaid patient dies in a nursing home, his date of death is covered regardless of the time of occurrence. If an admission and a discharge occur on the same date, then one (1) day of care shall be deemed to exist. ~~(11-1-86)~~(10-1-96)T

04. Payments for Periods of Temporary Absence. Payments may be made for reserving beds in long-term care facilities for recipients during their temporary absence if the facility charges private paying patients for reserve bed days, subject to the following limitations: (10-22-93)

- a. Facility Occupancy Limits. Payment for periods of temporary absence from long term care facilities will not be made when the number of unoccupied beds in the facility on the day preceding the period of temporary absence in question is equal to or greater than the larger of: (4-6-83)
- i. Five (5) beds; or (4-6-83)
 - ii. Five percent (5%) of the total number of licensed beds in the facility. (4-6-83)
- b. Time Limits. Payments for periods of temporary absence from long term care facilities will be made for: (4-6-83)
- i. Therapeutic home visits for other than ICF/MR residents of up to three (3) days per visit and not to exceed a total of fifteen (15) days ~~in any consecutive twelve (12) month period per calendar year~~ so long as the days are part of a treatment plan ordered by the attending physician. ~~(12-22-88)~~(1-1-98)T
 - ii. Therapeutic home visits for ICF/MR residents of up to thirty-six (36) days ~~in any consecutive twelve (12) month period per calendar year~~ so long as the days are part of a written treatment plan ordered by the attending physician. Prior approval from the RMU must be obtained for any home visits exceeding fourteen (14) consecutive days. ~~(10-22-93)~~(1-1-98)T
- c. Limits on Amount of Payments. Payment for reserve bed days will be the lesser of the following: (4-6-83)
- i. Seventy-five percent (75%) of the audited allowable costs of the facility unless the facility serves only ICF/MR residents, in which case the payment will be one hundred percent (100%) of the audited allowable costs of the facility; or (12-22-88)
 - ii. The rate charged to private paying patients for reserve bed days. (4-6-83)
05. Payment Procedures. Each long term care facility must submit its claims to the Department in accordance with the procedures established by the Department. The Department will not pay for a claim in behalf of a MA recipient unless the information on the claim is consistent with the information in the Department's computer eligibility file. (11-10-81)
06. Long-Term Care Facility Responsibilities. In addition to the responsibilities set forth in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 10, "Rules Governing Medicaid Provider Reimbursement in Idaho," each long term care facility administrator, or his authorized representative, must report: (7-1-94)
- a. The following information to the appropriate Field Office within three (3) working days of the date the facility has knowledge of: (7-13-89)
 - i. Any readmission or discharge of a recipient, and any temporary absence of a recipient due to hospitalization or therapeutic home visit; and (7-13-89)
 - ii. Any changes in the amount of a recipient's income; and (1-16-80)
 - iii. When a recipient's account has exceeded one thousand ~~four~~ eight hundred dollars (\$1,4800) for a single individual or two thousand ~~one~~ eight hundred ~~fifty~~ dollars (\$2,150 800) for a married couple; and ~~(11-10-81)~~(7-1-97)
 - iv. Other information about a recipient's finances which potentially may affect eligibility for MA. (11-10-81)
 - b. PASARR. All Medicaid certified nursing facilities must participate in, cooperate with, and meet all requirements imposed by, the Preadmission Screening and Additional Resident Review program (hereafter

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(1) Level I Screens. All required Level I reviews must be completed and submitted to the RMU, prior to admission to the facility. (11-6-93)

(2) Level II Screens. When a NF identifies an individual with MI and/or MR through a Level I screen, or otherwise, the NF is responsible for contacting the SMHA or SDDA (as appropriate), or its designee, and assuring that a level II screen is completed prior to admission to the facility, or in the case of an existing resident, completed in order to continue residing in the facility. (11-6-93)

(3) Additional Resident Reviews (ARR). An individual identified with MI and/or MR must be reviewed and a new determination made promptly after a significant change in his/her physical or mental condition. The facility must notify the RMU of any such change within two (2) working days of its occurrence. For the purpose of this section, significant change for the client's mental condition means a change which may require the provision of specialized services or an increase in such services. A significant change in physical condition is a change that renders the client incapable of responding to MI or D.D. program interventions. (10-20-96)T

v. Determinations. Determinations as to the need for NF care and determinations as to the need for specialized services should not be made independently. Such determinations must often be made on an individual basis, taking into account the condition of the resident and capability of the facility to which admission is proposed to

furnish the care needed. When an individual identified with MI and MR is admitted to a NF, the NF is responsible for meeting that individual's needs, except for the provision of specialized services. (7-1-94)

(1) Level of care. (11-6-93)

(a) Individual determinations. Must be based on evaluations and data as required by these rules. (11-6-93)

(b) Categorical determinations. Recognizing that individual determinations of level of care are not always necessary, those categories set forth as examples at 42 CFR 483.130(d) are hereby adopted as appropriate for categorical determinations. When NF level of care is determined appropriate categorically, the individual may be conditionally admitted prior to completion of the determination for specialized services. However, conditional admissions cannot exceed seven (7) days, except for respite admissions, which cannot exceed thirty (30) consecutive days in one (1) calendar year. (11-6-93)

(2) Specialized services. Specialized services for mental illness as defined in 42 CFR 483.120(a)(1), and for mental retardation as defined in 42 CFR 483.120(a)(2), are those services provided by the state which due to the intensity and scope can only be delivered by personnel and programs which are not included in the specialized rehabilitation services required of nursing facilities under 42 CFR 483.45. The need for specialized services must be documented and included in both the resident assessment instrument and the plan of care. (11-6-93)

(a) Individual determinations. Must be based on evaluations and data as required by these rules. (11-6-93)

(b) Group determinations. Categorical determinations that specialized services are not needed may be made in those situations permitted by 42 CFR 483.130. The same time limits, imposed by Subsection 160.06.b.v.(a)(2) shall apply. (11-6-93)

vi. Penalty for non-compliance. No payment shall be made for any services rendered by a NF prior to completion of the Level I screen and, if required, the Level II screen. Failure to comply with PASARR requirements for all individuals admitted or seeking admission may also subject a NF to other penalties as part of certification action under 42 CFR 483.20. (11-6-93)

vii. Appeals. Discharges, transfers, and preadmission screening and additional resident review (PASARR) determinations may be appealed to the extent required by 42 CFR, Part 483, Subpart E, which, pursuant to Idaho Code, 67-5229, is incorporated by reference herein. Appeals under this paragraph shall be made in accordance with the fair hearing provisions of the Idaho Department of Health and Welfare, "Rules Governing Contested Case Proceedings and Declaratory Rulings," IDAPA 16.05.03, Section 300. A Level I finding of MI or MR is not an appealable determination. It may be disputed as part of a Level II determination appeal. (10-20-96)T

viii. Automatic repeal. In the event that the Preadmission Screening and Annual Resident Review program is eliminated or made non-mandatory by act of congress, the provisions of Subsection 160.06.b. of this chapter shall cease to be operative on the effective date of any such act, without further action. (11-6-93)

07. Provider Application and Certification. (1-16-80)

a. A facility can apply to participate as a nursing facility. (7-1-94)

b. A facility can apply to participate as an ICF/MR facility. (1-16-80)

08. Licensure and Certification. (7-13-89)

a. Upon receipt of an application from a facility, the Licensing and Certification Agency must conduct a survey to determine the facility's compliance with certification standards for the type of care the facility proposes to provide to MA recipients. (7-13-89)

b. If a facility proposes to participate as a skilled nursing facility, Medicare (Title XVIII) certification

and program participation is required before the facility can be certified for Medicaid. The Licensing and Certification Agency must determine the facility's compliance with Medicare requirements and recommend certification to the Medicare Agency. (7-1-94)

c. If the Licensing and Certification Agency determines that a facility meets Title XIX certification standards for nursing facility care or ICF/MR, the Section must certify to the appropriate branch of government that the facility meets the standards for NF or ICF/MR types of care. (7-1-94)

d. Upon receipt of the certification from the Licensing and Certification Agency, the Bureau may enter into a provider agreement with the long-term care facility. (7-13-89)

e. After the provider agreement has been executed by the Facility Administrator and by the Chief of the Bureau, one (1) copy must be sent by certified mail to the facility and the original is to be retained by the Bureau. (11-10-81)

09. Determination of Entitlement to Long-Term Care. Entitlement to MA participation in the cost of long-term care exists when the individual is eligible for MA and the RNR has determined that the individual meets the criteria for NF or ICF/MR care and services. Entitlement must be determined prior to authorization of payment for such care for an individual who is either a recipient of or an applicant for MA. (7-1-94)

a. The criteria for determining a MA recipient's need for either nursing facility care or intermediate care for the mentally retarded must be as set forth in Subsections 180.03 or 180.08. In addition, the IOC/UC nurse must determine whether a MA recipient's needs could be met by non-inpatient alternatives including, but not limited to, remaining in an independent living arrangement or residing in a room and board situation. (7-1-94)

b. The recipient can select any certified facility to provide the care required. (11-10-81)

c. The final decision as to the level of care required by a MA recipient must be made by the IOC/UC Nurse. (7-1-94)

d. The final decision as to the need for DD or MI active treatment must be made by the appropriate Department staff as a result of the Level II screening process. (7-13-89)

e. No payment must be made by the Department on behalf of any eligible MA recipient to any long-term care facility which, in the judgment of the IOCT/UCT is admitting individuals for care or services which are beyond the facility's licensed level of care or capability. (7-1-94)

10. Authorization of Long-Term Care Payment. If it has been determined that a person eligible for MA is entitled to MA participation in the cost of long-term care, and that the facility selected by the recipient is licensed and certified to provide the level of care the recipient requires, the Field Office will forward to such facility an "Authorization for Long-Term Care Payment" form HW 0459. (7-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.20 - RULES GOVERNING ELECTRONIC BENEFIT TRANSFER (EBT)
OF PUBLIC ASSISTANCE AND FOOD STAMPS

DOCKET NO. 16-0320-9701

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective September 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, Idaho Code.

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

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the September 3, 1997 Administrative Bulletin, Volume 97-9, pages 144 through 149.

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

DATED this 3rd day of December, 1997.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 20

RULES GOVERNING ELECTRONIC BENEFIT TRANSFER (EBT)
OF PUBLIC ASSISTANCE AND FOOD STAMPS

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 97-9, September 3, 1997, pages 144 through 149.

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. 16-0320-9701

010. DEFINITIONS.

01. Alternate Payee. A person or agency other than the participant, and who is issued an EBT card and PIN and is authorized to access the participant's benefit account. This term includes authorized household member, authorized representative, guardian/conservator, Limited Power of Attorney for EBT account, parent of a minor child participant, or protective payee. (9-1-97)T

042. Authorized Household Member. A member of a Food Stamp household or cash public assistance family who is issued an EBT card and personal identification number and is authorized to access the primary card holder's benefit account. (9-1-97)T

023. Authorized Representative. A person who is not a member of a Food Stamp participant's household and is authorized in writing by a participant to access a Food Stamp benefit account in behalf of the participant. The authorized representative is issued an EBT card and PIN. (9-1-97)T

034. Automated Teller Machine (ATM). A machine used to withdraw cash benefits and provide participants with account balance information. (9-1-97)T

045. Benefit Account. An authorization file maintained by the EBT Vendor on behalf of a cardholder. A benefit account will be a Food Stamp benefit account or a cash benefit account. A Food Stamp benefit account can be used to make food purchases. A cash benefit account can be used to make cash withdrawals or purchases. (9-1-97)T

056. Customer Service Center (CSC). A toll-free telephone service provided by the EBT Vendor to help the participant with use of the EBT card and provide information about EBT services. This service is available twenty-four (24) hours a day, seven (7) days a week. (9-1-97)T

067. Department. The Idaho Department of Health and Welfare. (9-1-97)T

078. EBT Vendor. A contractor hired by the Idaho Department of Health and Welfare to deliver EBT financial services, including origination of Automated Clearing House (ACH) transactions, electronic transactions, customer service and settlement services. (9-1-97)T

089. Guardian. This term includes the guardian of a person, the conservator, or and the guardian for public assistance. (9-1-97)T(9-1-97)T

~~09~~10. Limited Power of Attorney for EBT Account. A person with no legal interest in a participant's cash benefit account who is authorized to access that account on the participant's behalf. The limited power of attorney for an EBT account must be authorized by notarized signature on a Department form. (9-1-97)T

101. Personal Identification Number (PIN). A four (4) digit secret number issued to or selected by the EBT cardholder. The PIN is used with the card to initiate an EBT transaction. (9-1-97)T

112. Point of Sale (POS) Terminal. An electronic device located at retail outlets through which card holders can conduct EBT Food Stamp and cash transactions with their EBT card and PIN. (9-1-97)T

123. Primary Card Holder. The person who has primary responsibility for an EBT benefit account. The primary card holder may be: (9-1-97)T

a. An individual whose client identification number is used to establish an EBT benefit account; or (9-1-97)T

b. An individual who is a guardian, a parent of a minor child, a protective payee, or a person granted limited power of attorney because the participant is unable to use his EBT benefit card. (9-1-97)T

14. Protective Payee. This term includes a residential habilitation agency under IDAPA 16.04.17, or its employees, affiliated habilitation providers or contractors who are designated as payee on behalf of the agency's consumer. This term also includes a person or agency designated by the Social Security Administration as the representative payee for an AABD recipient's Social Security and/or SSI payment. (9-1-97)T

135. Stale Account. An EBT benefit account that has not had any debit activity for ninety (90) days or longer. (9-1-97)T

(BREAK IN CONTINUITY OF SECTIONS)

030. ABBREVIATIONS.

01. AABD. Aid to the Aged, Blind, and Disabled. (9-1-97)T

02. ACH. Automated Clearing House. (9-1-97)T

03. ATM. Automated Teller Machine. (9-1-97)T

04. EBT. Electronic Benefit Transfer. (9-1-97)T

05. PIN. Personal Identification Number. (9-1-97)T

06. POS. Point of Sale. (9-1-97)T

07. RCA. Refugee Cash Assistance. (9-1-97)T

08. SSI. Supplemental Security Income. (9-1-97)T

089. TAFI. Temporary Assistance for Families in Idaho. (9-1-97)T

(BREAK IN CONTINUITY OF SECTIONS)

100. DIRECT DEPOSIT.

A cash assistance participant may choose to have his cash benefits deposited directly to ~~his personal checking or savings account as an alternative to EBT~~ a financial institution account in which he has an ownership interest, or to a trust account for which he is a beneficiary. ~~(9-1-97)T~~(9-1-97)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.12 - RULES GOVERNING INDIVIDUAL AND FAMILY GRANT PROGRAM
DOCKET NO. 16-0412-9701

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202 (b); 39-106 (l), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 17, 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: To repeal rules for the Individual and Family Grant program due to changes in governing federal regulations. These rules are being rewritten in Docket Number 16-0412-9702.

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 and to confer a benefit.

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

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before December 24, 1997.

DATED this 3rd day of December, 1997.

Sherri Kovach
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

THIS RULE IS REPEALED IN ITS ENTIRETY

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM
DOCKET NO. 16-0412-9702

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b); 39-106(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 17, 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 rules for the Individual and Family Grant Program are rewritten to meet current federal requirements. These rules govern disaster assistance grants for individuals and families with a serious need or necessary expense as the result of a major disaster declared by the President.

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 and to confer a benefit.

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

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before December 24, 1997.

DATED this 3rd day of December, 1997.

Sherri Kovach
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TEXT OF DOCKET NO. 16-0412-9702

IDAPA 16
TITLE 04
Chapter 12

16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM

000. LEGAL AUTHORITY.

The Idaho Department of Health and Welfare is authorized to adopt rules for the administration of the Individual and Family Grant program by Section 56-202, Idaho Code. (1-1-98)T

001. TITLE AND SCOPE.

These rules of the Idaho Department of Health and Welfare are known and will be cited as IDAPA 16, Title 04, Chapter 13, "Rules Governing the Individual and Family Grant Program." These rules provide for administration of the Individual and Family Grant Program. (1-1-98)T

002. WRITTEN INTERPRETATIONS.

The Director or agency has no written interpretations pertinent to these rules. (1-1-98)T

003. ADMINISTRATIVE APPEAL.

The administrative appeal process is set forth in IDAPA 16.05.03 and Section 423(a) of Public Law 100-107, the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Any decision regarding eligibility for, form, or amount of assistance may be appealed within ninety (90) days after the date the individual or family is notified of the award or denial of assistance. (1-1-98)T

004. RULE AVAILABILITY.

Copies of these rules are available from the Administrative Procedures Section, 10th Floor, Towers Building - 450 West State Street, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-98)T

005. DEFINITIONS

01. Applicant. An individual who applies for the Individual and Family Grant Program. (1-1-98)T
02. Assistance from Other Means. Money or in-kind contributions from other government programs, insurance, voluntary or charitable organizations, or from any sources other than the individual or family. (1-1-98)T
03. Department. The Idaho Department of Health and Welfare. (1-1-98)T
04. Family. A social unit living together and comprised of a husband and wife or dependents, if any, or a household comprised of an unmarried person living with his dependent child, stepchild, or dependent descendent of his child. (1-1-98)T
05. Individual. A person who is not a member of a family as defined in Subsection 005.04. (1-1-98)T
06. Major Disaster. A natural disaster or other catastrophe which the President determines causes sufficient damage to warrant major disaster assistance under the Robert T. Stafford Disaster Relief Act of 1974, as amended. (1-1-98)T
07. Necessary Expense. The cost of an item or service essential to an individual or family to prevent, mitigate or overcome a disaster-related hardship, injury or adverse condition. (1-1-98)T
08. Owner-Occupied. A residence occupied by the legal owner, a person who does not hold formal title or pay rent but is responsible for taxes and maintenance, or a person who has lifetime occupancy rights in the residence with another having formal title. (1-1-98)T
09. Primary Residence. A residence where the owner-occupant lives more than six (6) months in a year, or to which he has recently moved or acquired to move for the same purpose. Recreational, vacation or primarily income-producing property is not a primary residence. (1-1-98)T
10. Serious Need. The requirement for an item or service essential to an individual or family to prevent, mitigate or overcome a disaster-related hardship, injury or adverse condition. (1-1-98)T
11. Welfare. A state payment of Temporary Assistance to Families in Idaho (TAFI), Aid to the Aged, Blind and Disabled (AABD) and/or a federal payment of Supplemental Security Income (SSI). (1-1-98)T

006. ABBREVIATIONS.

- 01. FEMA. Federal Emergency Management Agency. (1-1-98)T
- 02. GFIP. Group Flood Insurance Program. (1-1-98)T
- 02. IFG. Individual and Family Grant Program. (1-1-98)T
- 03. SBA. Small Business Administration. (1-1-98)T

007. -- 199. (RESERVED).

200. APPLICATIONS.

FEMA will take applications and provide the Department with the application information and documentation electronically. (1-1-98)T

01. Alienage and Residency. Eligibility is determined without regard to alienage or residence in the major disaster area or in the state in which the major disaster is declared. (1-1-98)T

02. Flood Insurance. Flood insurance must meet the requirements of 44 CFR Section 206.131. Individuals and families will be enrolled in the National Flood Insurance Program's Group Flood Insurance Policy (GFIP) if they live in a special flood hazard area and their IFG grant covers structure or contents. The cost of the flood insurance premium will be deducted from the grant. The individual or family must maintain flood insurance coverage at the maximum grant amount after the GFIP expires to be eligible for future IFG assistance. (1-1-98)T

201. -- 299. (RESERVED).

300. DUPLICATION OF BENEFITS.

Duplication of benefits is prohibited. Benefits must be delivered in the following sequence to avoid duplication. (1-1-98)T

- 01. Delivery Sequence. The delivery sequence is as follows: (1-1-98)T
 - a. Emergency assistance provided by voluntary agencies. (1-1-98)T
 - b. Insurance proceeds. (1-1-98)T
 - c. Home repair grants provided by the FEMA Disaster Housing Program. (1-1-98)T
 - d. Loans provided by the Small Business Administration (SBA). Individuals and families with structure or contents loss must apply to SBA for a loan. (1-1-98)T
 - e. The IFG program. (1-1-98)T
 - f. Additional assistance provided by voluntary agencies. (1-1-98)T
 - g. The Cora Brown fund. (1-1-98)T
 - h. Additional State-funded assistance, where available. (1-1-98)T
- 02. Recovery of Duplicate Benefits. An agency that awards benefits out of the delivery sequence must recover the funds from the applicant. (1-1-98)T
- 03. Welfare. Welfare is not duplicate benefits or assistance from other means. (1-1-98)T

301. -- 399. (RESERVED).

400. ELIGIBLE CATEGORIES.

Assistance may be available to meet necessary expenses or serious needs by providing essential items or services in Subsection 400.01. (1-1-98)T

- 01. Eligible Items and Services. Grants may be made for the following disaster-related costs: (1-1-98)T
 - a. Medical and dental. (1-1-98)T
 - b. Housing grants for owner-occupied primary residences, including mobile homes. (1-1-98)T
 - c. Personal property, including clothing and household furnishings and appliances, tools and specialized or protective clothing required by an employer. (1-1-98)T
 - d. Transportation grants to provide available public transportation. Transportation grants may also be made to repair or replace the primary vehicle owned by the individual or family when public transportation is inadequate or unavailable. The repair or replacement cost, less salvage value, must not exceed one-half (1/2) the maximum grant in Section 500. A vehicle is not eligible for replacement or repair unless the owner carries liability insurance. (1-1-98)T
 - e. Moving and storage to prevent or reduce damage. (1-1-98)T
 - f. Repairing, cleaning or sanitizing any eligible personal property item. (1-1-98)T
 - g. Disaster-related funeral costs to include only the minimum costs for burial or cremation. (1-1-98)T
 - h. Any necessary expense or serious need not identified as eligible if the IFG program determines the expense or need is necessary or serious. (1-1-98)T
 - i. Cost of estimates required by IFG. (1-1-98)T
- 02. Ineligible Items and Services. Ineligible items and services are: (1-1-98)T
 - a. Business losses, including farm business. (1-1-98)T
 - b. Improvements or additions to real property. (1-1-98)T
 - c. Landscaping. (1-1-98)T
 - d. Recreational property. (1-1-98)T
 - e. Debts incurred before the disaster. (1-1-98)T
 - f. Any necessary expense or serious need for which assistance was available from other means but refused by the individual or family. (1-1-98)T

401. -- 499. (RESERVED).

500. GRANT PAYMENTS.

With respect to any one major disaster, an individual or family must not receive a grant or grants exceeding the maximum established according to 44 CFR Section 206.131 for the year in which the disaster occurred. (1-1-98)T

501. MINIMUM GRANT PAYMENT.

An individual or family required to enroll in GFIP must not receive a grant for real or personal property loss that equals or is less than the GFIP premium in force for the major disaster. (1-1-98)T

502. -- 599. (RESERVED).

600. OVERPAYMENTS.

An overpayment is a debt due to the State of Idaho and FEMA in proportion to federal financial participation in the grant. Efforts must be made to recover overpayments. (1-1-98)T

601. -- 799. (RESERVED).

800. AVAILABILITY OF FUNDS.

Payment of IFG grants depends on the availability and receipt of appropriated funds or federal grant. (1-1-98)T

801. -- 899. (RESERVED).

900. CONFIDENTIALITY.

Any disclosure of information is subject to the restrictions in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records" and the Privacy Act of 1974 (see 44 CFR, Part 6). (1-1-98)T

901. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.07 - RULES GOVERNING JUVENILE JUSTICE SERVICES

DOCKET NO. 16-0607-9701

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) 39-105 (l), 39-106 (l)(a), 56-202(b) and 56-204A, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 1, 1997 Administrative Bulletin, Volume 97-10, page 60.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Roseanne Hardin at (208) 334-5680.

DATED this 3rd day of December 1997.

Sherri Kovach
Administrative Procedures Coordinator
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450 West State Street - 10th Floor
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IDAPA 16
TITLE 06
Chapter 07

RULES GOVERNING JUVENILE JUSTICE SERVICES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997, page 60.**

**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 17 - INDUSTRIAL COMMISSION
17.02.03 - SECURITY FOR COMPENSATION
DOCKET NO. 17-0203-9702

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective July 1, 1997. These rules have been adopted by the agency and are now pending review by the 1997 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, 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) 72-508, 72-212, 72-213, 72-214, 72-301, 72-304, and 72-311, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary 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 17.02.03.012.10, Rules Governing Insurance Companies, has been amended pursuant to public comment as follows:

In Subsection 012.10, the word "Liabilities" has been changed to "Awards," and the requirement to report on litigated workers' compensation claims has been deleted in response to public comment.

In Subsection 012.10.b., the word "claims" has been changed to "awards" in response to public comment.

In Subsection 012.10.c., the word "litigated" has been stricken in response to public comment.

In Subsection 012.10.e., the phrase "reserves are set" has been deleted and replaced with "the award is made" in response to public comment.

Subsection 012.10.f. has been deleted in response to public comment objecting to reporting on litigated claims.

Subsection 012.10.g. has been renumbered to 012.10.f.; Column "5" has been changed to Column "3" to reflect changes made on form IC36 (Appendix B) in response to public comment.

Subsection 012.10.h. has been renumbered to 012.10.g., and references to litigated claims has been stricken in response to public comment.

Subsection 012.10.i. has been renumbered to 012.10.h., and the word "reserves" has been deleted and replaced with the word "award" in response to public comment.

Subsection 012.10.j. has been renumbered to 012.10.i., and the word "separately" has been deleted; the word "reserves" has been deleted and replaced with "award"; and the phrase "and the future medical reserves" has been deleted to comply with public comment.

Subsection 012.10.k. has been renumbered to 012.10.j., and the words "total" and "reserves" have been deleted and replaced with "payments" in response to public comment.

Subsection 012.10.l. has been deleted in response to public comment.

Subsection 012.10.m. has been renumbered to 012.10.k., and the reference to Column "7" has been changed to Column "5" to reflect changes made on form IC36 (Appendix B) in response to public comment.

Subsection 012.10.n. has been renumbered to 012.10.l; the reference to Column "8" has been changed to Column "6" to reflect changes made on form IC36 (Appendix B) in response to public comment; and the phrase "during the life of the claim" has been deleted and replaced with the phrase "to date" to clarify the meaning.

Subsection 012.10.o. has been renumbered to 012.10.m.; the reference to Column "9" has been changed to Column "7" to reflect changes made on form IC36 (Appendix B) in response to public comment; and the reference to litigated cases has been deleted in response to public comment.

Subsection 012.10.p. has been renumbered to 012.10.n., and the reference to Column "10" has been changed to "8" to reflect changes made on form IC 36 (Appendix B) in response to public comment.

The proposed rules have been amended in response to public comment and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rules in place while the pending rules await legislative approval, the Commission amended the temporary rules with the same revisions which have been made to the proposed rules.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-7, pages 189 through 197.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208) 334-6000.

DATED this 16th day of October 1997.

Patricia S. Ramey, Commission Secretary
Industrial Commission
317 Main Street
P. O. Box 83720
Boise, Idaho 83720-0041
Telephone: (208)334-6017
Fax: (208)334-5145

IDAPA 17
TITLE 02
Chapter 03

SECURITY FOR COMPENSATION

**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 97-7, July 2, 1997,
pages 189 through 197.**

**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. 17-0203-9702

012. RULES GOVERNING INSURANCE COMPANIES.

An insurance company must apply for and receive the approval of the Industrial Commission to write workers' compensation insurance pursuant to Section 72-301, Idaho Code. After receiving such approval, an insurance company shall comply with the following: (7-1-97)T

01. Maintain Statutory Security Deposits With the State Treasurer. (7-1-97)T

a. Each insurance company shall maintain with the Idaho State Treasurer security in the amount of twenty-five thousand dollars (\$25,000) if approved by the commission prior to July 15, 1988, or two hundred and fifty thousand dollars (\$250,000) if approved subsequent to that date. If the insurance company has made a qualifying deposit of twenty-five thousand dollars (\$25,000) under the provisions of Section 41-317, Idaho Code, that amount shall be deemed contributory to the total required security. (7-1-97)T

b. In addition to the security required in Subsection 012.01.a., above, each insurance company shall deposit an amount equal to the total unpaid outstanding awards of said insurance company. Such deposit shall be in the form of cash, U. S. obligations, Idaho municipal bonds, or a surety bond in the form set forth in IDAPA 17.02.03, Subsection 011.02.f. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. (7-1-97)T

c. Securities which are maintained to satisfy the requirements of this rule may be held in the federal reserve book-entry system, as defined in Section 41-2870(4), Idaho Code, and interests in such securities may be transferred by bookkeeping entry in the federal reserve book-entry system without physical delivery of certificates representing such securities. (7-1-97)T

02. Appoint Agent for Service of Process. Each insurance company shall appoint the Director of the Department of Insurance as its attorney to receive service of legal process. (7-1-97)T

03. Maintain Resident Idaho Office. Each insurance company shall maintain an Idaho licensed adjuster or adjusters resident in Idaho who have been appointed and have been given authority as to claims arising under the Act. Each insurance company shall notify the Commission in writing of any change of designated resident adjuster(s) within fifteen (15) days of such change. (7-1-97)T

04. Supply Forms. Each insurance company shall supply such forms as are or may be prescribed by the Commission pursuant to the Workers' Compensation Law and distribute them to all employers it insures. A list of required forms is available from the public information section of the Industrial Commission, P. O. Box 83720, Boise, Idaho 83720, telephone (208)334-6000. (7-1-97)T

05. Comply with Industrial Commission Reporting Requirements. Each insurance company shall file such reports as the Industrial Commission may require concerning matters under the Workers' Compensation Law. (7-1-97)T

06. Report Proof of Coverage. (7-1-97)T

a. Each insurance company shall report proof of coverage information to a third party designated by

the Industrial Commission as its agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The name and address of the Commission's designated agent(s) is available upon request from the Employer Compliance Section of the Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000. (7-1-97)T

b. As an alternative to Subsection 012.06.a., an insurance company may be allowed to report proof of coverage information directly to the Industrial Commission in an electronic format prescribed by the Commission by first making a written request to the Commission and obtaining the Commission's permission. A formal written agreement with the Commission is required prior to the electronic transmission of proof of coverage data to the Commission. (7-1-97)T

c. The Industrial Commission hereby adopts the International Association of Industrial Accident Boards and Commissions' (IAIABC) electronic proof of coverage record layout and transaction standards as the required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout and transaction standards is available upon request from the Employer Compliance Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000. (7-1-97)T

d. The most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining the insurance company providing coverage. (7-1-97)T

07. Report New Policy, Renewal Policy, and Endorsement Information Within Thirty (30) Days. Each insurance company shall report the issuance of any new workers' compensation policy, renewal policy, or endorsement to the Industrial Commission or its designated agent within thirty (30) days of the effective date of the transaction. (7-1-97)T

08. Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute. Each insurance company shall report the cancellation and/or nonrenewal of any workers' compensation insurance policy to the Industrial Commission or its designated agent within the time frames prescribed by Section 72-311, Idaho Code. (7-1-97)T

09. Report Election of Coverage on Form IC52 or Similar Format. Each insurance company shall report election of coverage or revocation of election of coverage on or in a format substantially the same as Form IC52, "Election of Coverage," which follows this chapter as Appendix A. This report shall be submitted to the Industrial Commission in writing on eight-and-one-half by eleven-inch (8 1/2 x 11) paper. (7-1-97)T

10. Report Outstanding ~~Liabilities Awards~~ Awards. Each insurance company shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding ~~liability award for~~ on fatal, permanent partial impairment, and permanent total disability, ~~or litigated~~ workers' compensation claims. (7-1-97)T(7-1-97)T

a. The report of outstanding awards shall be filed with the Industrial Commission by the tenth (10th) day of the month following the end of each calendar quarter. (7-1-97)T

b. The report shall be filed even if there are no outstanding ~~claims~~ awards and shall indicate the fact that there are no outstanding awards to be reported. (7-1-97)T(7-1-97)T

c. The report shall be submitted on or in a format that is substantially the same as Form IC36, "Report of Outstanding Awards for Fatal, Permanent Partial Impairment, ~~Litigated~~ and Permanent Total Disability Claims," which follows this chapter as Appendix B. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by fourteen inches (8 1/2 x 14) in size. (7-1-97)T(7-1-97)T

d. The report shall be signed by a corporate officer. If an insurance company has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the insurance company shall prepare and file a consolidated report of outstanding awards. (7-1-97)T

e. The report shall list every outstanding fatal, permanent partial impairment, and total permanent disability claim, commencing with the calendar quarter during which ~~reserves are set~~ the award is made or benefits are first paid, whichever occurs earlier. (7-1-97)T(7-1-97)T

~~f. The report shall list every litigated claim, commencing with the calendar quarter during which the complaint (application for hearing) was filed. (7-1-97)T~~

~~g. The report shall continue to list every outstanding award successively until the outstanding award is paid in full or is otherwise disposed of. (7-1-97)T~~

~~h. The report shall designate the type of claim in Column 5 using the abbreviations "F" for fatal, "PPI" for permanent partial impairment, "L" for litigated, or "PT" for permanent total disability. (7-1-97)T(7-1-97)T~~

~~i. The report shall specify the indemnity ~~reserves~~ award for dependents on all fatal ("F") claims. (7-1-97)T(7-1-97)T~~

~~ii. The report shall identify ~~separately~~ the permanent impairment ~~reserves~~ award and the future ~~medical reserves~~ on all permanent partial impairment ("PPI") claims. (7-1-97)T(7-1-97)T~~

~~iii. The report shall identify separately the ~~total~~ medical ~~reserves~~ payments and the indemnity ~~reserves~~ on litigated claims and payments on permanent total disability ("PT") claims. (7-1-97)T(7-1-97)T~~

~~iv. The report shall indicate in Column 6 the total compensation and other expenses, as well as reserves set for litigated and permanent total disability claims. Column 6 will equal the amounts indicated in Columns 8, 9, and 10. (7-1-97)T~~

~~v. The report shall indicate in Column 7 the amount of any compensation paid during the reporting period. (7-1-97)T~~

~~vi. The report shall indicate in Column 8 the total amount of compensation paid ~~during the life of the claim to date.~~ (7-1-97)T(7-1-97)T~~

~~vii. The report shall indicate in Column 9 adjustments due to clerical error or status changes such as remarriage, or death, or disposition of litigated cases. (7-1-97)T(7-1-97)T~~

~~viii. The report shall indicate in Column 10 the unpaid balance in each claim. (7-1-97)T(7-1-97)T~~

11. Comply with Law and Rules. Each insurance company shall comply with the statutes of the State of Idaho and the rules of the Industrial Commission to ensure that payments of compensation shall be sure and certain and not unnecessarily delayed. (7-1-97)T

APPENDIX B

**IC36 - REPORT OF OUTSTANDING AWARDS FOR FATAL, PERMANENT PARTIAL
 IMPAIRMENT, LITIGATED AND PERMANENT TOTAL DISABILITY CLAIMS**

(Name of Insurer or Self-Insured Employer) _____									
Year: _____									
For Calendar Quarter Ending: <input type="checkbox"/> March <input type="checkbox"/> September <input type="checkbox"/> June <input type="checkbox"/> December									
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Date of Injury	Claimant Name (as shown on First Report of Injury)	SSN	IC-Claim Number	Type of Claim	Total Awards/ Reserves	Compensation This Report	Total Compensation Paid	Adjustment	Unpaid Balance
TOTALS									

Send Original to: Fiscal Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041

 Corporate Officer
 Date: _____

Name and Title of Preparer: _____

Company: _____

Address: _____

Telephone: _____

Page ____ of ____

IDAPA 20 - DEPARTMENT OF LANDS
20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT
DOCKET NO. 20-0201-9701
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 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 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1304.

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.

- Amends notification rules to eliminate redundancy and clarify when a notice of forest practice is required.
- Amends use of chemicals rules to comply with Idaho Department of Agriculture pesticide rules.
- Amends use of chemicals rules to include petroleum storage rules.
- Adds rules for addressing cumulative watershed effects on forest lands.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, September 3, 1997, Volume 97-9, pages 167 through 182.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact: Jim Colla, Forest Practices Coordinator, Idaho Department of Lands, 2727 Folsom Bridge Road, P.O. Box 670, Coeur d'Alene, Idaho 83816-0670, (208) 769-1525 -- Telephone, (208) 769-1524 -- Fax

Dated this 22nd day of October 1997

Stanley F. Hamilton, Director
Idaho Department of Lands
954 West Jefferson Street
P.O. Box 83720-0050
Boise, Idaho 83720
(208) 334-0200 -- Telephone
(208) 334-3698 -- Fax

IDAPA 20
TITLE 02
Chapter 01

RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 97-9, September 3, 1997, pages 167 through 182.**

**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 20 - DEPARTMENT OF LANDS
20.03.02 - RULES GOVERNING EXPLORATION AND SURFACE MINING IN IDAHO

DOCKET NO. 20-0302-9701

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 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 47-1505(3).

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.

1. Exemption for county or governmental agency complying with plan provisions of statute.
2. Requirement for notifying cities and counties of proposed mining operations within their boundaries.
3. Public and governmental agency exemption from bonding of surface mining plans when using materials for public projects.
4. Provide new bond rates and bonding provisions.
5. Add language to address requirement of operation plan in certain instances.
6. Provide clarification and information in BMP requirements.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, September 3, 1997, Volume 97-9, pages 183 through 204.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact:

Scott Nichols, Bureau Chief
Idaho Department of Lands - Bureau of Minerals
954 West Jefferson Street
Boise, Idaho 83720
Telephone: (208) 334-0261

Dated this 22nd day of October 1997

Stanley F. Hamilton, Director
Idaho Department of Lands
954 West Jefferson Street
P.O. Box 83720-0050
Boise, Idaho 83720
(208) 334-0200 -- Telephone
(208) 334-3698 -- Fax

IDAPA 20
TITLE 03
Chapter 02

RULES GOVERNING EXPLORATION AND SURFACE MINING IN IDAHO

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 97-9, September 3, 1997, pages 183 through 204.**

**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 20 - DEPARTMENT OF LANDS

**20.03.04 - THE REGULATION OF BEDS, WATERS AND AIRSPACE
OVER NAVIGABLE LAKES IN THE STATE OF IDAHO**

DOCKET NO. 20-0304-9701

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 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 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-105, 39-107, AND 39-3601, et seq., 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.

- This is a proposal to revise, add and delete provisions in the current Rules for Regulation of Beds, Waters and Airspace over Navigable Lakes, which were initially adopted in 1974.

- Many of the proposed changes have been in use as written operations memorandum, and many changes have been in use as unwritten policy. The proposed changes adopt these policies as rules and clarify other requirements and procedures.

- The proposed amendments include dock standards for single-family docks, two-family docks, and community docks; clarified definitions; requirements for float homes; clarification of the application procedure; clarification of the hearing and appeal process, and provisions for the revocation and withdrawal of permits.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees being imposed or increased as a result of this rule making.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, September 3, 1997, Volume 97-9, pages 205 through 217.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact:

Carl Washburn, Navigable Waters Specialist
Idaho Department of Lands
1910 NW Boulevard, Suite 201
Coeur d'Alene, Idaho 83814-2615
(208) 769-1535 -- Telephone
(208) 769-1557 -- Fax

Dated this 22nd day of October 1997

Stanley F. Hamilton, Director
Idaho Department of Lands
954 West Jefferson Street
P.O. Box 83720-0050
Boise, Idaho 83720
(208) 334-0200 -- Telephone
(208) 334-3698 -- Fax

IDAPA 20
TITLE 03
Chapter 04

THE REGULATION OF BEDS, WATERS AND AIRSPACE
OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

There are no substantive changes
from the proposed rule text.

The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997,
pages 205 through 217.

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 20 - DEPARTMENT OF LANDS

20.06.02 - LICENSING AND CHECKSCALES OF THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0602-9701

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 April 15, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, 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.

This chapter is being repealed in its entirety and replaced by new rules designed to clarify and simplify the rules. The new chapter is being promulgated under Docket No. 20-0602-9702 immediately following this notice.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, page 124.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ernest Bauer, Head Check Scaler, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this 22nd day of October, 1997.

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

**IDAPA 20
TITLE 06
Chapter 02**

**LICENSING AND CHECKSCALES OF THE
IDAHO BOARD OF SCALING PRACTICES**

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 97-10, October 1, 1997, page 124.**

**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 20 - DEPARTMENT OF LANDS
20.06.02 - GENERAL RULES, LICENSING, AND CHECK SCALES
OF THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0602-9702

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 April 15, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, pages 125 through 134.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. Subsection 820.02 sets the fee for a requested check scale at "two hundred dollars (\$200) for each day, or part of a day, that the check scaler is scaling the logs", in accordance with Section 38-1215, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ernest Bauer, Head Check Scaler, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this 22nd day of October, 1997.

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

IDAPA 20
TITLE 06
Chapter 02

GENERAL RULES, LICENSING AND CHECK SCALES
OF THE IDAHO BOARD OF SCALING PRACTICES

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 97-10, October 1, 1997, pages 125 through 134.

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 20 - DEPARTMENT OF LANDS
20.06.03 - SCALING SPECIFICATIONS AND CHECK SCALING STANDARDS
OF THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0603-9701

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 April 15, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, 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. This chapter is being repealed in its entirety and replaced by new rules designed to clarify and simplify the rules. The new chapter is being promulgated under Docket No. 20-0603-9702 immediately following this notice. The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, page 135.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ernest Bauer, Head Check Scaler, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this 22nd day of October, 1997.

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

IDAPA 20
TITLE 06
Chapter 03

SCALING SPECIFICATIONS AND CHECK SCALING STANDARDS
OF THE IDAHO BOARD OF SCALING PRACTICES

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 97-10, October 1, 1997, page 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 20 - DEPARTMENT OF LANDS
20.06.03 - MEASUREMENT RULES FOR FOREST PRODUCTS
OF THE IDAHO BOARD OF SCALING PRACTICES

DOCKET NO. 20-0603-9702

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 April 15, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, 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. This rule-making is designed to clarify and simplify the rules by replacing elements of IDAPA 20.06.02, 20.06.03, and 20.06.04. The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, pages 136 through 154.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ernest Bauer, Head Check Scaler, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this 22nd day of October, 1997.

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

IDAPA 20
TITLE 06
Chapter 03

MEASUREMENT RULES FOR FOREST PRODUCTS
OF THE IDAHO BOARD OF SCALING PRACTICES

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 97-10, October 1, 1997, pages 136 through 154.

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 20 - DEPARTMENT OF LANDS

**20.06.04 - FOREST PRODUCTS MEASUREMENT FOR THE PURPOSE OF PAYMENT
FOR LOGGING OR HAULING LOGGED FOREST PRODUCTS ONLY**

DOCKET NO. 20-0604-9701

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 April 15, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 38-1208, 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. This chapter is being repealed in its entirety and replaced by new rules designed to clarify and simplify the rules. The new chapters are being promulgated under Docket No.'s 20-0602-9702 and 20-0603-9702 preceding this notice. The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, page 155.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ernest Bauer, Head Check Scaler, Idaho Board of Scaling Practices, at (208) 769-1445.

DATED this 22nd day of October, 1997.

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

**IDAPA 20
TITLE 06
Chapter 04**

**FOREST PRODUCTS MEASUREMENT FOR THE PURPOSE OF
PAYMENT FOR LOGGING OR HAULING
LOGGED FOREST PRODUCTS ONLY**

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 97-10, October 1, 1997, page 155.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-9701

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 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. This action is authorized pursuant to Section 54-521, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 1, 1997 Idaho Administrative Bulletin, Volume No. 97-10, pages 157 through 163.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 02
Chapter 01

RULES OF THE BOARD OF BARBER EXAMINERS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 157 through 163.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.03.01 - RULES OF THE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-9701

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 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. This action is authorized pursuant to Section 54-707, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 1, 1997 Idaho Administrative Bulletin, Volume No. 97-10, pages 164 through 167.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 03
Chapter 01

RULES OF THE BOARD OF CHIROPRACTIC PHYSICIANS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 164 through 167.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.04.01 - RULES OF THE BOARD OF COSMETOLOGY
DOCKET NO. 24-0401-9701
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 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. This action is authorized pursuant to Section 54-821, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, pages 168 through 170.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 04
Chapter 01

RULES OF THE BOARD OF COSMETOLOGY

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 168 through 170.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.06.01 - RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS

DOCKET NO. 24-0601-9701

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 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. This action is authorized pursuant to Section 54-2914, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, page 171.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 06
Chapter 01

RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997, page 171.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.08.02 - RULES OF THE IDAHO STATE BOARD OF MORTICIANS
GOVERNING CREMATORIES IN IDAHO

DOCKET NO. 24-0802-9701

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 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. This action is authorized pursuant to Section 54-1106, 27-303, 27-305, 27-306, 27-307, 27-308 and 27-309, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, pages 172 through 175.

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

DATED this 17th day of October, 1997.

Dee Ann Randall
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Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

IDAPA 24
TITLE 08
Chapter 02

RULES OF THE IDAHO STATE BOARD OF MORTICIANS
GOVERNING CREMATORIES IN IDAHO

There are no substantive changes
from the proposed rule text.

The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 172 through 175.

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 24 - BUREAU OF OCCUPATIONAL LICENSES

**24.09.01 - RULES OF THE BOARD OF EXAMINERS
OF NURSING HOME ADMINISTRATORS**

DOCKET NO. 24-0901-9701

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 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. This action is authorized pursuant to Section 54-1604, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, pages 176 through 179.

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

DATED this 17th day of October, 1997.

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

**IDAPA 24
TITLE 09
Chapter 01**

RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 176 through 179.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.11.01 - RULES OF THE STATE BOARD OF PODIATRY
DOCKET NO. 24-1101-9701
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 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. This action is authorized pursuant to Section 54-605, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, pages 180 through 183.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 11
Chapter 01

RULES OF THE STATE BOARD OF PODIATRY

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 180 through 183.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.11.01 - RULES OF THE BOARD OF PODIATRY

DOCKET NO. 24-1101-9702

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 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. This action is authorized pursuant to Section 54-605, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, pages 184 and 185.

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

DATED this 17th day of October, 1997.

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

**IDAPA 24
TITLE 11
Chapter 01**

RULES OF THE STATE BOARD OF PODIATRY

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 184 and 185.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.12.01 - RULES OF THE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-9701

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 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. This action is authorized pursuant to Section 54-605, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, page 186.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 12
Chapter 01

RULES OF THE BOARD OF PSYCHOLOGIST EXAMINERS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997, page 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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-9701

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 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. This action is authorized pursuant to Section 54-3204, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, pages 187 through 190.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 14
Chapter 01

RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 187 through 190.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.15.01 - RULES OF THE IDAHO COUNSELOR LICENSING BOARD

DOCKET NO. 24-1501-9701

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 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. This action is authorized pursuant to Section 54-1604, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, pages 191 through 194.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 15
Chapter 01

RULES OF THE IDAHO COUNSELOR LICENSING BOARD

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 191 through 194.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-9701

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 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. This action is authorized pursuant to Section 54-4205, Idaho Code.

DESCRIPTIVE SUMMARY: These pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume No. 97-10, October 1, 1997, pages 195 through 197.

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

DATED this 17th day of October, 1997.

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

IDAPA 24
TITLE 19
Chapter 01

RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 195 through 197.**

**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 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9701
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 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) 63-105 and 63-3039, Idaho Code.

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

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

Subsection 582.01. In the 4th line has an "s" added to the word "Guideline".

Subsection 582.02. Should be written as follows:

Definition of Financial Institution. For purposes of Section 2(h) of the "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" the term financial institution means a person subject to taxation under Chapter 30, Title 63, Idaho Code which predominantly deals in money or moneyed capital in substantial competition with the business of national banks. The term financial institution does not include a person described in Section 63-3023(b), Idaho Code.

Subsection 582.03.c. Add the word "Title" in front of the number 12 and a comma after the 12.

Only the sections that have changed are printed in this bulletin. The original text of the proposed rules was published in the September 3, 1997 Idaho Administrative Bulletin, Volume 97-9, pages 218 through 221.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 01

INCOME TAX ADMINISTRATIVE RULES

**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 97-9, September 3, 1997, pages 218 through 221.**

**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. 35-0101-9701

582. SPECIAL RULES -- FINANCIAL INSTITUTIONS (Rule 582).

Section 63-3027(s), Idaho Code.

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01. Adoption of MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This rule incorporates by reference the Multistate Tax Commission's "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" as adopted November 17, 1994, and found in "Model Regulations, Statutes and Guidelines, Uniformity Recommendation to the States," May, 1996 Edition, published by the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, D.C. 20001. A copy of this regulation may be obtained from the Tax Commission offices.

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02. Definition of Financial Institution. For purposes of Section 2(h) of the "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" the term financial institution means a person subject to taxation under Chapter 30, Title 63, Idaho Code, ~~except a person described in Section 63-3023(b), Idaho Code,~~ which predominantly deals in money or moneyed capital in substantial competition with the business of national banks. ~~For purposes of this rule, the following definitions apply: The term financial institution does not include a person described in Section 63-3023(b), Idaho Code.~~

()

a. Predominantly means over fifty percent (50%) of a taxpayer's gross income is attributable to dealings in money or moneyed capital in substantial competition with the business of national banks. Generally, the determination of predominance will be made based upon the division of gross income for the year in issue. However, the classification of a taxpayer as a financial institution or as a nonfinancial institution will not be changed based upon an occasional year in which its gross income does or does not exceed the fifty percent (50%) level. For the classification of a taxpayer as a financial or nonfinancial institution to be changed, there must be a shift in the predominant character of the gross income for two (2) consecutive years and the average of the corporation's gross income in the current and the immediately preceding two (2) years must fail or satisfy the predominance test. If substantial amounts of gross income arise from an incidental or occasional sale of an asset of the taxpayer, such gross income shall be excluded for purposes of this subsection. For example, gross income from the sale of a headquarters building shall be excluded.

()

b. Deals in means conducting transactions in the course of a trade or business on its own account as opposed to brokering the capital of others. ()

c. Money or moneyed capital includes, but is not limited to, coin, cash, currency, mortgages, deeds of trust, conditional sales contracts, loans, commercial paper, installment notes, credit cards, and accounts receivable. ()

d. In substantial competition means that a corporation and national banks both engage in seeking and securing in the same locality capital investment of the same class which are substantial in amount, even though the terms and conditions of the business transactions of the same class are not identical. It does not mean there must be competition as to all phases of the business of national banks, or competition as to all types of loans or all possible borrowers. The activities of a corporation need not be identical to those performed by a national bank in order to constitute substantial competition; It is sufficient if there is competition with some, but not all, bases of the business of national banks, or capital is invested in particular operations or investments like those of national banks. ()

03. Entities Presumed to Be Financial Institutions. The following entities are presumed to be financial institutions as defined in Subsection 582.02: ()

a. Any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended; ()

b. A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, Title 12, Sections 21 et seq., United States Code; ()

c. A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, Title 12, Section 1813(b)(1), United States Code; ()

d. Any bank or thrift institution incorporated or organized under the laws of any state; ()

e. Any corporation organized under the provisions of Title 12, Sections 611 to 631, United States Code; ()

f. Any agency or branch of a foreign depository as defined in Title 12, Section 3101, United States Code; ()

g. Any corporation whose voting stock is more than fifty percent (50%) owned, directly or indirectly, by any person or business entity described in Subsections 582.03.a. through 582.03.f. other than an insurance company exempted from tax by Section 41-405, Idaho Code; and ()

h. A corporation or other business entity that, in the current tax year and immediately preceding two (2) tax years, derived more than fifty percent (50%) of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a finance lease shall mean any lease transaction which is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. The phrase shall include any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles. ()

04. Exclusion from Rule. The Tax Commission is authorized to exclude any person from the application of Subsection 582.01 upon such person proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in Subsections 582.03.a. through 582.03.f. and 582.03.h. ()

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9702
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 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) 63-105 and 63-3039, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho October 1, 1997 Administrative Bulletin, Volume 97-10, pages 243 through 246.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 01

INCOME TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 243 through 246.**

**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 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9703
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 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) 63-105 and 63-3039, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 247 through 251.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 22nd day of October, 1997.

Janice Boyd, Tax Policy Specialist
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(208) 334-7530, FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 01

INCOME TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 247 through 251.**

**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 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9704
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 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) 63-105 and 63-3039, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 252 through 267.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 22nd day of October, 1997.

Janice Boyd, Tax Policy Specialist
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(208) 334-7530, FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 01

INCOME TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 252 through 267.**

**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 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9705
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 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) 63-105 and 63-3039, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 268 through 271.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 22nd day of October, 1997.

Janice Boyd, Tax Policy Specialist
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800 Park Blvd. Plaza IV
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(208) 334-7530, FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 01

INCOME TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 268 through 271.**

**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 35 - STATE TAX COMMISSION
35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0102-9701
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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October 1, 1997 Idaho Administrative Bulletin, Volume 97-10, pages 276 through 284.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, 92080 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 02

IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 276 through 284.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9704
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 January 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-8, pages 221 through 224.

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

DATED this 15th day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-8, August 6, 1997,
pages 221 through 224.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9705
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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-9, pages 228 and 229.

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

DATED this 15th day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-9, September 3, 1997,
pages 228 and 229.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9706
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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 285 and 286.

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

DATED this 22th day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 285 and 286.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9707
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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 287 through 289.

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

DATED this 22th day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 287 through 289.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9708
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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 290 and 291.

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

DATED this 22th day of October, 1997.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
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(208) 334-7530, FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 290 and 291.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9709
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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 292 and 293.

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

DATED this 22th day of October, 1997.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
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(208) 334-7530, FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 292 and 293.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9710
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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 294 and 295.

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

DATED this 22th day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 294 and 295.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9711
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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 296 and 297.

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

DATED this 22th day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 296 and 297.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9713
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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 301 through 303.

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

DATED this 22th day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 301 through 303.**

**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 35 - STATE TAX COMMISSION
35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0104-9701

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 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) 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 304 and 305.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 22th day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 04

IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 304 and 305.**

**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 35 - STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-9701
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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 306 through 320.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 05

MOTOR FUELS TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 306 through 320.**

**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 35 - STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-9702
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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 321 through 336.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 05

MOTOR FUELS TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 321 through 336.**

**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 35 - STATE TAX COMMISSION

35.01.06 - HOTEL/MOTEL ROOM AND CAMPGROUND SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0106-9701

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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 337 and 338.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

**IDAPA 35
TITLE 01
Chapter 06**

HOTEL/MOTEL ROOM AND CAMPGROUND TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 337 and 338.**

**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 35 - STATE TAX COMMISSION
35.01.07 - IDAHO KILOWATT HOUR TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0107-9701
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 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) 63-105 and 63-2701, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, page 339.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 07

IDAHO KILOWATT HOUR TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997, page 339.**

**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 35 - STATE TAX COMMISSION

35.01.09 - IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-9701

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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 340 through 342.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

**IDAPA 35
TITLE 01
Chapter 09**

**IDAHO COUNTY OPTION KITCHEN AND TABLE
WINE TAX ADMINISTRATIVE RULES**

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 340 through 342.**

**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 35 - STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-9701

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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 343 through 345.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

**IDAPA 35
TITLE 01
Chapter 10**

**IDAHO CIGARETTE AND TOBACCO PRODUCTS
TAX ADMINISTRATIVE RULES**

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 343 through 345.**

**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 35 - STATE TAX COMMISSION
35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES
DOCKET NO. 35-0111-9701
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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 346 and 347.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 11

IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 346 and 347.**

**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 35 - STATE TAX COMMISSION
35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES
DOCKET NO. 35-0111-9702
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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 348 through 351.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 11

IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 348 through 351.**

**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 35 - STATE TAX COMMISSION
35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES
DOCKET NO. 35-0111-9703
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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 352 and 353.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 11

IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 352 and 353.**

**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 35 - STATE TAX COMMISSION
35.01.12 - IDAHO BEER TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0112-9701
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 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) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 354 through 356.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 01
Chapter 12

IDAHO BEER TAX ADMINISTRATIVE RULES

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 354 through 356.**

**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 35 - STATE TAX COMMISSION
35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES
DOCKET NO. 35-0201-9701
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 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) 63-105 and 63-3039, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-10, pages 357 through 359.

Furthermore, an error was made in the publication of the pending rule in Docket No. 35-0201-9601. Sections 830 and 885 should have been published as Reserved sections and should contain no text. The incorrect text is being published in legislative format following this notice.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 22nd day of October, 1997.

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

IDAPA 35
TITLE 02
Chapter 01

ADMINISTRATION AND ENFORCEMENT RULES

There are no substantive changes from the proposed rule text.

**An error was made in the publication of the pending rule in Docket No. 35-0201-9601,
a correction to this rule is being printed at the end of this docket.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-10, October 1, 1997,
pages 357 through 359.**

**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. 35-0201-9701

~~821.---829.~~ **(RESERVED).**

830. INFORMATION RETURNS (Rule 830).

Section 63-3037, Idaho Code. (—)

(—) 01. In General. Information returns are not required to be filed with the Tax Commission except as follows:

a. Form 1099-MISC, Miscellaneous Income, if it is issued for transactions related to property located or utilized in Idaho or for services performed in Idaho. (—)

b. Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's, Insurance Contracts, etc., if Idaho income tax is withheld. (—)

c. Form 1099-S, Proceeds From Real Estate Transactions, if it is issued for transactions related to property located in Idaho. (—)

d. Form MSA-1, Medical Savings Accounts. (—)

02. Submitting Returns. Information returns shall be submitted to the Tax Commission on federal Form 1099 or magnetic media. Taxpayers reporting on magnetic media shall contact the Tax Commission for specifications prior to submitting the information. (—)

03. Due Date of Information Returns. Information returns shall be made on a calendar year basis. The due date is the last day of February, following the close of the calendar year. (—)

~~831.---884.~~ **(RESERVED).**

885. INTEREST ON REFUNDS (Rule 885).

Section 63-3073, Idaho Code. (—)

01. In General. Taxpayers shall receive interest on refunds of all amounts illegally or erroneously assessed or collected. No interest is payable on refunds of amounts that are voluntary or unrequested payments exceeding the tax due. (—)

02. Computation. The Tax Commission shall compute interest on refunds as follows: (—)

a. Taxes Erroneously or Illegally Assessed or Collected. Interest shall be computed from the date the excess amount was received or the due date for filing the return to which the amount relates, whichever is later. (—)

b. Refunds of Income Tax Withheld. The Tax Commission will pay interest on refunds of withholding if the refund is paid more than sixty (60) days after the due date of the income tax return or the date it was filed, whichever is later. For purposes of this rule, the refund is considered paid on the date it is postmarked. If a taxpayer unduly delays the processing of his refund by failing to respond promptly to requests for information or in any other way, the Tax Commission may deduct time attributable to the delay from the total processing time to determine whether interest shall be paid and from what date. Unless reasonable cause is established, undue delay occurs if the taxpayer's delay is more than sixty (60) days. Pursuant to this subsection, interest is computed from the due date, or extended due date, of the return. (—)

c. Tentative Payments. The Tax Commission may not pay interest on a refund resulting from an estimated or tentative payment. (—)

d. Refunds from Net Operating Loss and Capital Loss Carrybacks. Refunds from net operating loss

~~and capital loss carrybacks include refunds from credits carried to years other than the year to which the net operating loss or capital loss deduction applies. Interest on these refunds is computed from the last day of the loss year. (—)~~

821. - 999. **(RESERVED).**

IDAPA 35 - STATE TAX COMMISSION
35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES
DOCKET NO. 35-0201-9702
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective January 1, 1998.

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)63-3045, 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 December 17, 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:

Section 63-3045, Idaho Code, provides that by November 1 of each year, the Tax Commission shall fix the rate of interest due for the next calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund. The rate of interest, rounded to the nearest whole number, shall be two percent (2%) plus the rate determined under Section 1274(d), Internal Revenue Code, by the secretary of the treasury of the United States as the mid-term federal rate as it applies on October 15 of that year. For calendar year 1998, the annual rate of interest applicable to delinquent state taxes accruing or unpaid during all or any part of calendar year 1998 subject to assessment of interest under Section 63-3045, Idaho Code, is eight percent (8%) simple interest.

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:

Section 63-3045, Idaho Code, requires the Tax Commission to fix the rate of interest for the succeeding calendar year by November 1 of each year.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

None.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the State Tax Commission is required to fix the rate of interest using the calculation set forth in Section 63-3045, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Janice Boyd, (208) 334-7530.

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 December 24, 1997.

DATED this 22nd day of October, 1997.

Janice Boyd, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530 FAX (208) 338-7844

TEXT OF DOCKET NO. 35-0201-9702

310. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID (Rule 310).

Section 63-3045, Idaho Code.

(3-20-97)

01. July 1, 1981, Through December 31, 1993. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of the period from July 1, 1981, through December 31, 1993, subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is twelve percent (12%) simple interest. (3-20-97)

02. Calendar Year 1994. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1994 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 93-64. (3-20-97)

03. Calendar Year 1995. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1995 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 94-61. (3-20-97)

04. Calendar Year 1996. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1996 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 95-67. (3-20-97)

05. Calendar Year 1997. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1997 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 96-49. (3-20-97)

06. Calendar Year 1998. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1998 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 97-41. (1-1-98)T

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
37.03.13 - WATER USE, MEASUREMENT AND ENFORCEMENT
DOCKET NO. 37-0313-9501

NOTICE OF VACATION OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the Rule-making previously initiated under this docket. The action is authorized pursuant to Section 42-1805(8), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rule-making:

IDWR started the negotiated rule-making process in December 1995 intending to develop rules which applied to the Eastern Snake Plain Aquifer area. As the process has developed, parts of the rules to be negotiated will apply statewide. Because the scope of the rules being negotiated will be statewide, the original negotiated rule-making is no longer applicable and is being vacated. This rule-making is being replaced by a new negotiated rule-making being published in this Bulletin under Docket No. 37-0313-9701 immediately following this Docket.

The original Docket No. 37-0313-9501 was published in the December 6, 1995, Volume 95-12, Idaho Administrative Bulletin on page 209.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule-making, contact Norman C. Young at (208) 327-7900.

Dated this 22nd day of October, 1997.

Karl J. Dreher, Director
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706
Fax No. (208) 327-7866

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
37.03.13 - WATER USE, MEASUREMENT AND ENFORCEMENT
DOCKET NO. 37-0313-9701

NOTICE OF NEGOTIATED RULE MAKING

AUTHORITY: In compliance with section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rule-making procedures. This action is authorized pursuant to section 42-1805(8), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the purpose and substance of the negotiated rule making and the principal issues involved:

The Department of Water Resources (IDWR) plans to develop and establish rules to enforce laws prohibiting unauthorized use of water; governing the use of supplemental water rights; and providing standards and procedures for the measurement and reporting of water diversion and use. The rule making is responsive to an agreement which arose from efforts initiated by the A & B Irrigation District seeking conjunctive management of surface and ground water supplies used in the Eastern Snake Plain Aquifer area. IDWR may include rules for the establishment and operation of ground water districts and water measurement districts.

IDWR expects to develop rules through negotiation with and among the parties to the A & B Irrigation District proceedings and others having an interest in participating in rule development.

IDWR started the negotiated rule making process in December 1995 intending to develop rules which applied to the Eastern Snake Plain Aquifer area. As the process has developed, parts of the rules to be negotiated will apply statewide.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the negotiated rule making, contact Norman C. Young at (208) 327-7900.

Anyone may submit written comment regarding this negotiated rule making.

DATED this 22nd day of October, 1997.

Karl J. Dreher, Director
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706
Fax No. (208) 327-7866

IDAPA 48 - IDAHO DEPARTMENT OF COMMERCE
48.01.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)

DOCKET NO. 48-0101-9701

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 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) of the Housing and Community Development Act of 1974, as amended, (42 USC, Sec. 5301) and Department of Housing and Urban Development Rules 24 CFR, Part 570, Subpart I.

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 any change.

The department proposes to take community center applications from the public facility category and set aside and include them in the senior citizen center set aside to compete only with senior center applications which are similar in type and function. This will provide opportunities for community centers to be competitive in the grant application and award process without having to compete with other health and safety related public facility applications. There are no changes to the text of the proposed rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 1997 Idaho Administrative Bulletin, Volume No. 97-10, pages 375 through 382.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Gloria Mabbutt, (208) 334-2470.

DATED this 21st day of October 1997.

Gloria Mabbutt, Program Manager
Idaho Department of Commerce
700 West State Street/PO Box 83720
Boise, ID 83702-0093
Phone: 208-334-2470
Fax: 208-334-2631

IDAPA 48
TITLE 01
Chapter 01

IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin
Volume 97-10, October 1, 1997, pages 375 through 382.

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 53 - IDAHO BARLEY COMMISSION
53.01.01 - RULES OF THE IDAHO BARLEY COMMISSION
DOCKET NO. 53-0101-9701
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 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-4009, 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 any change.

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the August 6, 1997 Idaho Administrative Bulletin, Volume No. 97-8, pages 228 through 231.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Kelly Olson, Administrator, (208) 334-2090.

DATED this October 9, 1997.

Kelly Olson
Administrator
Idaho Barley Commission
1199 Main Street, Suite G
Boise, ID 83702
208-334-2090; FAX: 208-334-2335

IDAPA 53
TITLE 01
Chapter 01

RULES OF THE IDAHO BARLEY COMMISSION

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 97-8, August 6, 1997,
pages 228 through 231.**

**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 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

**59.01.03 - CONTRIBUTION RULES OF THE PUBLIC EMPLOYEE
RETIREMENT SYSTEM OF IDAHO**

DOCKET NO. 59-0103-9701

NOTICE OF TEMPORARY RULES

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

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section 59-1314(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rule-making:

Idaho Code section 59-1322(1) requires the Board to establish contribution rates within certain requirements. The Retirement Board has determined, based on actuarial valuation of reserves and liabilities, that it is able to make a temporary reduction in the PERSI contribution rates. This reduction will not reduce the contribution rate below the required normal cost and minimum amortization payment rates required by law.

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:

That this rule change will confer a benefit on PERSI employees and employers.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Alan H. Winkle, Executive Director of PERSI, 334-2455

DATED this 30th day of September, 1997

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-334-3365
FAX: 208-334-3804

TEXT OF DOCKET NO. 59-0103-9701

**Subchapter B - Employer Rates
Rule 26 through 100 -- Employer Contributions**

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (Rule 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be ~~eleven point sixty one percent (11.61%)~~ nine point seventy seven percent (9.77%) of payroll effective with salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998, the PERSI employer contribution rate for general members shall be eleven point sixty one percent (11.61%) unless further modified by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended (10-1-97) ~~(10-1-94)~~(10-1-97)T

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I and II Firefighters. For option I and II firefighters hired before October 1, 1980, thirty-five point ninety percent (35.90%) of payroll, as follows:

PERSI employer contribution rate: ~~11.85~~10.01% for salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998 the rate will be 11.85% unless further modified by the Board.

Additional employer rate: 1.00%

Social Security rate: 7.65%

Excess merger costs: ~~15.40~~17.24% for salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998 the rate will be 15.40% unless further modified by the Board.

TOTAL Contribution: 35.90% (~~10-1-94~~)(10-1-97)T

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund) twenty-seven point twenty-five percent (27.25%) of payroll, as follows:

PERSI employer contribution rate: ~~11.85~~10.01% for salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998 the rate will be 11.85% unless further modified by the Board.

Excess merger costs: ~~15.40~~17.24% for salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998 the rate will be 15.40% unless further modified by the Board.

TOTAL Contribution: 27.25%

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross

References: (Amended 10-1-94) (~~Amended 10-1-97~~) (~~10-1-94~~)(10-1-97)T

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police member excluding those listed in Rule 29 of this chapter and firefighters excluding those listed in Rule 27 of this chapter shall be ~~eleven point eighty five percent (11.85%)~~ ten point zero one percent (10.01%) of payroll, effective with salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998, the PERSI employer contribution rate shall be eleven point eighty five percent (11.85%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (~~Amended 10-1-97~~) (~~10-1-94~~)(10-1-97)T

029. CITY OF IDAHO FALLS CLASS II CONTRIBUTION RATE (Rule 29).

The City of Idaho Falls employer rate for an employee classified as a police member shall be ~~twenty point thirty five percent (20.35%)~~ of payroll, as follows: (~~10-1-94~~)(10-1-97)T

PERSI employer contribution rate: ~~11.85~~10.01% for salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998 the rate will be 11.85% unless further modified by the Board.

Excess merger costs: 8.50%

TOTAL Contributions: ~~20.35~~18.51% for salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998 the rate will be 20.35% unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (~~Amended 10-1-97~~) (~~10-1-94~~)(10-1-97)T

(BREAK IN CONTINUITY OF SECTIONS)

Subchapter C -- Employee Rates
Rule 100 through 175 -- Employee Contributions

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (Rule 100).

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be ~~six point ninety seven percent (6.97%)~~ five point eighty six percent (5.86%) of salary: effective with salaries paid on or after November 1, 1997 and through October 31, 1998. Effective for salaries paid on or after November 1, 1998, the PERSI employee contribution rate for general members shall be six point ninety seven percent (6.97%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) ~~(10-1-94)~~(10-1-97)T

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (Rule 101).

The employee contribution rate as provided in Section 59-1333~~4~~, Idaho Code, for an employee classified as a police member is ~~eight point fifty three percent (8.53%)~~ seven point twenty one percent (7.21%) of salary effective with salaries paid on or after November 1, 1997 through October 31, 1998. Effective for salaries paid on or after November 1, 1998, the PERSI employee contribution rate shall be eight point fifty three percent (8.53%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) ~~(10-1-94)~~(10-1-97)T

Subject Index

A
 AAA ASSESSMENTS OF PROVIDERS 108
 AAA BUDGETS 105
 AAA Designation 104
 AAA Provider Contracts 104
 AAA Services 77
 AABD 162
 AABD Criteria 138
 AABD Resource Limit 138
 ABAWD WORK REQUIREMENT 129
 ABBREVIATIONS 162, 167
 ACCESS 99
 ACCOMMODATIONS 75
 ACH 162
 ADMINISTRATIVE APPEAL 166
 ADMINISTRATIVE APPEALS 72, 89, 96, 104, 110, 114
 ADMINISTRATIVE APPEALS. 116
 ADMINISTRATIVE REQUIREMENTS 90, 97
 ADULT DAY CARE 81
 ADVANCED AND SPECIALIZED COURSES 40
 APPLICATIONS 167
 AREA PLANS 108
 ASSIGNMENT TO COMPONENT 123
 ATM 162
 AVAILABILITY OF FUNDS 169
 Ability to Reapply after Sanction 124
 Access 96
 Access services 110
 Accommodations for Disabilities 75
 Accommodations for Geographic Inaccessibility 75
 Accommodations for Language Act 72
 Actions to End Sanction 124
 Activities of Daily Living (ADL) 72
 Addicts or Alcoholics 122
 Administration 66
 Adoption of MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions 200
 Adult Day Care 72
 Adult Foster Care Home 135
 Adult Protection (AP) 90
 Adult Protection Social Worker 90
 Adult Protection Supervisor 90

Adult Protection and Ombudsman Coordination 92, 97
 Adult Residential Care Facility 135
 Advance Directive 72
 Advanced Certificate 48
 Advanced Classification 58
 Affected Parties 96
 Age 130, 138
 Age Sixty (60) or Older 122
 Aging Network 72
 Alienage and Residency 167
 Alternate Payee 161
 Alternative Secondary Programs 28
 Amount 41
 Appeal 63
 Appeal. 61
 Appeals 106
 Appeals Process 77
 Applicability of Federal Regulations 111
 Applicant 135, 166
 Applicant Not In Need of Service 76
 Applicants 57
 Application 36
 Application Forms 141
 Applications 45, 55
 Appoint Agent for Service of Process 173
 Area Agency on Aging (AAA) 72
 Area III 96
 Area Plan 72
 Assessment of Alleged Victim 91
 Assistance from Other Means 166
 Authorization of Long-Term Care Payment 150, 159
 Authorized Household Member 161
 Authorized Representative 161
 Automated Teller Machine (ATM) 161
 Available Services 112

B
 BASIC ALLOWANCE 136
 Barriers to Service Delivery Exist 76
 Basic Patrol Dog Certification Test 59
 Basic Training 46, 56
 Benefit Account 161
 Bidder/Offerer/Proposer 104
 Bidders' Conference 104
 Blind Negotiation 104
 Blind Review 105
 Budget Forms 105
 Budget Revisions 105

C
 CANINE TREAM CERTIFICATION 58
 CARE COORDINATION 83
 CAREER-LEVEL CERTIFICATION 48
 CHARACTER AND REPUTATION 38
 CHORE 80
 CITY OF IDAHO FALLS CLASS II CONTRIBUTION RATE (Rule 29) 237
 COLLECTION AND ACCOUNTABILITY OF PARTICIPANT CONTRIBUTIONS 108
 COMMUNICATIONS SPECIALIST CLASSIFICATION 57
 COMPARE UI REQUIREMENTS TO JSAP REQUIREMENTS 125
 CONFIDENTIALITY 100, 169
 CONTRACT MANAGEMENT REQUIREMENTS 105
 COORDINATION 114, 116
 CORRECTIVE ACTION 125
 Calendar Year 1994 231
 Calendar Year 1995 231
 Calendar Year 1996 231
 Calendar Year 1997 231
 Calendar Year 1998 231
 Care Coordination 72
 Care Coordination Supervisor 72
 Care Coordinator 72
 Care and Services Provided 144, 153
 Caretaker Neglect 91
 Case Closure 92
 Case Review 92
 Certificates and Awards 44
 Certification 45, 55, 58
 Certification, Awards, and Decertification 53
 Certifications for Canine Teams Shall Remain Valid For One (1) Year 59, 61
 Child 135
 Children Under Sixteen (16) Years of Age 122
 Chore Services 72
 Citizenship 36
 Class D Firefighters 237
 Client 72
 Client Contributions 75
 Client Living With Spouse 139

Client Outreach 83
Client Screening 112
Client's Expectation of Privacy 76
Close Out or Termination 106
Close Out or Termination Procedures 107
Cognitive Impairment 72
College Hour 55
College Quarter Hour 55
Competitive Bids 106
Complainant 96
Complaint Investigation/Resolution 96
Complaints 96, 99
Comply with Industrial Commission Reporting Requirements 173
Comply with Law and Rules 175
Conditions for HCBS Medicaid 138
Conditions of Payment 146, 155
Conduct and Behavior 68
Conduct of Homemakers 79
Confidential Records 100
Confidentiality 92
Conflict of Interest 90, 97, 99
Congregate Meals 72
Contract 105
Contract Management Activities 106
Contract Management Staff 106
Coordination Among JTPA 116
Coordination Among JTPA Older Worker Programs, SCSEP, and Workforce Development Initiatives 114
Coordination Between JTPA Older Worker and SCSEP Service Providers 114
Coordination Between JTPA and SCSEP Service Providers 116
Core Services 84
Core Subjects 22
Court Visitors 91
Court Visitor 99
Coverage Limits 141
Credit Hours 41
Cultural Accommodations 75
Curriculum for Reserve Level I Certification 51
Customer Service Center (CSC) 161

D
DEFINITIONS 72, 89, 96, 104, 110, 134, 161, 166
DENIAL OF SERVICE 76

DESIGNATING NEW PRINCIPAL WAGE EARNER 120
DESIGNATION OF AUTHORITY OF AAA 98
DETECTION DOGS 61
DETENTION OFFICER CERTIFICATION 53
DIRECT DEPOSIT 163
DISCLOSURE 101
DISCLOSURE OF INFORMATION 76
DUPLICATION OF BENEFITS 167
Definition of Financial Institution 200
Definitions 58, 66
Delivery Sequence 167
Department 73, 135, 161, 166
Designation 96
Designation of Authority 98
Detection Dog Teams 61
Determination of Entitlement to Long-Term Car 150, 159
Determining Income 75
Direct Costs 73
Direct Deposit 135
Direct Provision of Service 91
Disability 130
Discharged 55
Disclosure 76
Disclosure Required 76
Documentation 77
Documentation of Client Consent 92

E

EBT 162
EBT Handbook 135
EBT Vendor 161
EDUCATION AND TRAINING 55
ELIGIBLE CATEGORIES 168
ENDING SANCTIONS FOR FAILURE TO COMPLY WITH JSAP 124
ENDING SANCTIONS FOR FAILURE TO COMPLY WITH UI REQUIREMENTS 126
ENDING VOLUNTARY QUIT OR REDUCTION OF WORK HOURS PENALTY 131
EXEMPTIONS FROM JSAP FOR HOUSEHOLD MEMBERS NOT PARTICIPATING IN TAFI 121
EXEMPTIONS FROM JSAP FOR HOUSEHOLD MEMBERS PARTICIPATING IN TAFI 122

EXEMPTIONS FROM THE ABAWD WORK REQUIREMENT 130
EXEMPTIONS FROM THE COOPERATION REQUIREMENT 132
Effective Dates 141
Electronic Benefits Transfer 135
Eligibility 47, 81, 82
Eligible Clients 73
Eligible Items and Services 168
Employed 45, 46, 55, 56
Employed Person 121
Employee Qualifications 90
Ending Voluntary Quit or Reduction Penalty After Penalty Period Has Elapsed
Has Elapsed 131
Ending Voluntary Quit or Reduction Penalty Before the End of the Penalty Period
e Penalty Period 131
Enrollment Agreement 81
Entities Presumed to Be Financial Institutions 201
Essential Person 135
Evaluation 86
Evaluation Committee 105
Evaluators 61, 63
Exclusion from Rule 201
Exclusions 78, 83
Execution of Contracts 106
Executive Certificate 50
Expiration of Certification 59

F

FAILURE TO COMPLY 123
FEES AND CLIENT CONTRIBUTIONS 75
FEMA 167
FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27) 237
Facility 67
Fair Hearing Reversal 124, 126
Family 166
Family or Other Supports Adequate 76
Fee Based on Actual Cost 75
Fee Not Required 75
Fee Waived 75
Fee for Services 73
File 36
Fiscal Effectiveness 73

- Flood Insurance 167
 Formal Services 73
 Forms 45, 54, 97
 Functional Impairment 73
- G**
- GENERAL PROVISIONS 55
 GFIP 167
 GOOD CAUSE 123
 GRANT PAYMENTS 168
 General Provisions 47, 56
 Geographical Inaccessibility 76
 Good Cause Decision 132
 Good Cause Defined 132
 Graduation Requirements 22
 Graduation from High School 22
 Grant 135
 Grounds for Revocation or Termination 98
 Guardian 161
 Guardianship 99
 Guidance Programs 24
- H**
- HANDLING OF COMPLAINTS 99
 HCBS Income Limit 138
 HCBS-DD Medicaid Effective Date 139
 HCBS-NF Medicaid Effective Date 139
 HEAD OF HOUSEHOLD FOR JSAP 120
 HEAD OF HOUSEHOLD FOR VOLUNTARY QUIT OR REDUCTION OF WORK HOURS 130
 HIGHER CERTIFICATION 47, 56
 HOMEMAKER 77
 Head of Household 123, 125
 Hearing 40
 Height and Weight 39
 High School Graduation Standards 23
 Hiring 98
 Home-Delivered Meals 73
 Homemaker 73
 Homemaker Service 73
 Homemaker Training and Supervision 79
 Household 73
 Household Member With Most Earned Income 120, 130
- I**
- I&A 110
- IFG 167
 INFORMATION AND ASSISTANCE 112
 INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID 231
 INTRODUCTION 44
 INVESTIGATIVE REQUIREMENTS 91
 Idaho Commission on Aging (ICOA) 73
 Incapacitated Person 121
 Income Budget Choice 140
 Income Declaration 75
 Incorporation of Non-Profit Agency Contractors 106
 Individual 166
 Individual Supportive Service Plan (SSP) 80
 Ineligible Child 135
 Ineligible Items and Services 168
 Ineligible Parent 135
 Ineligible Spouse 135
 Informal Supports 73
 Information Regarding Opportunities 112
 Injury or Serious Imposition of Rights 90
 Inmate 135
 Instruction 67
 Instrumental Activities of Daily Living (IADL) 73
 Intake and Assessment 80
 Intermediate Certificate 47
 Investigation 99
 Investigative Findings 91
 Irrevocable Trust 141
- J**
- JOB SEARCH ASSISTANCE PROGRAM (JSAP) 120
 JSAP Exempt 130
 JSAP Information 120
 JSAP PROGRAM COMPONENTS 122
 JSAP SANCTION BEGINS 124
 JSAP Status 120
 Job Search 122
 Joins Another Household 124, 125
 July 1, 1981, Through December 31, 1993 231
- L**
- LABORATORY AND RADIOLOGY SERVICES 152
 LAW ENFORCEMENT EXPERIENCE 46, 55
 LEGAL AUTHORITY 166
 LICENSED ADULT FOSTER CARE HOME ALLOWANCES 137
 LICENSED ADULT RESIDENTIAL CARE FACILITY ALLOWANCES 137
 LONG-TERM CARE 144, 153
 Lapsed Certificate 53
 Legal Assistance 111
 Legal Authority 58
 Legal Documents 99
 Legal Representative 73
 Letter of Intent 105
 Level I 137
 Level I Classification 57
 Level II 137
 Level II Classification 56, 58
 Level III 137
 Level III Certificate 57
 Level III Classification 58
 Licensure and Certification 149, 158
 Limit on HCBS Clients Served 140
 Limited Power of Attorney for EBT Account 162
 List 36
 Living Alone 136
 Living in Another Persons Household' 136
 Living in Hotel or Rooming House 137
 Living with Another Participant 136
 Living with Essential Person 136
 Living with Participant Spouse 136
 Living with TAFI Child 137
 Long-Term Care Facility Responsibilities 147, 156
- M**
- MINIMUM GRANT PAYMENT 168
 MINIMUM STANDARDS FOR EMPLOYMENT 36
 Maintain Resident Idaho Office 173
 Maintain Statutory Security Deposits With the State Treasurer 173
 Major Disaster 166
 Mammography Services 152
 Management Certificate 49
 Master Certificate 49
 Meal Site 111

Medicaid 135
 Medicaid for Families with Children Handbook 136
 Medical 40
 Medical Assistance Handbook 136
 Medical Emergencies 79
 Member Complies with JSAP 125
 Member Complies with UI 126
 Minimum Requirements 111
 Minimum Standards 45, 55
 Minimum Training Requirements 50
 Minimum qualifications 98
 Multi-Year Contracts 106

N

NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH JSAP 124
 NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH UI REQUIREMENTS 126
 NUTRITION SERVICES 111
 Names 36
 National Standards 82
 Necessary Expense 166
 Need For Care Not Approved by ARCC 138
 New Head of Household 125
 Non-Institutional 73
 Noncompetitive Negotiation 106
 Non-Exclusivity of Rights and Remedies 107
 Non-Jurisdictional Complaints 96
 Not Head of Household 123, 125
 Notification 36
 Notification of Termination and Right to Appeal 77

O

OVERPAYMENTS 169
 Office 96
 Older Americans Act (OAA) 74
 Ombudsman 74
 Omission 96
 Option I and II Firefighters 237
 Optional 40
 Other 46
 Other Care Required 76
 Other Law-Enforcement Related Agencies 48
 Other Supportive Services 85
 Outreach Service 111
 Owner-Occupied 166

P

PARTICIPANTS LOSING JSAP EX-EMPT STATUS 122
 PARTICIPATION DEFERRAL 123
 PATROL DOGS 59
 PCS 78
 PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (Rule 101) 238
 PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (Rule 100) 238
 PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28) 237
 PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE 236
 PERSON ENTITLED TO HOME AND COMMUNITY BASED SERVICES (HCBS) 138
 PHYSICAL - MEDICAL 39
 PIN 162
 POS 162
 POST Certification for Patrol Dogs Will Consist of Basic Level Only 59
 PROCEDURE 36
 PROVISION OF SERVICE REQUIREMENTS 91
 Parent as Principal Wage Earner 131
 Parental Responsibility 130
 Parents and Caretakers of An Incapacitated Person 121
 Parents and Caretakers of Child Under Six (6) Years of Age 121
 Participant 136
 Participant Contribution Confidentiality 108
 Participate In Work Opportunities 130
 Participate in JSAP 129, 130
 Participate in Work Opportunities 129
 Payment Procedures 147, 152, 156
 Payment for Service 108
 Payments for Periods of Temporary Absence 146, 155
 Performance Evaluations 100
 Performance Objectives 59
 Performance-Based Agreements 91
 Performance-Based Agreement 105
 Performance-Based Agreements 74
 Person Designated by Household 131

Personal Care Services (PCS) 74
 Personal Identification Number (PIN) 162
 Persons Enrolled Half Time 121
 Physical Agility and Fitness Test 40
 Plan of Supportive Services 90
 Planning and Service Area (PSA) 74
 Point of Sale (POS) Terminal 162
 Policy 77, 80, 81, 82, 83
 Post-eligibility Treatment of Income 146, 155
 Poverty Guidelines 75
 Primary Card Holder 162
 Primary Residence 166
 Privacy 100
 Probation 46, 56
 Procedure 42
 Procedures 38, 40, 97
 Procedures for a Good Cause Claim 132
 Process 65
 Program 74
 Program Intake and Eligibility Determination 81
 Program Report 97
 Program Reporting and Records 90
 Program Reviews 97
 Property 44
 Protective Payee 162
 Provider 74
 Provider Application and Certification 149, 158
 Provider Termination Responsibilities 107
 Purpose 65
 Purpose of Service 78

Q

Qualifications 152

R

RCA 162
 REGAINING ELIGIBILITY 130
 REPORTING REQUIREMENTS 108
 RESERVE LEVEL I CERTIFICATION REQUIREMENTS 50
 RESPITE. 82
 RIGHT TO APPEAL SANCTION 124
 ROOM AND BOARD ALLOWANCES 137
 RULE AVAILABILITY 166

RULES GOVERNING INSURANCE COMPANIES 173
Reason for Sanction 124
Recertification - Out of Full Time Law Enforcement Over Eight (8) Years 54
Recertification - Out of Full Time Law Enforcement Over Five (5) Years 54
Recertification - Out of Full Time Law Enforcement Three (3) to Five (5) Years 54
Recipients of Service 104
Recommended Procedures 38
Record 36
Records 36
Recovery of Duplicate Benefits 167
Referral for Care Coordination 84
Referral to Law Enforcement 92
Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute 174
Report Election of Coverage on Form IC52 or Similar Format 174
Report New Policy, Renewal Policy, and Endorsement Information Within Thirty (30) Days 174
Report Outstanding Liabilities 174
Report Proof of Coverage 173
Reporting Deficiencies 108
Reporting Forms 108
Reporting Requirements 112
Request for Anonymity 101
Request for Proposal (RFP) 105
Requirements 36, 38, 39, 41, 59, 61
Requirements for Informing Client or Resident 100
Requiring and Receiving Services 139
Resident Written Consent 100
Resource Budget Choice 141
Resource Limit 141
Resources 141
Respite 74
Revocable Trust 141
Right to Appeal 124
Room and Board 136
Room and Board, Adult Care, or Foster Care 137
Roster 36
Rural 111

S

SANCTIONS FOR FAILURE TO COMPLY WITH JSAP 123
SANCTIONS FOR FAILURE TO COMPLY WITH UI REQUIREMENTS 125
SBA 167
SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITY ALLOWANCE 138
SIGRIF 137
SLMB Financial Eligibility Requirements 140
SLMB Nonfinancial Eligibility Requirements 140
SPECIAL RULES-- FINANCIAL INSTITUTIONS (Rule 582) 200
SPECIFIED LOW INCOME MEDICAL CARE BENEFICIARY (SLMB) 140
SSI 162
SSI Applicant 121
STAFFING. 97
SUPPORTIVE SERVICES 123
SUPPORTIVE SERVICES AND CASE CLOSURE 92
SUPPORTIVE SERVICES OVERPAYMENTS 123
Sanction Period 124
Sanctioned Member Becomes Exempt 125, 126
Sanctioned Member Leaves Household 125, 126
Satellite facility 68
School 136
Scope 89
Screening 112
Screening and Referral 84
Security For Cash Collections 108
Selection Standards 50
Self-Employed Person 122
Serious Need 166
Service Eligibility 78, 80
Service Priority 78, 81, 83
Services 82
Shopping Assistance 74
Six (6) Months Elapse for Sanctioned Household 125, 126
Sixteen (16) or Seventeen (17) Year Old 122
Skills Training 123
Sliding Fee Scale 74

Sole Beneficiary 136
Sole Source 105
Special Education Regulations - General Provisions 24
Staffing 82, 90
Stale Account 162
Standard Contracts 106
Standards of Performance 86
State Agreements 97
State Funds Cost Sharing 108
Statement of Work 105
Storage of Records 100
Structure and Role 86
Submission 55
Substance Tests 61
Substances 62
Substate Ombudsman 97
Supervision 97
Supervisory Certificate 48
Supply Forms 173
Supportive Service Plan (SSP) 74
Supportive Services Plan 92
Supportive Services Technician 74, 90
Suspense File 92

T

TAF 162
TAFI Handbook 136
TERMINATION OF SERVICE 76
THE BASIC AND PART-TIME BASIC CERTIFICATE 46
THE BASIC TRAINING CURRICULUM 41
THE LEVEL I CERTIFICATE 56
THE RECORDS SYSTEM 36
TITLE AND SCOPE 89, 166
TRAFFIC RECORD INVESTIGATION 38
TRANSPORTATION 112
TREATMENT OF ASSETS TRANSFERRED TO A TRUST 141
Test Criteria 62
Testing Procedure 63
Testing in the Public Schools 29
Tests 62
Three (3) Additional Months Food Stamps After Regaining Eligibility 130
Thlre and Scope 58
Title 89
Transcript 36
Transportation Services 74

Transportation to Meal Sites 112
Travel Funds 97
Trust with Pension Money 142

U

UNEMPLOYMENT INSURANCE
(UI) REQUIREMENTS 125
USDA Eighty/Twenty (80/20) Com-
modity Program 111
USDA Eighty/Twenty (80/20) Com-
modity Program Participation Re-
quirements 111
Unemployment Insurance (UI) Appli-
cant/Recipient 122
Uniform Assessment Instrument (UAI)
74
Use of Fees and Contributions 75
Used to Support Service 108

V

VOCATIONAL LAW ENFORCE-
MENT PROGRAM CERTIFICA-
TION/RECERTIFICATION
STANDARDS 65
Verification of Service Provider Reports
108
Verifying Need for Semi-Independent
Group Residential Facility Care
138
Vision 40
Visitation 99
Volunteer Recruitment, Training, and
Supervision 83
Vulnerability Determination 91

W

WRITTEN CONSENT 100
WRITTEN INTERPRETATIONS
166
Welfare 166, 167
Work Eighty (80) Hours 130
Work Opportunities 123
Work for Twenty (20) Hours or More
Per Week 129
Working Agreements 84
Working Day 136
Written Interpretations 72, 89, 96,
104, 110, 114, 116