

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

September 2, 1998

Volume 98-9

THE OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NO. 98-09.....	22
EXECUTIVE ORDER NO. 98-10.....	23

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.02 - RULES GOVERNING FEES FOR ELECTRICAL INSPECTIONS DOCKET NO. 07-0102-9801 NOTICE OF PROPOSED RULE.....	25
---	----

IDAPA 08 - STATE DEPARTMENT OF EDUCATION AND STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY DOCKET NO. 08-0202-9802 NOTICE OF PROPOSED RULE.....	30
--	----

IDAPA 09 - DEPARTMENT OF LABOR

09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL UNIT DOCKET NO. 09-0104-9801 NOTICE OF PENDING RULE.....	35
DOCKET NO. 09-0104-9802 NOTICE OF PENDING RULE.....	36
09.01.06 - RULES OF THE APPEALS BUREAU DOCKET NO. 09-0106-9801 NOTICE OF PENDING RULE.....	37
09.01.30 - RULES OF UNEMPLOYMENT INSURANCE BENEFIT CLAIMS DOCKET NO. 09-0130-9801 NOTICE OF PENDING RULE.....	38
DOCKET NO. 09-0130-9802 NOTICE OF PENDING RULE.....	39
DOCKET NO. 09-0130-9803 NOTICE OF PROPOSED RULE.....	40

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU DOCKET NO. 09-0135-9801 NOTICE OF PENDING RULE.....	44
DOCKET NO. 09-0135-9802 NOTICE OF PENDING RULE.....	45
09.01.40 - RULES OF THE JOB TRAINING PARTNERSHIP ACT DOCKET NO. 09-0140-9801 NOTICE OF PROPOSED RULE.....	46

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

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY DOCKET NO. 10-0102-9801 NOTICE OF PROPOSED RULE.....	48
10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT DOCKET NO. 10-0104-9801 NOTICE OF PROPOSED RULE.....	50

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY DOCKET NO. 11-1003-9801 NOTICE OF TEMPORARY AND PROPOSED RULES	54
---	----

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO DOCKET NO. 16-0101-9803 NOTICE OF PROPOSED RULE.....	59
16.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE DOCKET NO. 16-0105-9801 NOTICE OF PROPOSED RULE.....	62
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE DOCKET NO. 16-0309-9803 NOTICE OF PENDING RULE.....	69
DOCKET NO. 16-0309-9804 NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE.....	70

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO
DOCKET NO. 16-0310-9801
NOTICE OF PENDING RULE 72

16.05.01 - RULES GOVERNING THE PROTECTION AND DISCLOSURE
OF DEPARTMENT RECORDS
DOCKET NO. 16-0501-9801
NOTICE OF PENDING RULE 73

IDAPA 17 - INDUSTRIAL COMMISSION

17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION
DOCKET NO. 17-0602-9801
NOTICE OF PROPOSED RULE 74

17.07.02 - SAFETY STANDARDS FOR CONSTRUCTION AND
OPERATION OF ELEVATORS - ADMINISTRATION
DOCKET NO. 17-0702-9801
NOTICE OF PROPOSED RULE 79

17.08.01 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- GENERAL PROVISIONS
DOCKET NO. 17-0801-9801
NOTICE OF PROPOSED RULE 82

17.08.02 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- HEALTH, SAFETY, AND SANITATION
DOCKET NO. 17-0802-9801
NOTICE OF PROPOSED RULE 83

17.08.03 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- EXPLOSIVES AND BLASTING
DOCKET NO. 17-0803-9801
NOTICE OF PROPOSED RULE 84

17.08.04 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- GARAGES, MACHINE SHOPS, AND RELATED WORK AREAS
DOCKET NO. 17-0804-9801
NOTICE OF PROPOSED RULE 85

17.08.05 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- SIGNALS AND SIGNAL SYSTEMS
DOCKET NO. 17-0805-9801
NOTICE OF PROPOSED RULE 86

17.08.06 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - TRUCK ROAD STANDARDS DOCKET NO. 17-0806-9801 NOTICE OF PROPOSED RULE	87
17.08.07 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - TRANSPORTATION OF EMPLOYEES DOCKET NO. 17-0807-9801 NOTICE OF PROPOSED RULE	88
17.08.08 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - FALLING AND BUCKING DOCKET NO. 17-0808-9801 NOTICE OF PROPOSED RULE	89
17.08.09 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - RIGGING, LINES, BLOCKS, AND SHACKLES DOCKET NO. 17-0809-9801 NOTICE OF PROPOSED RULE	90
17.08.10 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - CANOPY AND CANOPY CONSTRUCTION FOR LOGGING EQUIPMENT DOCKET NO. 17-0810-9801 NOTICE OF PROPOSED RULE	91
17.08.11 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - SKIDDING AND YARDING DOCKET NO. 17-0811-9801 NOTICE OF PROPOSED RULE	92
17.08.12 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - ROAD TRANSPORTATION DOCKET NO. 17-0812-9801 NOTICE OF PROPOSED RULE	93
17.08.13 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - LOG DUMPS, LANDING, LOG HANDLING EQUIPMENT, LOADING AND UNLOADING BOOMS, LOG PONDS, RAFTING, TOWING, STIFF BOOMS, BOOM STICKS AND FOOT LOGS, POND BOATS AND TOW BOATS AND TRAILER LOADING HOISTS DOCKET NO. 17-0813-9801 NOTICE OF PROPOSED RULE	94

17.08.14 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - HELICOPTER LOGGING DOCKET NO. 17-0814-9801 NOTICE OF PROPOSED RULE.....	95
17.08.15 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - COMMONLY USED LOGGING TERMS DOCKET NO. 17-0815-9801 NOTICE OF PROPOSED RULE.....	96
17.08.16 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - RECOMMENDED SAFETY PROGRAMS DOCKET NO. 17-0816-9801 NOTICE OF PROPOSED RULE.....	97

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE BOARD OF NURSING DOCKET NO. 23-0101-9801 NOTICE OF PENDING RULE.....	98
--	----

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS DOCKET NO. 24-0201-9801 NOTICE OF PENDING RULE.....	99
24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY DOCKET NO. 24-1001-9801 NOTICE OF PENDING RULE.....	100

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES DOCKET NO. 26-0120-9801 NOTICE OF PENDING RULE.....	101
26.01.21 - RULES GOVERNING LEASING PRACTICES AND PROCEDURES FOR RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK DOCKET NO. 26-0121-9801 NOTICE OF PENDING RULE.....	102
DOCKET NO. 26-0121-9802 NOTICE OF PENDING RULE.....	103

26.01.36 - RULES GOVERNING THE WINTER RECREATIONAL
PARKING PERMIT PROGRAM
DOCKET NO. 26-0136-9801
NOTICE OF PENDING RULE..... 104

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9801
NOTICE OF PROPOSED RULE 105

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9802
NOTICE OF PROPOSED RULE 133

DOCKET NO. 35-0103-9803
NOTICE OF PROPOSED RULE 136

DOCKET NO. 35-0103-9804
NOTICE OF PROPOSED RULE 156

35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-9801
NOTICE OF PROPOSED RULES..... 176

DOCKET NO. 35-0105-9802
NOTICE OF PROPOSED RULES..... 179

35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES
DOCKET NO. 35-0201-9801
NOTICE OF PROPOSED RULES..... 191

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.01 - RULES GOVERNING DEFINITIONS
DOCKET NO. 39-0301-9801
NOTICE OF TEMPORARY AND PROPOSED RULES 194

39.03.01 - RULES GOVERNING PERMITTED OVERLEGAL VEHICLES AND/OR LOADS
DOCKET NO. 39-0301-9802
NOTICE OF TEMPORARY AND PROPOSED RULE..... 195

39.03.05 - RULES GOVERNING VARIABLE LOAD SUSPENSION AXLES

DOCKET NO. 39-0305-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	197
39.03.06 - RULES GOVERNING ALLOWABLE VEHICLE SIZE DOCKET NO. 39-0306-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	198
39.03.07 - RULES GOVERNING RESTRICTED ROUTES FOR SEMITRAILERS DOCKET NO. 39-0307-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	199
39.03.08 – RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD SUSPENSION AXLES AND OTHER AUXILIARY AXLES DOCKET NO. 39-0308-9701 NOTICE OF RESCISSION OF TEMPORARY RULE-MAKING	200
DOCKET NO. 39-0308-9701 NOTICE OF VACATION OF RULE-MAKING.....	201
DOCKET NO. 39-0308-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	202
39.03.09 - RULES GOVERNING GENERAL CONDITIONS AND REQUIREMENTS FOR SPECIAL PERMITS DOCKET NO. 39-0309-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	203
39.03.10 - RULES GOVERNING WHEN SPECIAL PERMIT IS REQUIRED DOCKET NO. 39-0310-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	204
39.03.11 - RULES GOVERNING SPECIAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS FOR OVERLEGAL LOADS DOCKET NO. 39-0311-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	205
39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF SPECIAL PERMIT DOCKET NO. 39-0312-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	206
39.03.13 - RULES GOVERNING OVERWEIGHT PERMITS DOCKET NO. 39-0313-9801	

NOTICE OF TEMPORARY AND PROPOSED RULE.....	207
39.03.14 - RULES GOVERNING POLICY DURING SPRING BREAKUP SEASON DOCKET NO. 39-0314-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	208
39.03.15 - RULES GOVERNING INTERSTATE EXCESS WEIGHT PERMITS DOCKET NO. 39-0315-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	209
39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE LOADS DOCKET NO. 39-0316-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	210
39.03.17 - RULES GOVERNING OVERSIZE PERMITS FOR MANUFACTURED HOMES, MODULAR BUILDINGS AND OFFICE TRAILERS DOCKET NO. 39-0317-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	211
39.03.18 - RULES GOVERNING SPECIAL PERMITS FOR RELOCATION OF BUILDINGS OR HOUSES DOCKET NO. 39-0318-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	212
39.03.19 - RULES GOVERNING ANNUAL SPECIAL PERMITS DOCKET NO. 39-0319-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	213
39.03.20 - RULES GOVERNING APPLICATION FOR SPECIAL PERMITS DOCKET NO. 39-0320-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	214
39.03.21 - RULES GOVERNING SPECIAL PERMIT FEES DOCKET NO. 39-0321-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	215
39.03.22 - RULES GOVERNING SPECIAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS DOCKET NO. 39-0322-9801 NOTICE OF TEMPORARY AND PROPOSED RULE.....	216
39.03.23 - RULES GOVERNING REVOCATION OF SPECIAL PERMITS	

DOCKET NO. 39-0323-9801
NOTICE OF TEMPORARY AND PROPOSED RULE..... 217

39.03.24 - RULES GOVERNING SELF-PROPELLED SNOWPLOWS
DOCKET NO. 39-0324-9801
NOTICE OF TEMPORARY AND PROPOSED RULE..... 218

39.03.25 - RULES GOVERNING LIGHTS ON SNOW REMOVAL EQUIPMENT
DOCKET NO. 39-0325-9801
NOTICE OF TEMPORARY AND PROPOSED RULE..... 219

39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY
DOCKET NO. 39-0343-9801
NOTICE OF PROPOSED RULE 220

IDAPA 48 - DEPARTMENT OF COMMERCE

48.01.03 - RULES GOVERNING IDAHO REGIONAL TRAVEL
AND CONVENTION GRANT PROGRAM
DOCKET NO. 48-0103-9801
NOTICE OF PENDING RULE..... 222

Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.

The state of Idaho administrative rule-making process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rule-making. In the majority of cases, the process begins with proposed rule-making and ends with final rule-making.

State agencies are required to provide public notice of rule-making activity and invite public input. The public receives notice of a rule-making activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Legal Notice. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 97-1 refers to the first Bulletin issued in calendar year 1997, Bulletin 96-1 refers to the first Bulletin issued in calendar year 1996, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 1998 is cited as Volume 98-1. The December 1997 Bulletin is cited as Volume 97-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rule-Making**, printed in each Bulletin.*

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, Ricks College Library, and Northwest Nazarene College Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0004, telephone (208) 334-3577.

The *Administrative Bulletin* is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

Individual Rule Chapters and **Individual Rule-Making Dockets**, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address:

<http://www.state.id.us> - from Idaho Home Page select State Agencies, then the Department of Administration link, then Administrative Rules.

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 334-3577.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rule-making documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering system. Each state agency has a two-digit identification code number known as the "**IDAPA**" number. (The "**IDAPA**" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "**TITLE**" number is assigned. There are "**CHAPTER**" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 16.07.01.010.01.a.ii.

"**IDAPA**" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

"**IDAPA 16**" refers to the Idaho Department of Health and Welfare.

"**07.**" refers to Title 07, Division of Veterans Services within the Department.

"**01.**" refers to Chapter 01 of Title 07, "Rules Governing Eligibility For Admission into the Veterans Home for Domiciliary Care."

"**010.**" refers to Major Section 010, "Definitions."

"**01.**" refers to Subsection 010.01.

"**a.**" refers to Subsection 010.01.a.

"**ii.**" refers to Subsection 010.01.a.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rule-making actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (16-0701-9601). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 16-0701-9601"

"16-" denotes the agency's IDAPA number; in this case the Department of Health and Welfare.

"0701-" refers to the TITLE AND CHAPTER numbers of the agency rule being changed; in this case the Division of Veteran's Services (TITLE 07), Rules Governing Eligibility For Admission into the Veterans Home for Domiciliary Care (Chapter 01).

"9601" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 1996.

Within each Docket, only the affected sections of chapters are printed. (see **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

"(BREAK IN CONTINUITY OF SECTIONS)"

A typical citation to a rule or a Section or Subsection of a rule that are found with the text of a rule appear as follows:

"IDAPA 16.07.01.200"

"16." denotes the IDAPA number of the agency.

"07.01." denotes the TITLE and Chapter number of the agency rule.

"200" reference the main section number of the rule that is being amended or added.

Citations made within a rule to another rule should also include the name of the Department and the Title of the rule being referenced, as well as the IDAPA number.

BULLETIN PUBLICATION SCHEDULE FOR 1998

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
98-1	January, 1998	November 19, 1997	January 7, 1998
98-2	February, 1998	December 24, 1997	February 4, 1998
98-3	March, 1998	January 21, 1998	March 4, 1998
98-4	April, 1998	February 25, 1998	April 1, 1998
98-5	May, 1998	March 25, 1998	May 6, 1998
98-6	June, 1998	April 22, 1998	June 3, 1998
98-7	July, 1998	May 20, 1998	July 1, 1998
98-8	August, 1998	June 24, 1998	August 5, 1998
98-9	September, 1998	July 22, 1998	September 2, 1998
98-10	October, 1998	August 26, 1998	October 7, 1998
98-11	November, 1998	September 23, 1998	November 4, 1998
98-12	December, 1998	October 21, 1998	December 2, 1998

BULLETIN PUBLICATION SCHEDULE FOR 1999

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99-1	January, 1999	November 18, 1998	January 6, 1999
99-2	February, 1999	December 23, 1998	February 3, 1999
99-3	March, 1999	January 20, 1999	March 3, 1999
99-4	April, 1999	February 24, 1999	April 7, 1999
99-5	May, 1999	March 24, 1999	May 5, 1999
99-6	June, 1999	April 21, 1999	June 2, 1999
99-7	July, 1999	May 26, 1999	July 7, 1999
99-8	August, 1999	June 23, 1999	August 4, 1999
99-9	September, 1999	July 21, 1999	September 1, 1999
99-10	October, 1999	August 25, 1999	October 6, 1999
99-11	November, 1999	September 22, 1999	November 3, 1999
99-12	December, 1999	October 20, 1999	December 1, 1999

ALPHABETICAL INDEX OF AGENCY IDAPA AND ADMINISTRATIVE CODE VOLUME NUMBERS

IDAPA	AGENCY
01	Accountancy, Board of - Administrative Code Volume 1
38	Administration, Department of - Administrative Code Volume 8
02	Agriculture, Idaho Department of - Administrative Code Volume 1
40	Arts, Idaho Commission on the - Administrative Code Volume 8
03	Athletic Commission - Administrative Code Volume 1
04	Attorney General, Office of the - Administrative Code Volume 1
53	Barley Commission, Idaho - Administrative Code Volume 8
51	Beef Council, Idaho - Administrative Code Volume 8
07	Building Safety, Division of - Administrative Code Volume 2
43	Canola and Rapeseed Commission, Idaho - Administrative Code Volume 8
48	Commerce, Idaho Department of - Administrative Code Volume 8
44	Controller, Office of the State - Administrative Code Volume 8
19	Dentistry, Board of - Administrative Code Volume 6
08	Education, Board of - Administrative Code Volume 1
12	Finance, Department of - Administrative Code Volume 2
13	Fish and Game, Department of - Administrative Code Volume 2
14	Geologists, Professional, Board of Registration, - Administrative Code Volume 2
15	Governor, Office of the - Administrative Code Volume 2
16	Health and Welfare, Department of - Administrative Code Volumes 3, 4, 5
45	Human Rights Commission - Administrative Code Volume 8
17	Industrial Commission - Administrative Code Volume 5
18	Insurance, Department of - Administrative Code Volume 6
05	Juvenile Corrections, Department of - Administrative Code Volume 1
09	Labor, Idaho Department of - Administrative Code Volume 2
20	Lands, Department of - Administrative Code Volume 6
11	Law Enforcement, Department of - Administrative Code Volume 2
30	Library, Idaho State - Administrative Code Volume 7
52	Lottery Commission, Idaho State - Administrative Code Volume 8
22	Medicine, Board of - Administrative Code Volume 6
23	Nursing, Board of - Administrative Code Volume 6
24	Occupational Licenses, Board of - Administrative Code Volume 6
25	Outfitters and Guides Licensing Board - Administrative Code Volume 7
50	Pardons and Parole, Commission for - Administrative Code Volume 8
26	Parks and Recreation, Department of - Administrative Code Volume 7
59	PERSI - Public Employees Retirement System of Idaho - Administrative Code Vol. 8
28	Personnel Commission - Administrative Code Volume 7
27	Pharmacy, Board of - Administrative Code Volume 7
29	Potato Commission, Idaho - Administrative Code Volume 7
10	Professional Engineers & Land Surveyors, Board of - Administrative Code Volume 2
32	Public Works Contractors State Licenses Board - Administrative Code Volume 7
31	Public Utilities Commission - Administrative Code Volume 7
41	Public Health Districts - Administrative Code Volume 8
33	Real Estate Commission - Administrative Code Volume 7
34	Secretary of State - Administrative Code Volume 7
49	Shorthand Reporters, Board of Certified, - Administrative Code Volume 8
36	Tax Appeals, Idaho Board of - Administrative Code Volume 8
35	Tax Commission, State - Administrative Code Volume 7
39	Transportation, Department of - Administrative Code Volume 8
54	Treasurer, Office of the State - Administrative Code Volume 8
46	Veterinary Medical Examiners, Board of - Administrative Code Volume 8
55	Vocational Education, Division of - Administrative Code Volume 8
47	Vocational Rehabilitation, Division of - Administrative Code Volume 8
37	Water Resources, Department of - Administrative Code Volumes 8
42	Wheat Commission, Idaho - Administrative Code Volume 8

Subjects Affected Index

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.02 - RULES GOVERNING FEES FOR ELECTRICAL INSPECTIONS DOCKET NO. 07-0102-9801 011. FEES FOR ELECTRICAL INSPECTIONS.....	25
--	----

IDAPA 08 - STATE DEPARTMENT OF EDUCATION AND STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY DOCKET NO. 08-0202-9802 070. IDAHO EDUCATOR CREDENTIAL.....	30
---	----

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU DOCKET NO. 09-0130-9803 425. NEW CLAIMS/ADDITIONAL CLAIMS.....	40
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09.01.40 - RULES OF THE JOB TRAINING PARTNERSHIP ACT DOCKET NO. 09-0140-9801 006. ADMINISTRATIVE AND FINANCIAL OPERATIONAL STANDARDS.....	46
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IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY DOCKET NO. 10-0102-9801 005. RESPONSIBILITY TO THE PUBLIC.....	48
--	----

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT DOCKET NO. 10-0104-9801	
000. LEGAL AUTHORITY.....	51
001. TITLE AND SCOPE.....	51
002. ADMINISTRATIVE APPEALS.....	51
003. WRITTEN INTERPRETATIONS.....	51
004. DEFINITIONS.....	51
005. REQUIREMENTS.....	51
006. UNITS.....	52
007. DETERMINATION OF CREDIT.....	53
008. RECORD KEEPING.....	53
009. EXEMPTIONS.....	53
010. COMITY/OUT-OF-JURISDICTION RESIDENTS.....	53
011. -- 998. (RESERVED).....	53
999. SEVERABILITY.....	53

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY DOCKET NO. 11-1003-9801	
000. LEGAL AUTHORITY.....	55
001. TITLE AND SCOPE.....	55
002. WRITTEN INTERPRETATIONS.....	55

003. ADMINISTRATIVE APPEALS. 55
 004. -- 009. (RESERVED). 55
 010. DEFINITIONS. 55
 011. SEX OFFENDER CENTRAL REGISTRY - ADMINISTRATION. 55
 012. RELEASE OF INFORMATION TO THE PUBLIC. 57
 013. -- 999. (RESERVED). 58

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO
 DOCKET NO. 16-0101-9803
 107. INCORPORATIONS BY REFERENCE. 60
 600. RULES FOR CONTROL OF OPEN BURNING. 61
 612. LANDFILL DISPOSAL SITE FIRES. 61

16.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE
 DOCKET NO. 16-0105-9801
 002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS. 63
 004. HAZARDOUS WASTE MANAGEMENT SYSTEM. 63
 005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE. 63
 006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE. 66
 007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE. 66
 008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
 TREATMENT, STORAGE AND DISPOSAL FACILITIES. 66
 009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF
 HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES. 66
 010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS
 WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES. 67
 011. LAND DISPOSAL RESTRICTIONS. 67
 012. HAZARDOUS WASTE PERMIT PROGRAM. 67
 013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR
 RCRA OR HWMA PERMIT APPLICATIONS). 67
 015. STANDARDS FOR THE MANAGEMENT OF USED OIL. 67
 016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT. 67
 900. EXPENDITURES FROM HAZARDOUS WASTE EMERGENCY ACCOUNTS. 68
 997. CONFIDENTIALITY OF RECORDS. 68

IDAPA 17 - INDUSTRIAL COMMISSION

17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION
 DOCKET NO. 17-0602-9801
 011. ADMINISTRATION. 74

17.07.02 - SAFETY STANDARDS FOR CONSTRUCTION AND
 OPERATION OF ELEVATORS - ADMINISTRATION
 DOCKET NO. 17-0702-9801
 011. ADMINISTRATION. 79

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES
 DOCKET NO. 35-0101-9801
 031. ALIENS (Rule 031). 107
 045. NONRESIDENT (Rule 045). 108

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (Rule 105).....	109
106. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF CORPORATIONS (Rule 106).....	110
115. INTEREST EXPENSE OFFSET RELATED TO TAX-EXEMPT INTEREST INCOME (Rule 115).....	110
120. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE TO ALL TAXPAYERS (Rule 120).....	112
121. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS (Rule 121).....	113
150. DEDUCTION FOR ALTERNATIVE ENERGY DEVICES (Rule 150).....	115
165. ADDITIONAL HOUSEHOLD DEDUCTION OR CREDIT FOR ELDERLY OR DEVELOPMENTALLY DISABLED DEPENDENTS (Rule 165).....	116
170. IDAHO CAPITAL GAINS DEDUCTION -- IN GENERAL (Rule 170).....	117
173. IDAHO CAPITAL GAINS DEDUCTION -- PASS-THROUGH ENTITIES (Rule 173).....	118
201. NET OPERATING LOSS CARRYBACKS AND CARRYOVERS (Rule 201).....	119
202. -- 209. (RESERVED).....	120
210. REDUCTION OF IDAHO TAX ATTRIBUTES AND BASIS WHEN INCOME FROM INDEBTEDNESS DISCHARGE IN BANKRUPTCY IS EXCLUDED FROM GROSS INCOME (Rule 210).....	120
211. -- 249. (RESERVED).....	121
254. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUBTRACTIONS ALLOWED IN COMPUTING IDAHO ADJUSTED INCOME (Rule 254).....	121
260. INCOME FROM IDAHO SOURCES (Rule 260).....	123
265. SOLE PROPRIETORSHIPS OPERATING WITHIN AND WITHOUT IDAHO (Rule 265).....	124
266. INCOME FROM INTANGIBLE PROPERTY (Rule 266).....	124
267. -- 299. (RESERVED).....	125
580. SPECIAL RULES -- SPECIAL INDUSTRIES (Rule 580).....	125
582. SPECIAL RULES -- FINANCIAL INSTITUTIONS (Rule 582).....	125
700. CREDIT FOR TAXES PAID ANOTHER STATE OR TERRITORY (Rule 700).....	127
815. EXTENSIONS OF TIME (Rule 815).....	128
841. -- 854. (RESERVED).....	129
855. PERMANENT BUILDING FUND TAX (Rule 855).....	129
871. STATE INCOME TAX WITHHOLDING REQUIRED (RULE 871).....	129
872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872).....	130
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9802	
601. -- 614. (RESERVED).....	133
615. PROPERTY EXEMPT FROM TAXATION - CERTAIN INTANGIBLE PERSONAL PROPERTY (Rule 615).....	134
616. -- 634. (RESERVED).....	135
DOCKET NO. 35-0103-9803	
105. -- 108. (RESERVED).....	137
116. -- 119.(RESERVED).....	137
120. INVESTIGATION OF WRITTEN COMPLAINTS (Rule 120).....	137
121. -- 124. (RESERVED).....	138
128. -- 130. (RESERVED).....	139
132. -- 133. (RESERVED).....	140
160. -- 165. (RESERVED).....	140
180. -- 183. (RESERVED).....	141
244. -- 249. (RESERVED).....	142
250. RATIO STUDIES - SCHOOL DISTRICTS (Rule 250).....	142

302. -- 313. (RESERVED).....	144
314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR (Rule 314).....	144
315. -- 316. (RESERVED).....	145
317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY (Rule 317).....	145
318. -- 326. (RESERVED).....	146
328. (RESERVED).....	146
490. -- 496. (RESERVED).....	146
551. -- 562. (RESERVED).....	146
601. -- 609. (RESERVED).....	146
610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS (Rule 610).....	146
611. VALUE OF RESIDENTIAL PROPERTY IN CERTAIN ZONED AREAS (Rule 611).....	148
635. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (Rule 635).....	148
650. -- 654. (RESERVED).....	149
656. -- 708. (RESERVED).....	150
709. PROPERTY TAX RELIEF ("CIRCUIT BREAKER") PROGRAM -- SPECIAL SITUATIONS (Rule 709).....	150
802. LIMITATION ON BUDGET REQUESTS, SECTIONS 63-802 AND 63-301A, IDAHO CODE (Rule 802).....	151
962. TAXATION OF LARGE SIZE FOREST TRACTS (Rule 962).....	152
964. YIELD TAX ON APPLICABLE FOREST PRODUCTS (Rule 964).....	154
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0103-9804	
369. -- 386. (RESERVED).....	162
391. (RESERVED).....	162
400. ACCESS TO INFORMATION ON VALUATION (Rule 400).....	162
404. OPERATOR'S STATEMENT--CONTENTS (Rule 404).....	163
405. ASSESSMENT OF OPERATING PROPERTY (RULE 405).....	168
406. (RESERVED).....	169
407. APPEAL OF OPERATING PROPERTY ASSESSMENTS (Rule 407).....	169
408. RE-EXAMINATION OF VALUE--COMPLAINT BY ASSESSOR (Rule 408).....	171
409. -- 410.(RESERVED).....	171
411. PRIVATE CAR REPORTING BY RAILROAD COMPANIES (Rule 411).....	171
412. (RESERVED).....	172
413. SPECIAL PROVISIONS FOR PRIVATE RAILCAR FLEETS (Rule 413).....	172
414. (RESERVED).....	173
415. APPORTIONMENT OF RAILCAR FLEETS ASSESSED VALUES WITHIN THE STATE (Rule 415).....	173
416. (RESERVED).....	174
417. PENALTY FOR FAILURE TO MAKE STATEMENT (Rule 417).....	174
418. -- 429. (RESERVED).....	174
586. -- 634. (RESERVED).....	175
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES	
DOCKET NO. 35-0105-9801	
510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (Rule 510).....	176
DOCKET NO. 35-0105-9802	
101. -- 104. (RESERVED).....	180
105. LICENSED GASEOUS FUELS DISTRIBUTOR'S REPORTS (Rule 105).....	180
106. -- 109. (RESERVED).....	181

110. CALCULATION OF TAX ON GASEOUS FUELS (Rule 110)	181
115. WHEN THE GASOLINE TAX RATE INCREASES, USE CONVERSION FACTOR TO ADJUST ANNUAL GASEOUS FUELS PERMIT FEES (Rule 115)	182
120. MEASUREMENT OF GALLONS (Rule 120)	182
130. DISTRIBUTOR'S FUEL TAX REPORTS (Rule 130)	183
131. -- 134. (RESERVED)	184
135. ALTERNATE REPORTING FOR PERSONS WHO ONLY IMPORT MOTOR FUELS INTO IDAHO FOR USE IN THEIR OWN AIRCRAFT, MOTOR VEHICLES, AND EQUIPMENT. (Rule 135.)	184
140. DEDUCTIONS (Rule 140)	185
290. NONTAXABLE SPECIAL FUELS USED IN MOTOR VEHICLES (Rule 290).....	187
410. ADOPTION OF INTERNATIONAL FUEL TAX AGREEMENT (Rule 410).....	190
500. IDAHO CLEAN WATER TRUST FUND TRANSFER FEE (Rule 500).....	190
35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES	
DOCKET NO. 35-0201-9801	
150. REQUIREMENTS OF A VALID TAX RETURN (Rule 150).....	192
151. -- 154. (RESERVED)	193
155. TAX RETURNS AND OTHER DOCUMENTS FILED ELECTRONICALLY (Rule 155).....	193
156. -- 199. (RESERVED).....	193

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.01 - RULES GOVERNING PERMITTED OVERLEGAL VEHICLES AND/OR LOADS	
DOCKET NO. 39-0301-9802	
000. LEGAL AUTHORITY.....	196
001. TITLE AND SCOPE	196
002. WRITTEN INTERPRETATIONS	196
003. ADMINISTRATIVE APPEALS	196
004. INCORPORATION BY REFERENCE.....	196
005. AVAILABILITY OF REFERENCED MATERIAL.....	196
006. -- 999. (RESERVED)	196
39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY	
DOCKET NO. 39-0343-9801	
000. LEGAL AUTHORITY.....	220
100. GENERAL.....	220

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 98-09

**ALLOTMENT MANAGEMENT PLANS ON PUBLIC LANDS
IDAHO STATE DEPARTMENT OF AGRICULTURE AS LEAD AGENCY**

WHEREAS, Section 8 of the Public Rangelands Improvement Act of 1978 (P.L. 95-514; Stat. 1803) provides, for, among other things, careful and considered consultation, cooperation, and coordination between the Forest Service, Bureau of Land Management, federal grazing permittees and lessees, and any state having lands within areas to be included in allotment management plans; and

WHEREAS, the Idaho State Department of Agriculture has signed Memoranda of Understanding (MOUs) with the U.S. Forest Service, the Bureau of Land Management, and the University of Idaho to coordinate and implement the congressional intent of the aforementioned Act;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me, under the Constitution and laws of the State of Idaho, do hereby designate the Idaho State Department of Agriculture to serve as the lead agency to consult, cooperate, and coordinate with the parties involved in matters relating to the development, implementation, and revision of allotment management plans; to provide a process for dispute resolution; and to receive and expend such monies as are available for these purposes. Further, I hereby direct all state agencies to cooperate fully with and provide assistance to the Idaho State Department of Agriculture in carrying out its responsibilities under this Order.

This Executive Order shall cease to be effective four years after its entry into force. This Executive Order replaces Executive Order No. 92-26 that was issued in 1992.



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

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 98-10

CHILD MORTALITY REVIEW COMMITTEE

WHEREAS, the health and safety of Idaho children are of primary importance; and

WHEREAS, the child death rate in Idaho exceeds that of the nation; and

WHEREAS, some child deaths are due to preventable causes; and

WHEREAS, records of children's deaths and circumstances leading to their death are kept by multiple agencies but not coordinated, on-going effort is being made to evaluate these records; and

WHEREAS, expertise exists within the state to evaluate these records and identify circumstances leading to or contributing to the deaths of children; and

WHEREAS, the identification of risk producing circumstances and recommendations to remediate them may reduce child death rates;

NOW THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by virtue of the authority vested in me under the Constitution and laws of this state, do hereby establish the Child Mortality Review Committee.

The duties of the Committee shall include reviewing data on selected cases of child death and developing recommendations for systems improvement which lead to reduced mortality.

The members of the Committee shall be appointed by the Director of the Department of Health and Welfare. The terms of appointment, chairmanship, and other operating guidelines shall be established by the Committee in bylaws. Membership shall include:

*a pediatrician,
an emergency medicine physician,
a pathologist,
a coroner,
a prosecutor,
a law enforcement representative,
a Children At Risk Task Force member,
the state epidemiologist, and
a representative of the public.*

An annual report with the Committee's findings and recommendations shall be presented to the Governor and to the Chairs of the Senate and House Health and Welfare Committees.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at Boise the Capitol, the 16th day of July, in the year of our Lord nineteen hundred ninety-eight, and of the Independence of the United States of America the two hundred twenty-third and of the Statehood of Idaho the one hundred ninth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.02 - RULES GOVERNING FEES FOR ELECTRICAL INSPECTIONS

DOCKET NO. 07-0102-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

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

Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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

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

Amend the fee schedule under IDAPA 07.01.02.011 to adjust the fees to be equitable to all users, simplify application of the fees and provide adequate revenue to cover the cost of electrical inspections.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Gary L. Malmen, Bureau Chief, Electrical Bureau, Division of Building Safety, 277 N. 6th Street, Suite 101, P.O. Box 83720, Boise, Idaho 83720-0028, (208) 334-2183.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 10th day of July, 1998.

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

TEXT OF DOCKET NO. 07-0102-9801

011. FEES FOR ELECTRICAL INSPECTIONS.

Electrical inspection fees are to cover the cost of electrical inspection as provided by Section 54-1005, Idaho Code; any person, partnership, company, firm, association, or corporation making an electrical installation coming under the provisions of Section 54-1001, Idaho Code, shall pay to the Electrical Bureau an inspection fee as provided in the following schedule. (1-14-87)

01. Temporary Construction Services. ~~Temporary construction services to be installed for~~ construction purposes only, for a period not to exceed one (1) year: ~~(1-14-87)()~~

a. Two hundred (200) amp ~~one hundred twenty/two hundred forty 120/240 single phase~~ or less, one (1) location: ~~Fifteen forty~~ forty dollars (\$~~1540~~ 40) ~~plus ten dollars (\$10) for each extension inspected at the same time.~~

(1-14-87)()

b. All others shall be calculated using Subsection 011.06, Other Installations Including Industrial and Commercial. (1-14-87)()

02. ~~New Residential - Single Family Dwelling. Residential service rated one hundred (100) amperes or less: twenty dollars (\$20) plus three dollars and fifty cents (\$3.50) for each room in which any wiring is installed. Service rated over one hundred (100) amperes to two hundred (200) amperes: twenty five dollars (\$25) plus three dollars and fifty cents (\$3.50) for each room in which any wiring is installed. All residential services over two hundred (200) amperes: twenty five cents (\$.25) per amp plus five dollars (\$5) for each room in which any wiring is installed. Included shall be all finished and unfinished rooms including basements, residential garages, and carports. Areas such as combination kitchen/dining shall be counted as a room for each indicated use. Apartment buildings including eight (8) units or less shall come under this section and each apartment shall be counted as an individual residence; fees for apartment buildings with nine (9) or more dwelling units in a building come under Subsection 011.06 for each building. (Includes everything contained within the residential structure and attached garage wired at the same time.)~~

<u>Up to 200 amp service</u>	<u>\$120*</u>
<u>201 to 400 amp service</u>	<u>\$210*</u>
<u>Over 400 amp service</u>	<u>Use Subsection 011.06, Other Installations Including Industrial and Commercial.</u>
<u>* Fee is to include maximum of three (3) inspections. Additional inspections charged at requested electrical inspection rate of forty dollars (\$40) per hour.</u>	
<u>Other residential structures (unattached): see Subsection 011.06, Other Installations Including Industrial and Commercial.</u>	
<u>New Residential - Multi-Family Dwellings:</u>	
<u>Duplex Apartment</u>	<u>\$210</u>
<u>Three (3) or more multi-family units</u>	<u>\$120 per Bldg. plus \$60 per Unit</u>

(1-14-87)()

a. ~~Existing residential: When there is no change in service, an extension or addition to an existing circuit: twenty dollars (\$20) plus three dollars and fifty cents (\$3.50) for each room. Installation of one (1) new circuit: twenty dollars (\$20) plus three dollars and fifty cents (\$3.50) for each room. Installation of more than one (1) circuit: twenty dollars (\$20) plus three dollars and fifty cents (\$3.50) for each room in which any wiring is installed. Installation of subfeed panel or feeder and additional circuits: same as residential for size and number of rooms wired. forty dollars (\$40) plus ten dollars (\$10) for each additional branch circuit.~~ (1-14-87)()

b. Residential spas, hot tubs, hydro massage tubs, swimming pools: ~~Twenty-five~~ forty dollars (\$~~25~~40) basic fee plus ~~twenty-five~~ forty dollars (\$~~25~~40) grounding grid where applicable. (Other than residential, see use Subsection 011.06, Other Installations Including Industrial and Commercial.) (1-14-87)()

03. Residential Electric Space Heating and/or Air Conditioning. When included in one (1) permit, one dollar (\$1) for each KW in addition to the fees for general wiring covered in Subsection 011.02 not part of a new residential construction permit, and no additional wiring: forty dollars (\$40). (1-14-87)()

a. Residential space heating installation: ~~When not a part of a general wiring permit, covered in Subsection 011.3.b.: Thirty dollars (\$30) for one (1) KW to five (5) KW plus one dollar (\$1) for each KW in excess of~~

five (5) KW. (1-14-87)

b. Residential electrical space heating and/or cooling and central systems, utilize the same permit as construction: Fifteen dollars (\$15) in addition to required residential fee. When separate from residential construction permit: Thirty dollars (\$30). (1-14-87)

04. Domestic Water Pumps. Ten dollars (\$10) in addition to required residential fee. When separate from residential construction permit: Thirty dollars (\$30). See Subsection 011.07 -- Pumps (Water, Domestic Water, Irrigation, Sewage.) (1-14-87)()

05. Mobile/Manufactured Homes. Twenty-five Fifty dollars (\$250) basic fee plus ten dollars (\$10) for each additional circuit and/or each cross over connection for double wides, multi wide, or room expando. (1-14-87)()

a. Mobile home and RV parks for distribution wiring including pedestal, or service conductors and lot supply to individual units come under Subsection 011.06, Other Installations Including Industrial and Commercial. (1-14-87)()

b. Recreational vehicle parks, service conductors, distribution and lot supply to individual units come under Subsection 011.06., plus five dollars (\$5) per lot. (1-14-87)

06. Other Installations. Other installations including Industrial and Commercial. (1-14-87)()

a. Wiring cost not exceeding one two hundred thousand dollars (\$12000): Twenty forty dollars (\$240) plus two and one-half percent (2.5%) of total wiring cost. (1-14-87)()

b. Wiring cost over one two hundred thousand dollars (\$12000) but not exceeding two ten thousand dollars (\$210,000): Twenty one hundred dollars (\$2100) plus two and one-half percent (2-1/2%) of total wiring cost. (1-14-87)()

e. Wiring cost over two thousand dollars (\$2,000) but not exceeding ten thousand dollars (\$10,000): seventy dollars (\$70) plus one percent (1%) of total wiring cost. (1-14-87)

d. Wiring cost over ten thousand dollars (\$10,000): one hundred eighty dollars (\$180) plus one-half (1/2) of one percent (1.5%) of the portion of wiring costs exceeding ten thousand dollars (\$10,000). (1-14-87)()

ed. All fees calculated under this schedule must be calculated on the total wiring cost of the job, and this figure must be shown on the permit. The inspection fees listed in this Subsection shall apply to any and all electrical installations not specifically mentioned elsewhere in this schedule. The wiring cost shall be the cost to the owner of all labor charges and all wiring materials and equipment installed as part of the wiring system. When labor is performed by the owner, such labor cost shall be based upon the market value of said labor and used- or reused materials shall be based at fifty percent (50%) of the column 3 pricing as published by Trade Service Publication or National Price Service Pricing or the actual cost, whichever is greater. The value of factory installed electrical equipment shall be included in the costs and paid by the permittee. For all owner-supplied, factory assembled equipment to be installed, the inspection will be based on one-half of one percent (.5%) of total cost of the equipment OR an hourly rate of eighty dollars (\$80) for the first hour of each inspection and forty dollars (\$40) for each subsequent hour. (1-14-87)()

07. Water Pumps. Water Pumps; (Water, Domestic Water, Irrigation, Sewage) - Each Motor.

To 25 HP:	\$2540
26 to 100 HP:	\$360
11 to 50 HP:	\$35
51 to 100 HP:	\$40

101 to 150 HP:	\$45
151 to 200 HP:	\$50
201 to 400 HP:	\$60
Over 4200 HP:	\$60 plus \$10 per 100 HP over 400 HP \$80
<u>Phase inverters and roto phase equipment use Subsection 011.06. in addition to the pump motor fee.</u>	

(1-14-87)()

08. Electrically-Driven Irrigation Machine. Center Pivot: ~~twenty-five~~ fifty dollars (\$250) plus ~~seven ten~~ ten dollars ~~and fifty cents~~ (\$710.50) per tower or drive motor. Other types: ~~twenty-five~~ fifty dollars (\$250) plus ~~seven ten~~ ten dollars ~~and fifty cents~~ (\$710.50) per motor. (Note: ~~The electric supply to the irrigation machine shall be in addition to above and according to Subsection 011.06~~ No additional fee required for underground feeder.)

(1-14-87)()

09. Electric Signs and Outline Lighting. Electric signs ~~and outline lighting~~. Electric Signs: ~~twenty-five~~ forty dollars (\$2540) plus ~~twenty cents~~ (\$20) per square foot measured on one (1) side per sign; Outline Lighting: ~~twenty-five~~ forty dollars (\$2540) plus ~~five cents~~ (\$0.05) per ft. of tubing per each occupancy.

(1-14-87)()

10. Requested Inspections. ~~Twenty-five~~ forty dollars (\$2540) minimum for one (1) hour or less. Over one (1) hour: ~~twenty-five~~ forty dollars (\$2540) plus ~~twelve~~ twenty dollars ~~and fifty cents~~ (\$120.50) for each one-half (1/2) hour or portion thereof in excess of one (1) hour, including travel time. Out of state travel subject to additional expense.

(1-14-87)()

11. Additional Fees and Reinspection Fees. A fee of ~~twenty-five~~ forty dollars (\$2540) per hour and ~~twelve~~ twenty dollars ~~and fifty cents~~ (\$120.50) for each additional one-half (1/2) hour shall also be paid before approval of the installation if the following services are necessary:

(1-14-87)()

a. Trips to inspect when the submitter of the permit had given notice to the inspector that the work is ready for inspection when it was not, or if the submitter has not clearly given the location of the installation either by directions or maps, or if the inspector cannot gain access to make the inspection. (1-14-87)

b. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice. (1-14-87)

c. Each trip necessary to remove a red tag from the jobsite. (1-14-87)

d. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (1-14-87)

e. No permit: -- Failure to post or send permit and required fee in the prescribed time ~~may will~~, at the discretion of the Division, result in the assessment of a double fee. (1-14-87)()

f. ~~On jobs requiring partial or progress inspections, one (1) inspection is allowed per twenty-five dollars (\$25) of fee. Additional inspections will be at twenty-five dollars (\$25) per hour or twelve dollars and fifty cents (\$12.50) per half hour.~~ (1-14-87)

12. Plan Checking Fee. ~~Twenty-five~~ Forty dollars (\$2540) minimum for one (1) hour or less. Over one (1) hour: ~~twenty-five~~ forty dollars (\$2540) plus ~~twelve~~ twenty dollars ~~and fifty cents~~ (\$120.50) for each one-half (1/2) hour or portion thereof in excess of one (1) hour. (1-14-87)()

13. Fees for Temporary Amusement/Industry Electrical Inspections. Each time a ride, concession or generator is set up: forty dollars (\$40) base fee plus ten dollars (\$10) for each ride, concession or generator. (1-14-87)()

a. ~~The Division will, for a fee of thirty dollars (\$30) per hour, inspect carnival rides, concessions, booths, and generators before the first show of each year. The pre-season inspection is encouraged: it may save an owner/operator from a large number of inspection fees.~~ (1-14-87)

b. ~~If a ride, concession, or generator has not had a pre-season inspection, a carnival, circus, or traveling show must pay a fee of ten dollars (\$10) for the first inspection each year of each ride, concession, or generator to which power is supplied. An insignia of approval will be affixed to each ride, concession, and generator to indicate the year and date of inspection.~~ (1-14-87)

e. ~~The Division shall inspect a ride, concession, or generator each additional time the ride, concession, or generator is set up. For those rides, concessions, and generators that have been inspected and have the insignia of inspection, the fee shall be fifty dollars (\$50) for up to the first ten (10) rides, concessions, or generators. If a ride, concession, or generator has no insignia of inspection, the fee for that ride, concession, or generator shall be charged per Subsection 011.13.b.~~ (1-14-87)

14. ~~Expiration of Permits. Every permit issued by the Electrical Bureau shall expire by limitation and become null and void if the work authorized by such permit is not commenced within ninety (90) days from the date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred eighty (180) days, unless a request for extension has been made to and granted by the Electrical Bureau. Before such work can be recommenced, a new permit shall first be obtained, and the fee shall be one half (1/2) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work and provided further that such suspension or abandonment has not exceeded one (1) year. A permit may be renewed for an additional year upon receipt of Bureau approval and forty dollars (\$40) renewal fee.~~ (1-14-87)()

IDAPA 08 - STATE DEPARTMENT OF EDUCATION AND STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-9802

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 33-105 and 33-114, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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

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

Adopts specific teacher endorsements/certification criteria for teaching in several subject areas.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Karl D. Vogt, Deputy Attorney General at (208) 332-6812.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 22nd day of July, 1998.

Karl D. Vogt
Deputy Attorney General
Department of Education
650 W. State Room 200
P.O. Box 83720-0027
Phone: (208) 332-6812
Fax: (208) 334-2228

TEXT OF DOCKET NO. 08-0202-9802

070. IDAHO EDUCATOR CREDENTIAL.

The State Board of Education will authorize the Office of Teacher Certification to issue the following certificates and endorsements on the IDAHO EDUCATOR CREDENTIAL to those individuals meeting the specific requirements for each area. The requirements for each certificate and endorsement are outlined in the Professional School Personnel Certification Standards Manual. (Section 33-1201, Idaho Code)

TEACHING CERTIFICATES
Standard Elementary, K-8
Standard Exceptional Child, K-12
Standard Secondary, 6-12
Occupational Specialist

ENDORSEMENTS, K-12
Art
<u>Bilingual Education</u>
English as a Second Language
Exceptional Child, Generalist
Exceptional Child, Hearing Impaired
Exceptional Child, Multiple Handicapped
Exceptional Child, Physically Handicapped
Exceptional Child, Seriously Emotionally Disturbed
Exceptional Child, Severe Retardation
Exceptional Child, Visually Impaired
Foreign Language
Gifted and Talented
Media Generalist
Music
Physical Education
Reading

ENDORSEMENTS
Agriculture, Science and Technology
American Government
American Studies
Anthropology
Art
Art-Crafts

ENDORSEMENTS
Basic Math
<u>Bilingual Education</u>
Biological Science
Business Education
Chemistry
Communication
Computer Applications
Consumer Economics
Drafting
Dramatics
Driver Education
Early Childhood Education
Early Childhood--Special Education
Earth Science
Economics
Electricity-Electronics
English
<u>English as a Second Language (ESL)</u>
Family and Consumer Sciences
Foreign Language
Geography
Health
History
Humanities
Journalism
Marketing Education
Music
Natural Science
Physical Education
Physical Education - Health
Philosophy
Physical Science
Physics
Political Science

ENDORSEMENTS
Psychology
Reading
Social Studies
Sociology
Sociology-Anthropology
Speech
Speech-Drama
Standard Math
Technology Education
Work-Based Learning Coordinator

ADMINISTRATOR CERTIFICATE
Director of Special Education
School Principal, K-12
Superintendent
Vocational-Technical Administrator

PUPIL PERSONNEL CERTIFICATE
Counselor, K-12
Consulting Teacher
School Nurse
School Psychologist
School Social Worker
Speech Language Pathologist
Standard Audiology
Supervisor/Coordinator of Special Education

LIMITED CERTIFICATES
Consultant Specialist
Interim Occupational

LIMITED CERTIFICATES
Letter of Authorization
Limited Occupational Specialist
Limited Transitional
Postsecondary Specialist
Teacher Trainee

(4-1-97)()

01. Letters of Authorization. Letters of authorization allow Idaho school districts to request emergency certification when a professional position cannot be filled. A request for a Letter of Authorization for a teacher to serve in a position for which the teacher is not certificated will be sent to the State Department of Education, Certification Office. The request and supporting information will be reviewed by the Professional Standards Commission. The final recommendation of the Commission will be submitted to the State Board of Education by the Superintendent of Public Instruction. A detailed description of the procedure and policy for the above rule is found in the Teacher Certification Manual. (4-1-97)

02. Consultant Specialist. At the request of a school district, the State Department of Education may issue a consultant specialist certificate to highly and uniquely qualified persons. The use of the certificate is limited to the applicant's district and is valid for one (1) year. It is intended that use of the consultant specialist provision be exceptional and occasional and not used as a regular hiring practice. (4-1-97)

03. Certification Standards for Vocational-Technical Educators. Teachers of vocational-technical classes or programs in secondary or postsecondary schools must hold an endorsement in an appropriate occupational discipline. This endorsement may be held on a secondary teaching credential or on an Occupational Specialist Certificate. Detailed description of the procedure and policy for the above rule is found in the Teacher Certification Manual. (4-1-97)

04. Postsecondary Specialist. A post-secondary specialist certificate will be granted to teaching faculty of Idaho public post-secondary institutions, who are not otherwise certificated, upon recommendation by the post-secondary institution (dean level or above) to be eligible to teach in the public schools. The certificate will be issued by the State Department of Education. It is intended that the certificate be used primarily for distance education and "virtual university" programs. (4-1-97)

05. Grandfathering. All credentials issued prior to July 1, 1997 and kept current are authorized for continued use. Current renewal requirements of the State Board of Education must be met for renewal of the credential. If a credential is allowed to lapse, all current requirements for initial certification apply. (4-1-97)

IDAPA 09 - DEPARTMENT OF LABOR
09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL UNIT

DOCKET NO. 09-0104-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), 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 rule was published in the Idaho Administrative Bulletin, July 1, 1998, Volume No. 98-7, page 16.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jim Richmond, Chief of Benefit Payment Control, Idaho Department of Labor, at (208) 334-6305.

DATED this 20th day of July, 1998.

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

IDAPA 09
TITLE 01
Chapter 04

RULES OF THE BENEFIT PAYMENT CONTROL UNIT

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998, page 16.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 09 - DEPARTMENT OF LABOR
09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL BUREAU

DOCKET NO. 09-0104-9802

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), 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 rule was published in the Idaho Administrative Bulletin, July 1, 1998, Volume No. 98-7, pages 17 and 18.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jim Richmond, Chief of Benefit Payment Control, Idaho Department of Labor, at (208) 334-6305.

DATED this 20th day of July, 1998.

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

IDAPA 09
TITLE 01
Chapter 04

RULES OF THE BENEFIT PAYMENT CONTROL BUREAU

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 17 and 18.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 09 - DEPARTMENT OF LABOR
09.01.06 - RULES OF THE APPEALS BUREAU
DOCKET NO. 09-0106-9801
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), 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 rule was published in the Idaho Administrative Bulletin, Volume No. 98-7, pages 19 through 23.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Joseph Karpach, Jr., Appeals Bureau Chief, Idaho Department of Labor, at (208) 334-6268.

DATED this 20th day of July, 1998.

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

IDAPA 09
TITLE 01
Chapter 06

RULES OF THE APPEALS BUREAU

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 19 through 23.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 09 - DEPARTMENT OF LABOR
09.01.30 - RULES OF UNEMPLOYMENT INSURANCE BENEFIT CLAIMS

DOCKET NO. 09-0130-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), 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 rule was published in the Idaho Administrative Bulletin, July 1, 1998, Volume No. 98-7, page 24.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jean Hull, Benefits Bureau Chief, Idaho Department of Labor, at (208) 334-6317.

DATED this 20th day of July, 1998.

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

IDAPA 09
TITLE 01
Chapter 30

RULES OF UNEMPLOYMENT INSURANCE BENEFIT CLAIMS

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998, page 24.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 09 - DEPARTMENT OF LABOR
09.01.30 - RULES OF THE BENEFITS BUREAU
DOCKET NO. 09-0130-9802
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), 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 are being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, July 1, 1998, Volume No. 98-7, pages 25 through 44.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jean Hull, Benefits Bureau Chief, Idaho Department of Labor, at (208) 334-6317.

DATED this 20th day of July, 1998.

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

IDAPA 09
TITLE 01
Chapter 30

RULES OF THE BENEFITS BUREAU

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 25 through 44.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 09 - DEPARTMENT OF LABOR
09.01.30 - RULES OF THE BENEFITS BUREAU
DOCKET NO. 09-0130-9803
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

IDAPA 09.01.30.425.10 informs employers how to file separation information when requested, the deadline for filing the information, and how an employer can appeal a determination that the information was not filed on time.

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

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 20th day of July, 1998.

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

TEXT OF DOCKET NO. 09-0130-9803

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code.

(7-1-98)T

01. Claims For Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of new claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. (7-1-98)T

02. Effective Date -- New Claims. A new claim for benefits is effective on the Sunday of the week in which it is filed unless it is backdated due to local office scheduling problems or filed on an itinerant basis. (7-1-98)T

03. Effective Date Of Mail Claims/Itinerant Claims. A claim for benefits filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first

business day of the period of unemployment. If filed at a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. If a claimant has been granted permission to file his initial claim by mail, and he completes and returns the claim form within seven (7) days of the date the form was mailed to him from the local office, the effective date of the claim shall be the Sunday preceding the date of his original request to file the claim. If the claimant fails to mail the claim form within the seven (7) day period, and mail facilities would have permitted such mailing within the period, the effective date of the claim shall be the Sunday preceding the date he mails the claim form. Ref. Sec. 72-1308, Idaho Code. (7-1-98)T

a. Taking new claims by mail. A claims examiner may allow a claimant to file an initial claim by mail when in-person filing would cause undue hardship. (7-1-98)T

b. Interstate claimant mail claims. Any claim filed by mail by an interstate claimant shall be accepted in the same manner and under the same conditions for which mail claims are accepted from intrastate claimants. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

05. Registration For Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (7-1-98)T

06. Registration/Reporting Requirements - Interstate Claimants. Interstate claimants shall be required to register for work in the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants at either a local office or an itinerant point. Ref. Sec. 72-1366(1), (2), Idaho Code. (7-1-98)T

07. Requirement To Provide Information. Any individual wishing to claim benefits shall file a claim through the local office serving his area of residence and shall provide the local office with his legal name, his address where mail is delivered to him, his place of last employment, the employer's correct address, a list of all other employment in the past eighteen (18) months, his Social Security Number, the reason for separation from all applicable employers, and his plans for finding other employment at the earliest possible time. Failure to provide this information may result in ineligibility for benefits until the information is provided. Ref. Sec. 72-1366(1), Idaho Code. (7-1-98)T

08. Right To Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (7-1-98)T

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed twelve (12) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (7-1-98)T

10. Separation Notice. ()

a. Request for separation information. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after ~~having been notified by~~ receiving a request for separation information from the

Department ~~that because~~ an individual has filed a claim for benefits listing him as the claimant's last employer, shall submit to the Department a report of the reasons for the separation ~~on a form furnished for this purpose by the Department. The statement shall be given in accordance with instructions printed on the form and returned within the time period specified. The form must be signed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated.~~ The employer shall submit a report of the reasons for the separation whenever such claimant: (7-1-98)()

- a*i*. Left his employment voluntarily; (7-1-98)
 - b*ii*. Was discharged from his employment due to misconduct; (7-1-98)
 - c*iii*. Is unemployed due to a strike, lockout, or other labor dispute; or (7-1-98)
 - d*iv*. Was separated for any other reason except lack of available work. Ref. Sec. 72-1337, 72-1368 (7-1-98)()
- Idaho Code.

b. Employer response. The employer's response shall be completed in accordance with instructions printed on the Department's request for separation information and shall be signed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. The signed statement must be filed with the Department within ten (10) days from the date the request for separation information was mailed to the employer or by the extended due date, if any, granted by the Department. If the due date is a holiday, the time for filing the employer's statement shall be extended to include the following working day. The employer's statement may be filed by one (1) of the following methods with the office listed on the request for separation information: ()

i. Personal delivery. The employer's statement may be personally delivered to the office by handing it to a Department employee at the office. The date of personal delivery shall be noted on the statement by the Department employee and shall be deemed the date of filing. The statement must be delivered to a Department employee by 5 p.m. on a business day to be deemed filed on that date. ()

ii. Faxing. The employer's statement may be faxed to the office. A faxed statement that is received by 5 p.m. (as of the time zone of the office receiving the fax) on a business day shall be deemed filed on that date. A faxed statement that is received on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. ()

iii. Mailing. The employer's statement may be mailed to the office. A mailed statement shall be deemed filed on the date of mailing as determined by the postmark on the envelope containing the statement. Ref. Sec. 72-1337 and 72-1368, Idaho Code. ()

c. Date of mailing of request by the Department. The date indicated by the Department on the request for separation information as "Date of Mailing" shall be presumed to be the date the request was deposited in the United States mail, unless shown otherwise by a preponderance of competent evidence. ()

d. Extending due date. To obtain an extension of the due date for the separation statement, an employer must contact the local office and request the extension by the date the separation statement is otherwise due. ()

e. Appealing ruling of untimeliness. If, in the initial determination on the claim, it is determined that an employer has failed to file the completed separation statement within the time provided in this rule, the employer may assert that there was good cause for such failure or that the requested information was provided by the due date by filing an appeal of that determination in accordance with IDAPA 09.01.06, "Rules of the Appeals Bureau," Section 012, within fourteen (14) days of the date the determination was mailed. ()

11. Taking An Additional Claim Or Reopening A Claim. A claim series may be reestablished, subsequent to the filing of a new claim, in person, by mail, or by telephone. Ref. Sec. 72-1368(1), Idaho Code. (7-1-98)T

- a. Effective date of AC/RO. An additional or reopened claim shall be effective on the Sunday of the

first week in which the claimant contacts a local office to reestablish the claim. Ref. Sec. 72-1368(1), Idaho Code.

(7-1-98)T

i. AC/RO filing. If a claimant chooses to use a reopen/additional claim form rather than file by telephone, the form may be mailed or personally delivered to a local office. The claim must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. The postmark of a mailed reopen/additional claim form establishes the date of filing.

(7-1-98)T

ii. Backdated claim. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the reopen/additional claim is filed.

(7-1-98)T

b. Reestablished claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows:

(7-1-98)T

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or

(7-1-98)T

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim.

(7-1-98)T

12. Use Of Wage Credits. All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code.

(7-1-98)T

13. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code.

(7-1-98)T

IDAPA 09 - DEPARTMENT OF LABOR
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-9801
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), 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 are being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, July 1, 1998, Volume No. 98-7, page 45.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mark Whitworth, Chief of Employer Accounts, Idaho Department of Labor, at (208) 334-6385.

DATED this 20th day of July, 1998.

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

IDAPA 09
TITLE 01
Chapter 35

RULES OF THE EMPLOYER ACCOUNTS BUREAU

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998, page 45.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 09 - DEPARTMENT OF LABOR
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-9802
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), 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 are being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, July 1, 1998, Volume No. 98-7, pages 46 through 58.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mark Whitworth, Chief of Employer Accounts, Idaho Department of Labor, at (208) 334-6385.

DATED this 20th day of July, 1998.

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

IDAPA 09
TITLE 01
Chapter 35

RULES OF THE EMPLOYER ACCOUNTS BUREAU

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 46 through 58.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 09 - DEPARTMENT OF LABOR
09.01.40 - RULES OF THE JOB TRAINING PARTNERSHIP ACT
DOCKET NO. 09-0140-9801
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

Revision of IDAPA 09.01.40.006.11 provides that grantees must comply with the most recent edition of the Procurement Guide, and the name of the Department and Bureau will be updated.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Laura Gleason, Workforce Systems Bureau, Idaho Department of Labor, at (208) 334-6299.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 20th day of July, 1998.

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

TEXT OF DOCKET NO. 09-0140-9801

006. ADMINISTRATIVE AND FINANCIAL OPERATIONAL STANDARDS.

The Federal Office of Management and Budget (OMB) Circulars A-21, A-87, A-122, A-102, and A-110 govern the operation of the Idaho JTPA program and are hereby incorporated by reference, with the following listed exceptions. (7-1-93)

01. Grantor Agency. For purposes of the JTPA program in Idaho, references in the OMB Circulars to the Grantor Agency shall mean the State. (7-1-93)

02. Accrued Leave. Private nonprofit organizations may request reimbursement for employee vacation leave at the time it is accrued if the following conditions are met: (7-1-93)

a. Principles stipulated in OMB Circular A-122 for the payment and accrual of leave are met; and (7-1-93)

- b. Leave balances are payable to the employee upon termination from the organization; and (7-1-93)
- c. Leave compensation to individual employees is reasonable for the services rendered and conforms to the established written policy of the organization. (7-1-93)
03. Council Costs. The costs of State and Local Councils are allowable to the extent that the costs conform to State policies governing like costs or policies adopted by the appointing entity. (7-1-93)
04. Advertising Costs. Advertising costs directly associated with the delivery of program services are also allowable. (7-1-93)
05. Interest Expenses. Interest expenses are allowable only with prior approval from the State. (7-1-93)
06. Vendor Payments. Payments to On-the-Job Training (OJT) employers, training institutions and other vendors to the extent that they are consistent with the Act and Regulations, are authorized in a written agreement with a recipient or subrecipient, are paid only upon receipt of an acceptable invoice, and in the case of training organizations and vendors, are consistent with the organizations' fee structure, including refund policies, at a cost that does not exceed that normally available to the public. (7-1-93)
07. Fees and Profits. Fees and profits are allowable to the extent that they are consistent with 20 CFR Section 627.420(e) and are documented in the procurement. (7-1-93)
08. Insurance Costs. Participant insurance costs included as part of a published registration fee or tuition are also allowable. (7-1-93)
09. Nonexpendable Property Purchases. Purchase of nonexpendable property is allowable with prior approval of the State. All nonexpendable property purchased with JTPA funds remains the property of the State. Nonexpendable property is defined as any property having a unit acquisition cost of five hundred dollars (\$500) or more, regardless of the length of useful life. (7-1-93)
10. Pre-agreement Costs. Pre-agreement costs are not allowable without specific authorization from the State. (7-1-93)
11. Procurement Guide. All expenditures of JTPA funds must be made in compliance with the State Administrative Entity's, "Idaho JTPA Procurement Guide," (~~Rev. July 1993~~), as amended, which is hereby incorporated by reference. Copies of the guide may be obtained from the following: ~~Planning Employment and Training Programs~~ Workforce Systems Bureau, Idaho Department of ~~Employment Labor~~, 317 Main Street, Boise, ID 83735, Telephone (208) 334-6299. (7-1-93)()
12. Matching Funds. Federal and non-federal funds from non-JTPA sources may be used to satisfy cost-sharing or matching requirements if the use of such funds for cost sharing or matching is authorized by the legislation or funding source under which the funds were received. (7-1-93)
- a. Unemployment insurance benefits paid from the state trust fund to JTPA participants may be used as cash match for the period of the participants enrollment in JTPA. (7-1-93)

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

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 54-1208, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The proposed rule amends the current rules of professional responsibility to require that persons licensed to practice professional land surveying in Idaho acknowledge their responsibility to comply with requirements of continuing professional competency contained in IDAPA 10, Title 01, Chapter 04.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge will be imposed or increased as a result of this proposed rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, Negotiated rule-making was conducted. The Notice of Negotiated Rule-making was published in the Idaho Administrative Bulletin, Volume No. 98-1, Page 30.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 29th day of July, 1998.

David L. Curtis, Executive Secretary
Board of Registration of Professional Engineers
and Professional Land Surveyors
600 S. Orchard, Suite A
Boise, Idaho 83705-1242
Telephone (208) 334-3860
Fax (208) 334-2008

TEXT OF DOCKET NO. 10-0102-9801

005. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Registrants and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (7-1-93)

02. Standard of Care. Each Registrant and Certificate Holder shall perform in accordance with the standard of care for the profession and is under duty to the party for whom the service is to be performed to exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (7-1-93)

03. Professional Judgement. If any Registrant's or Certificate Holder's professional judgement is overruled under circumstances where the safety, health and welfare of the public are endangered, the Registrant or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (7-1-93)

04. Obligation to Communicate Discovery of Discrepancy. If a Registrant or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Registrant or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, and obtain a response from the Registrant or Certificate Holder, whose work is believed to contain the discrepancy, error or omission. The Registrant or Certificate Holder whose work is believed to contain the discrepancy shall respond in writing within sixty (60) calendar days to any question about his work raised by another Registrant or Certificate Holder. Failure to respond shall be considered misconduct on the part of the Registrant or Certificate Holder whose work is believed to contain the discrepancy. The discoverer shall notify the Board in the event a satisfactory response is not obtained. (7-1-98)

05. Obligation to Comply with Rules of Continuing Professional Development. All Registrants licensed to practice professional land surveying shall comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development". ()

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

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 54-1208, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The proposed rule is a new chapter which makes continuing professional development a condition of renewal for persons licensed to practice professional land surveying in Idaho.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge will be imposed or increased as a result of this proposed rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, Negotiated rule-making was conducted. The Notice of Negotiated Rule-making was published in the Idaho Administrative Bulletin, Volume No. 98-1, Page 31.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 29th day of July, 1998.

David L. Curtis, Executive Secretary
Board of Registration of Professional Engineers
and Professional Land Surveyors
600 S. Orchard, Suite A, Boise, Idaho 83705-1242
Telephone (208) 334-3860
Fax (208) 334-2008

TEXT OF DOCKET NO. 10-0104-9801

**IDAPA 10
TITLE 01
Chapter 04**

RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

000. LEGAL AUTHORITY.

These rules are promulgated as authorized by Section 54-1208(1), Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.04, "Rules of Continuing Professional Development". ()

02. Scope. In order to establish and maintain a high standard of integrity, skills and practice in the profession of land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Continuing Professional Development, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a license to practice as a Professional Land Surveyor. Each Licensee under the laws of the state of Idaho is charged with being familiar with these rules and knowledgeable in their application to the practice of land surveying. Every Licensee shall meet the continuing professional development requirements of these rules as one of the conditions for license renewal. These rules shall not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Licensee to Board action pursuant to Chapter 12, Title 54, Idaho Code. ()

002. ADMINISTRATIVE APPEALS.

Persons desiring to contest the actions taken in accordance with these rules shall seek administrative relief under the Attorney General's Rules, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ()

003. WRITTEN INTERPRETATIONS.

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

004. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: ()

01. College Semester or Quarter Credit Hour. Credit for college courses. ()

02. Continuing Education Unit (CEU). Unit of credit customarily used for continuing education courses. One (1) continuing education unit equals ten (10) hours of class in an approved continuing education course. ()

03. Professional Development Hour (PDH). A contact hour (minimum of fifty (50) minutes) of instruction or presentation. The common denominator for other units of credit. ()

04. Activity. Any qualifying action with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice. ()

05. Licensee. A person who is licensed to practice as a professional land surveyor. ()

06. Board. The Idaho Board of Registration of Professional Engineers and Professional Land Surveyors. ()

07. Self-Study. Documented study of professional/technical journals, published papers, articles, books, software or other areas of training which increase knowledge of the technology above and beyond routine job assignments. ()

08. Active Participation. Serving as an officer or committee chair at either the state or local (section or chapter) level. ()

005. REQUIREMENTS.

Every Licensee is required to obtain fifteen (15) PDH units during the renewal period year (beginning on the first day

of the month following the month in which the Licensee was born). If a Licensee exceeds the annual requirement in any renewal period, a maximum of fifteen (15) PDH units may be carried forward into the subsequent renewal period. PDH units may be earned in the following activities, however, PDH units must come from two (2) or more activities.

- ()
- 01. Successful Completion of College Credits. ()
- 02. Successful Completion of Continuing Education Units. ()
- 03. Successful Completion of Other Courses. Correspondence, televised, videotaped, and other short courses/tutorials for which college credits or CEU's are awarded. ()
- 04. Attending Qualifying Seminars. Attending qualifying seminars, in-house courses, workshops, or technical or professional presentations made at meetings, conventions, or conferences. ()
- 05. Teaching or Instructing. Teaching or instructing in Subsections 005.01 through 005.04 above, above and beyond routine job assignments. ()
- 06. Authoring Published Papers, Articles, or Books. ()
- 07. Membership in Technical or Professional Organizations. ()
- 08. Active Participation in Technical or Professional Organizations. ()
- 09. Patents. ()
- 10. Presentations to Technical, Professional or Civic Organizations. ()
- 11. Self Study. ()

006. UNITS.

The conversion of other units of credit to PDH units is as follows:

1 College semester credit hour equals	45 PDH
1 College quarter credit hour equals	30 PDH
1 Continuing Education Unit equals	10 PDH
1 Hour of attendance in course work, seminars, or technical or professional presentations made at meetings, conventions, or conferences equals	1 PDH
Teaching 1 through 4 above, above and beyond normal job assignments, apply multiple of 2	
Each published paper, article or book not to exceed	5 PDH
Technical or professional organization membership (Each organization) equals	3 PDH
Active participation in technical and professional organization (Each organization) equals	3 PDH
Each patent not to exceed	5 PDH
Presentations to technical, professional or civic organizations equals	2 PDH per hour of presentation
Documented self-study not to exceed	5 PDH

()

007. DETERMINATION OF CREDIT.

The Board has final authority to judge the PDH value for all activities submitted to fulfil CPD requirements. ()

008. RECORD KEEPING.

Maintenance of records to support credits claimed is the responsibility of the Licensee. Records required include, but are not limited to: ()

01. Log. A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; ()

02. Attendance Verification. Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or ()

03. Records. Records as maintained by the Professional Development Registry for Engineers and Surveyors (PDRES) or other similar repositories. These records must be maintained for a period of five (5) years and copies may be requested by the Board for audit verification purposes. ()

009. EXEMPTIONS.

A Licensee may be exempt from the continuing professional development requirements for one (1) of the following reasons: ()

01. One (1) Year Following Adoption of These Rules. All Licensees shall be exempt during the first year following adoption of this chapter of rules. ()

02. First Renewal Period. New Licensees by way of examination or comity shall be exempt for their first renewal period. ()

03. Active Duty in the Armed Forces. A Licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the professional development hours required during that renewal year. ()

04. Extenuating Circumstances. A Licensee experiencing physical disability, serious illness, or other extenuating circumstances accepted by the board. ()

05. Retired and Receiving No Remuneration. A Licensee who has chosen and qualified for the "Retired" status and who further certifies that they are no longer receiving any remuneration from providing professional land surveying services shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional land surveying, professional development hours must be earned before returning to active practice for each year exempted not to exceed the annual requirement for two (2) years. ()

06. Expired License. A Licensee who has chosen to allow his license to expire shall be exempt from the professional development hours required. In the event such a person elects to reactivate the license, professional development hours must be earned before reinstating the license or certificate for each year exempted not to exceed the annual requirement for two (2) years. ()

010. COMITY/OUT-OF-JURISDICTION RESIDENTS.

The CPD requirements for non-resident licensees shall be the same as that for resident licensees. ()

011. -- 998. (RESERVED).

999. SEVERABILITY.

The rules governing this chapter are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. ()

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY
DOCKET NO. 11-1003-9801
NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: These temporary rules are effective July 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 Sections 18-8305, 18-8306, and 18-8323, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Sexual Offender Registration Notification and Community Right-to-Know Act, Title 18, Chapter 83, Sections 18-8301 through 18-8326, Idaho Code, is effective July 1, 1998. It requires rule-making to implement procedures governing the operation of and access to the sex offender central registry.

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 public safety and compliance with deadlines in statutory law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Section 18-8307, Idaho Code, authorizes a sheriff to collect a fee of ten dollars (\$10) from a sex offender at the time of each registration. The purpose of the fee is to defray the cost of sex offender registration. The temporary and proposed rules require the sheriff to pay the state (Idaho Department of Transportation) from collected registration fees the cost of photography materials provided by the state for use in the registration process.

Section 18-8323(3), Idaho Code, authorizes the department to charge a reasonable fee for providing to the public a photograph of a registered sex offender. These rules set a fee of five dollars (\$5) for providing a copy of a photograph contained in the central registry.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because of the need for temporary rules to meet the statutory deadline for implementing a revised central sex offender registration program.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ann Thompson, telephone (208) 884-7002.

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 September 23, 1998.

DATED this 2nd day of September.

Ann Thompson
Idaho Department of Law Enforcement
700 S. Stratford Road

P.O. Box 700
Meridian, Idaho 83680-0700
(208)884-7002
(208)884-7090 (FAX)

TEXT OF DOCKET NO. 11-1003-9801

IDAPA 11
TITLE 10
Chapter 03

RULES GOVERNING THE SEX OFFENDER REGISTRY

000. LEGAL AUTHORITY.

The Department of Law Enforcement has authority to make rules to implement the sex offender central registry pursuant to Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8326. (7-1-98)T

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 11.10.03, "Rules Governing the Sex Offender Registry". The rules relate to the administration of the state's sex offender central registry, which includes both adult and juvenile offenders. (7-1-98)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (7-1-98)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (7-1-98)T

004. -- 009. (RESERVED).

010. DEFINITIONS.

01. Bureau. "Bureau" means the Bureau of Criminal Identification, Idaho Department of Law Enforcement. (7-1-98)T

02. Central Registry. "Central Registry" means the state-level records system containing information, photographs and fingerprints relating to persons required to register as a sex offender under Title 18, Chapters 83 and 84, Idaho Code. (7-1-98)T

03. Department. "Department" means the Idaho Department of Law Enforcement. (7-1-98)T

04. Director. "Director" means the director of the Idaho Department of Law Enforcement. (7-1-98)T

05. Working Days. "Working Days" means each day except Saturday, Sunday, or a legal state holiday. (7-1-98)T

011. SEX OFFENDER CENTRAL REGISTRY - ADMINISTRATION.

01. Central Registry Established. Pursuant to Title 18, Chapter 83, Idaho Code, the department establishes a sex offender central registry in the bureau of criminal identification. The bureau is responsible for

administration of the central registry pursuant to the requirements set forth in Title 18, Chapters 83 and 84, Idaho Code and these rules. (7-1-98)T

02. Forms. The following forms and procedures are prescribed for providing notice to and collecting information from persons required to register as a sex offender pursuant to Title 18, Chapters 83 and 84, Idaho Code. (7-1-98)T

a. "Notification and Initial Registration Form" (SOR-1) notifies an offender of the duty to register and obtains information for initial registration with the central registry. The court or appropriate correctional agency shall complete the form with the assistance of the offender required to register. Within three (3) working days of completing the form, the court or correctional agency shall forward the original copy to the bureau. (7-1-98)T

b. "Local/Annual Registration Form" (SOR-2) collects from an offender information required for first-time registration in a county, annual re-registration, or a change of address within the county of residence. Under supervision of the sheriff or the sheriff's designee, the offender shall complete the form as prescribed by the accompanying instructions. Except when using the form to notify the central registry of a change of address, the sheriff shall forward the original copy, along with the offender's photograph and fingerprints, to the bureau within three (3) working days of completing the form. When using the form to notify a change of address, the sheriff shall forward only the original copy of the form to the bureau within three (3) working days of its completion. (7-1-98)T

c. "Local/Annual Registration Form Addendum" (SOR-3) collects offense information and provides notice of registration requirements to an offender who has not undergone Idaho or local registration previously or who has committed an additional sex offense since last annual registration. Under supervision of the sheriff or the sheriff's designee, the offender shall complete the form as prescribed by the accompanying instructions. In those cases when appropriate, the sheriff shall attach the form to the SOR-2 form and forward them to the bureau within three (3) working days of their completion. (7-1-98)T

03. Information Required at Initial Registration. In addition to the information required by Section 18-8307(8), Idaho Code, the "Notification and Initial Registration Form" (SOR-1) shall collect the following information: (7-1-98)T

a. Whether the offender is registering as an adult under Title 18, Chapter 83, Idaho Code, or as a juvenile under Title 18, Chapter 84, Idaho Code; (7-1-98)T

b. Physical description of the offender, including gender, race, height, weight, eye color, hair color, and scars, marks, and tattoos; (7-1-98)T

c. Offender's occupation and name and place of employment; (7-1-98)T

d. The name and location of a school, college, or university that the offender attends; and (7-1-98)T

e. Name of the offender's probation/parole officer. (7-1-98)T

04. Photographs and Fingerprints. Whenever Form SOR-2 is used to register an offender who moves into a county or to re-register an offender annually, it is submitted to the central registry with the offender's photograph and fingerprints. (7-1-98)T

a. An offender's photograph shall be in color and taken using equipment provided for drivers license photographs and using a special camera form supplied by the bureau. The sheriff shall forward one (1) photograph of the offender with each registration Form SOR-2. Photographs submitted to the central registry shall be new photographs taken at the time of each registration. From collected registration fees, the sheriff shall pay to the state the cost of photography materials lawfully required by a state agency or department. (7-1-98)T

b. The sheriff shall submit the required fingerprints on the federal bureau of investigation form FD-249. In 1998 and for each first-time registrant, the sheriff shall forward two (2) FBI fingerprint cards with each registration Form SOR-2. For subsequent annual re-registrations, the sheriff shall forward one (1) FBI fingerprint card with each registration form SOR-2. (7-1-98)T

05. Change of Address Notification. When an offender changes address or actual residence within a county, the offender will complete within five (5) days after the change Form SOR-2 to provide the required notification. When an offender moves to another county to establish permanent or temporary domicile, the offender must register as a new resident with the sheriff having jurisdiction within ten (10) days of moving to the other county. When an offender moves to another state, the offender shall notify the central registry by certified mail within five (5) days after moving to the other state. (7-1-98)T

06. Notification to Local Law Enforcement. The bureau will provide to a local law enforcement agency on its request a list of registered sex offenders residing in its jurisdiction. The bureau will notify the local law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or residence of a registered sex offender and of a registered offender's intent to reside in the agency's jurisdiction. Whenever practical, the bureau will provide notification using the Idaho law enforcement telecommunication system (ILETS). (7-1-98)T

07. Notification to Other States. Within one (1) working day of receiving notification that a registered sex offender is moving to another state, the bureau will notify the receiving state's designated sex offender registration agency of the move by mail or electronic means. (7-1-98)T

08. Expungement of Central Registry Information. (7-1-98)T

a. Upon receipt of a certified copy of a death certificate recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry. (7-1-98)T

b. Upon receipt of a duly attested copy of a pardon issued by the governor of a state as to a conviction reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (7-1-98)T

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed or dismissed by the court, the bureau will expunge all records concerning the conviction from the central registry. If the person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (7-1-98)T

d. Upon receipt of a duly attested document from a court clerk that a registered sex offender has been released by the court from registration requirements pursuant to Section 18-8310, Idaho Code, the bureau will expunge all records and references concerning the offender from the central registry. (7-1-98)T

09. Correction of Central Registry Information. (7-1-98)T

a. A person registered pursuant to Title 18, Chapters 83 or 84, Idaho Code, may submit a written request to the bureau to correct or modify information regarding that person in the central registry for the purpose of making the information accurate and complete. The bureau will respond to the request in writing within thirty (30) days after receipt of the request. When a request is denied, in whole or part, the bureau will explain the reasons for the decision. (7-1-98)T

b. A person whose request, under Subsection 011.09.a. of this section, is denied, in whole or part, may appeal to the director for review of the decision within thirty (30) days after the mailing of the bureau's written response. The appeal must be in writing and must set out the reasons for the appeal. The decision of the director will be in writing and made within forty-five (45) calendar days after the department's receipt of the appeal. (7-1-98)T

012. RELEASE OF INFORMATION TO THE PUBLIC.

01. Method of Access. Any person may inquire on a named person or obtain a list of sex offenders by geographic area by submitting a completed Request for Information Form SOR-4 to the bureau or local sheriff. The bureau or sheriff may only provide public access to central registry information by means of a completed Form SOR-4, which must include the requester's full name, address, and either driver's license number or social security number. The bureau or sheriff shall respond to a completed Form SOR-4 within ten (10) working days of receipt. A sheriff

may refer a person to the bureau for public access to the central registry. (7-1-98)T

02. Geographic Lists. Any person using a Form SOR-4 may request a list of offenders by county or zip code. (7-1-98)T

03. Statewide Lists. Schools and organizations working with youth, women or other vulnerable populations may request a statewide list of registered offenders from the bureau. The bureau may request information additional to that required by the Form SOR-4 to determine eligibility status for a statewide list. (7-1-98)T

04. Information Released. Only central registry information authorized for release pursuant to Section 18-8323(2), Idaho Code, may be provided by the bureau or sheriff in response to a completed Form SOR-4. A conviction of incest (Section 18-6602, Idaho Code, or equivalent offense) shall be reported as sexual abuse of a child under sixteen (16) years of age (Section 18-1506, Idaho Code). (7-1-98)T

05. Fee for Accessing Information. The bureau shall collect a fee of five dollars (\$5) for each inquiry on a named person or for each request for a list of sex offenders by geographic area. Schools and nonprofit organizations working with youth, women, or other vulnerable populations are exempt from payment of the fee. The bureau may request information additional to that required by the Form SOR-4 to determine eligibility status for nonfee access to central registry information. A registered offender may request a copy of the offender's own central registry information without payment of a fee. (7-1-98)T

06. Photographs. Any person may request the photograph of a registered sex offender by submitting to the bureau a completed Request for Registry Photograph Form SOR-5. The bureau may only provide public access to central registry photographs by means of a completed Form SOR-5, which must include the requester's full name, address, and either driver's license number or social security number. (7-1-98)T

07. Fee for Photographs. The bureau shall collect a fee of five dollars (\$5) for each photograph provided in response to a completed Form SOR-5. (7-1-98)T

08. Retention of Request Forms. The bureau and all sheriffs shall retain in their files the original copies of forms SOR-4 and SOR-5 for a period of two (2) years from the date of submission. These forms are available for inspection only by law enforcement and criminal justice agencies. (7-1-98)T

013. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 16-0101-9803

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. In addition, certain proposed changes in this rulemaking are mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed rulemaking will be held as follows:

Tuesday, October 6, 1998, 7:00 p.m.
Division of Environmental Quality, Conference Center
1410 N. Hilton, Boise, Idaho

The meeting site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the meeting. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Idaho Department of Health and Welfare (Department) annually updates the Rules for the Control of Air Pollution in Idaho, IDAPA 16.01.01, to maintain conformance with the EPA's regulations as well as fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. This proposed rule incorporates by reference federal regulations revised as of July 1, 1998, which include the Maximum Achievable Control Technology (MACT) Standards promulgated as National Emissions Standards for Hazardous Air Pollutants (NESHAPS). This proposed rule also includes corrections to Sections 600 and 612 regarding open burning.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Department intends to present the final proposal to the Board of Health and Welfare in November 1998 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 1999 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the nature of this rulemaking does not lend itself to the negotiated rulemaking process.

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

Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before October 7, 1998.

DATED this 2nd day of September, 1998.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481

TEXT OF DOCKET NO. 16-0101-9803

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

a. All federal publications: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at (202) 783-3238; and (5-1-94)

b. All documents herein incorporated by reference: (7-1-97)

i. Central Office, Division of Environmental Quality, Department of Health and Welfare, 1410 N. Hilton, Boise, Idaho 83706 at (208) 373-0502. (7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 1997~~8~~. (4-15-98)T()

b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Division of Environmental Quality, Department of Health and Welfare, November 1996. (4-15-98)T

c. Procedures Manual for Air Pollution Control, Idaho Air Quality Bureau, Division of Environment, Department of Health and Welfare, September 1986. (5-1-94)

d. "Ringelmann Smoke Chart," Manual Evaluation of Visible Emissions, Idaho Department of Health and Welfare, Division of Environment, Air Quality Bureau, Sections 6.1-6.10, September 1977. (5-1-94)

e. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 1997~~8~~. (4-15-98)T()

f. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 1997~~8~~. (4-15-98)T()

g. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 1997~~8~~. (4-15-98)T()

h. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 1997~~8~~. (4-15-98)T()

i. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 1997~~8~~. (4-15-98)T()

- j. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 1997~~8~~. (4-15-98)T(____)
- k. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 1997~~8~~. (4-15-98)T(____)
- l. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 1997~~8~~. (4-15-98)T(____)
- m. Permits, 40 CFR Part 72, revised as of July 1, 1997~~8~~. (4-15-98)T(____)
- n. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 1997~~8~~. (4-15-98)T(____)
- o. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 1997~~8~~. (4-15-98)T(____)
- p. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (4-15-98)T
- q. Emergency Episode Air Pollution Criteria, Division of Environmental Quality, Idaho Department of Health and Welfare, April 1972. See Appendix A, shown at the end of this chapter. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

600. RULES FOR CONTROL OF OPEN BURNING.

The purpose of Sections 600 through 604~~16~~ is to protect public health and welfare from air pollutants resulting from open burning. ~~These Sections are to become effective March 12, 1985.~~ (5-1-94)(____)

(BREAK IN CONTINUITY OF SECTIONS)

612. LANDFILL DISPOSAL SITE FIRES.

The use of open outdoor fires for the disposal of solid waste at any solid waste landfill disposal site or facility is an allowable form of open burning only if ~~allowed by an operational permit issued by the Department~~ in accordance with IDAPA 16.01.06, "Solid Waste Management Rules and Standards". (5-1-94)(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE
DOCKET NO. 16-0105-9801
NOTICE OF PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before September 16, 1998. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations governing hazardous waste as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rulemaking includes the annual update to make Idaho's rules consistent with revisions to the federal hazardous waste regulations as of July 1, 1998. In addition, this rulemaking implements a 1997 amendment to Section 39-4417B, Idaho Code, which makes only one hazardous waste emergency account available for expenditures in response to hazardous waste emergencies. Finally, this proposed rule implements 1998 amendments to the public records statute and the HWMA to ensure that Idaho law complies with the public disclosure and confidentiality requirements established in the Resource Conservation and Recovery Act.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Department intends to present the final proposal to the Board of Health and Welfare in November 1998 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 1999 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the nature of this rulemaking does not lend itself to the negotiated rulemaking process.

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

Anyone can submit written comment regarding this proposed rule. All written comments must be received by the undersigned on or before September 23, 1998.

DATED this 2nd day of September, 1998.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Phone No. (208) 373-0418
Fax No. (208) 373-0481

TEXT OF DOCKET NO. 16-0105-9801

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 1997~~8~~, including any notes and appendices therein, unless expressly provided otherwise in these rules. (3-23-98)()

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, 273, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (7-2-97)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

a. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206)553-4270; and (7-2-97)

b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)

c. Division of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. For purposes of 40 CFR 260.20 and 260.22, "Federal Register" shall be defined as the Idaho Administrative Bulletin. (3-23-98)()

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. (3-23-98)()

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by EnviroSAFE Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Division of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD

which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

vi. For purposes of Subsections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

c. Subsequent Verification Testing. (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

d. Delisting levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):.

antimony	0.06
arsenic	0.50
barium	7.6
beryllium	0.010
cadmium	0.050
chromium	0.33
lead	0.15
mercury	0.009
nickel	1
selenium	0.16
silver	0.30
thallium	0.020
vanadium	2
zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Division of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. For purposes of 40 CFR 262.53, 262.55, 262.56, and 262.57(b), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.51 and 262.54(g)(1), EPA shall be defined as the U.S. Environmental Protection Agency. (~~3-23-98~~)()

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 265.56(d)(2) and 262.34(d)(5)(iv)(c), (see 40 CFR 262.34(a)(4)), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (7-1-97)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. (~~3-23-98~~)()

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.149, 264.150, and 264.301(l)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. (~~3-23-98~~)()

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.149 and 265.150) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. (~~3-23-98~~)()

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.

40 CFR Part 266 and all Subparts (excluding Subparts A and B) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. ~~(3-23-98)~~(____)

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~, except for 40 CFR 268.1(e)(3), 268.5, 268.6, and 268.42(b). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. ~~(3-23-98)~~(____)

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(3), 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. ~~(3-23-98)~~(____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).

40 CFR Part 124, Subparts A and B are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~, except that the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. ~~(3-23-98)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. ~~(3-23-98)~~(____)

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Division of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1997~~8~~. ~~(3-23-98)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

900. EXPENDITURES FROM HAZARDOUS WASTE EMERGENCY ACCOUNTS.

The Director may declare a hazardous waste emergency if the public health, safety or the environment are threatened by a release or threat of release of a hazardous waste or a substance which has become a hazardous waste. Following a hazardous waste emergency declaration, the Department may spend or obligate to be spent up to two hundred thousand dollars (\$200,000) from the Hazardous Waste Emergency Account ~~and from the Hazardous Waste Training, Emergency, and Monitoring Account by appropriation,~~ to obtain equipment and materials, conduct investigations, test samples, and employ personnel as necessary or eliminate or mitigate the immediate threat and stabilize the situation. The Director may authorize the expenditure or obligation of more than two hundred thousand dollars (\$200,000) from ~~these~~ this accounts in any given situation upon a finding by the Board that a greater expenditure or obligation is prudent and necessary to protect the public health, safety or environment. (2-11-94)()

(BREAK IN CONTINUITY OF SECTIONS)

997. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules ~~may~~ shall be disclosed to the public ~~subject to the provisions of Sections 39-4411 and 9-337 to 9-350, Idaho Code; Sections 004 (40 CFR 260.2) and (40 CFR 270.12) of these rules; and any other applicable law~~ in accordance with Chapter 3, Title 9, Idaho Code. (3-23-98)()

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

DOCKET NO. 16-0309-9803

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, 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(s) 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the May 6, 1998 Idaho Administrative Bulletin, Volume 98-5, pages 175 and 176.

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

DATED this 2nd day of September 1998.

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 no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-5, May 6, 1998,
pages 175 and 176.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9804

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The amendment to the temporary rule is effective January 1, 1998. These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, 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 and amended a temporary rule. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: IDAPA 16.03.09, Subsection 106.04.a. has been restored to the original text as it existed prior to the publication of the temporary and proposed rule under this docket.

The original text of Subsection 106.04.a. is being reprinted here in the following paragraph. The remainder of the text of the proposed rule, published in the May 6, 1998, Idaho Administrative Bulletin, Volume 98-5, pages 177 through 193, is being adopted by the agency as proposed.

IDAPA 16.03.09.106.04.a.

a. The Department may purchase a one (1) month supply of necessary medical supplies for the treatment or amelioration of a medical condition identified by the attending physician in an amount not to exceed one hundred dollars (\$100) per month without prior authorization. Any combination of one (1) month's worth of supplies greater than one hundred dollars (\$100) may require prior authorization by the Department or its designee. The prior authorization period will be established by the Department or its designee. (1-1-98)T

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Pam Mason at (208) 334-5760.

DATED this 2nd day of September 1998.

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 and temporary rule text.**

**Only those Sections that have
changes have been republished in this Bulletin.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-5, May 6, 1998,
pages 177 through 193.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, 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(s) 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the May 6, 1998 Idaho Administrative Bulletin, Volume 98-5, pages 194 through 196.

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

DATED this 3rd day of September 1998.

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 10

RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-5, May 6, 1998,
pages 194 through 196.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.01 - RULES GOVERNING THE PROTECTION AND DISCLOSURE
OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective on July 1, 1999, 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(s) 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 3, 1998 Idaho Administrative Bulletin, Volume 98-6, pages 28 through 30.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Anna Sever at (208) 334-5920.

DATED this 3rd day of September 1998.

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 05
Chapter 01

RULES GOVERNING THE PROTECTION AND DISCLOSURE
OF DEPARTMENT RECORDS

There are no substantive changes
from the proposed rule text.

The original text was published in the Idaho
Administrative Bulletin, Volume 98-6, June 3, 1998,
pages 28 through 30.

This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.

IDAPA 17 - INDUSTRIAL COMMISSION
17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION
DOCKET NO. 17-0602-9801
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The national codes pertaining to boilers and pressure vessels, which are incorporated by reference in IDAPA 17.06.02, have been updated. The Commission wishes to amend the Idaho Boiler and Pressure Vessel Safety Rules to incorporate the latest editions of the National Board Inspection Code, the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, and the ASME Power Piping Standard B31.1.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the use of the latest version of nationally recognized standards is generally accepted in the industry and is unlikely to create controversy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mike Poulin, Division of Building Safety, P. O. Box 83720, Boise, Idaho 83720-0048. Telephone (208) 334-3950.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
Industrial Commission
317 Main Street, 2nd Floor East
P. O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-5145

TEXT OF DOCKET NO. 17-0602-9801

011. ADMINISTRATION.

01. Incorporation by Reference. (7-1-97)

a. The National Board Inspection Code 1995~~8~~; parts RA, RB, RC, RD; Mandatory Appendices 1, 2, 3, 4, 5, 6, 7; and Non-mandatory Appendices A, B, C, D, E, F, G; latest addenda; and interpretations are adopted for

use in Idaho in all matters dealing with boilers, pressure vessels, and nuclear components. (7-1-97)()

b. The ASME Boiler and Pressure Vessel Code 1995~~8~~; Sections I, II, III, IV, V, VI, VII, VIII, IX, X, XI; latest addenda; and code cases are adopted for use in Idaho in all matters dealing with boilers, pressure vessels, and nuclear components. (7-1-97)()

c. The ASME CSD-1 1995, Controls and Safety Devices for Automatically Fired Boilers. (7-1-97)

d. The ASME B31.1 1995~~7~~, Power Piping Standard (As it applies directly to boilers). (7-1-97)()

02. Construction. (7-1-97)

a. All new boilers, pressure vessels, nationally listed water heaters, hot water storage tanks, and nuclear components, unless otherwise exempt, to be shipped, installed, or operated in the State of Idaho shall be designed, constructed, inspected, stamped, and installed in accordance with the ASME code, the latest addenda, and code cases, and standards accepted by the National Board thereto in effect, and these rules. Any new boilers, pressure vessels, nationally listed water heaters, hot water storage tanks, and nuclear components, exempted from the requirements of the ASME Code by the ASME Code as accepted by the National Board shall have satisfied the requirements of this section, except to the extent these rules establish additional local requirements on inspection, registration, and installation. (7-1-97)

b. Boilers, pressure vessels, and nuclear components for which an ASME (or other codes and standards accepted by the National Board) Manufacturer's Data Report is required shall bear the manufacturer's "NB" number as registered with the National Board and/or an ASME code stamp as applicable. A copy of the Manufacturer's Data Report signed by the manufacturer's representative and the National Board authorized inspector shall be filed with the National Board and a copy filed with the Department for all boilers, pressure vessels, and nuclear components manufactured in or shipped into Idaho. (7-1-97)

c. All boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components, unless exempted by these rules shall have a state of Idaho registration number permanently affixed to the object by a State of Idaho commissioned Boiler and Pressure Vessel Inspector. (7-1-97)

03. Registration Fees. (7-1-97)

04. Notification. (7-1-97)

a. Before a new or secondhand boiler, pressure vessel, or nuclear component is installed in the state of Idaho notification shall be filed with the Department. (7-1-97)

b. All insurance companies shall notify the Department, within thirty (30) days of all boilers, pressure vessels, or nuclear systems on which insurance is written, discontinued, canceled, not renewed, or suspended because of unsafe conditions. (7-1-97)

c. When an accident occurs to a boiler, pressure vessel, or nuclear system, the owner or user shall promptly notify the Department and submit a detailed report of the accident. In the event of a personal injury or any explosion, notice shall be given immediately by telephone, fax, E-Mail, or messenger, and neither the boiler, pressure vessel, nuclear system, nor any parts thereof shall be removed or disturbed before permission has been given by the inspector of record, except for the purpose of saving human life and limiting consequential damage. The insurer of record shall provide the Department a written report of the findings as to cause of the accident. (7-1-97)

05. Inspection. (7-1-97)

a. All boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components installed or operated in the state of Idaho shall have an inspection conducted by a person holding a certificate of competency and an Idaho Commission, in accordance with IDAPA 17.06.03, "Boiler and Pressure Vessel Safety Rules - Inspections," Subsection 011.06, which must result in the issuance of a certificate of inspection before such

vessel is placed into operation. Only if the boiler, pressure vessel, water heater, hot water tank, or nuclear component is safe in the judgment of the boiler and pressure vessel inspector, following a thorough inspection may a certificate of inspection be issued. If in the opinion of the inspector the boiler, pressure vessel, or nuclear component is unsafe, the inspector shall prohibit the use of the boiler, pressure vessel, or nuclear component until it is made safe. (7-1-97)

06. Exemptions. (7-1-97)

a. Listed or approved boilers (hot water heaters) or pressure vessels (hot water tanks) with a nominal water capacity of one hundred twenty (120) gallons or less, having a heat input of two hundred thousand (200,000) BTUs per hour or less, used for hot water supply at a pressure of one hundred sixty (160) pounds per square inch or less, and at temperatures of two hundred (200) degrees Fahrenheit or less and equipped with an approved ASME Temperature-Pressure Relief valve. (7-1-97)

b. Pressure vessels used for transportation and storage of compressed gasses when constructed in compliance with specifications of the U.S. Department of Transportation and when charged with the gas marked, maintained, and periodically requalified for use, as required by appropriate regulations of the U.S. Department of Transportation. (7-1-97)

c. Air tanks installed on the right of way of railroads and used directly in the operation of trains. (7-1-97)

d. Pressure vessels that do not exceed: five (5) cubic feet in volume; two hundred fifty (250) psig; one and one half (1 1/2) cubic feet in volume and six hundred (600) psig; or have an inside diameter of six (6) inches with no limitations on pressure. (7-1-97)

e. Pressure vessels operating at a working pressure not exceeding fifteen (15) psig. (7-1-97)

f. Vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less containing water under pressure of two hundred fifty (250) psi or less, with a water temperature of two hundred ten (210) degrees Fahrenheit or less, including those containing air, the compression of which serves only as a cushion. (7-1-97)

g. Boilers, pressure vessels, and nuclear components owned and operated by the Federal Government. (7-1-97)

h. Listed heating boilers, hot water heaters, or pressure vessels, which are located in private residences or in apartment houses of less than six (6) family units. (7-1-97)

i. Pressure vessels containing only water under pressure for domestic purposes, including those containing air, the compression of which serves only as a cushion or air lift pumping system, when located in private residences or in apartment houses of less than six (6) family units. (7-1-97)

j. Chillers operating at pressures of fifteen (15) psig or less. (7-1-97)

07. Certification Fees. (7-1-97)

08. Reports. Whenever an inspection is made by a person holding a certificate of competency and an Idaho Commission, a copy of the inspection report must be filed with the Department within thirty (30) days from the date of the inspection. Such inspection reports shall be submitted on forms provided by the Department. (7-1-97)

09. Posting Certificates of Inspection. Certificates of inspection issued for boilers shall be posted under glass or similarly protected, in the room containing the boiler. Certificates issued for pressure vessel shall be posted in like manner, if convenient, or filed where they will be readily available for examination. (7-1-97)

10. Procedures for Completing the Certificate of Inspection. (7-1-97)

a. Previous Certificate No./State ID No. - Enter the six (6) digit serial number from the previous

inspection certificate or the number issued by the state of Idaho for that specific object. Where a previous certificate number or State ID number does not exist, leave this block blank. (This block assists us in tracking Certificates of Inspection by computer.) (7-1-97)

b. Type of Object - Enter the type of object that is being inspected (boiler, pressure vessel, water heater, hot water storage tank, or nuclear component). (7-1-97)

c. Type of Inspection - Indicate whether this was an external or internal inspection. (7-1-97)

d. Date of Inspection - Enter the date the inspection was actually conducted. (7-1-97)

e. Object No. - Enter the number that identifies a particular object at the users location that corresponds with the certificate issued. It may be the National Board number or locally assigned number. (7-1-97)

f. External, Next Due Date - Enter the date that the next inspection is due. If it does not require inspecting, enter "NA" for not applicable. Otherwise, bring forward the due date from the previous certificate for the inspection not performed. (7-1-97)

g. Internal, Next Due Date - Enter the date that the next inspection is due. If it does not require inspecting, enter "NA" for not applicable. Otherwise, bring forward the due date from the previous certificate for the inspection not performed. (7-1-97)

h. Inspected By - Enter the name of the insurance carrier that insures the object certified. (7-1-97)

i. Name of Policy Holder - Enter the name of the person, company, association, etc. that holds the insurance policy for the certified object. (7-1-97)

j. Name of Owner and User - Enter the name of the person, company, association, etc. that owns and uses the object. If the owner and user are different, then both names must be entered. (7-1-97)

k. Address of Owner - Enter the mailing address of the object owner/user. (7-1-97)

l. Location of Object - Enter the physical location of the object which includes street location, city/town/municipality, county, and zip code. (7-1-97)

m. Type - Indicate the type of object, e.g., fire tube, cast iron, etc. (7-1-97)

n. Date Built - Enter the date the object was built or manufactured if known, otherwise, leave blank. (7-1-97)

o. Manufacturer - Enter the name of the company that built or manufactured the certified object. (7-1-97)

p. Use - Enter the primary use of the object. (7-1-97)

q. Fuel - For boilers or fired pressure vessels, enter the type of fuel used to fire the boiler or fired pressure vessel. For unfired pressure vessels, enter "NA" for not applicable. (7-1-97)

r. Method of Firing - For boilers or fired pressure vessels, enter how the boiler or fired pressure vessel is fired. For unfired pressure vessels, enter "NA" for not applicable. (7-1-97)

s. Pressure Not To Exceed - Enter the maximum pressure that the object may be operated at in pounds per square inch. (7-1-97)

t. Safety Relief Valve Set At - Enter the pressure that the safety valve will function for the object. (7-1-97)

- u. Number of Valves Installed - Enter the number of safety valves installed for the object. (7-1-97)
- v. Capacity (Boiler) - Enter the capacity of the object. If not applicable, enter "NA". (7-1-97)
- w. Capacity (BTU/LBS HR Safety Valve) - Enter the capacity of the safety valve(s). If not applicable, enter "NA". (7-1-97)
- x. Hydro Test Date - Enter the date that the last hydrostatic test was performed. (7-1-97)
- y. PSI - Enter the pounds per square inch that the hydrostatic test was performed at. (7-1-97)
- z. Is condition of object such that a certificate may be issued - Enter "yes" or "no". If the entry is "no" explain in the comments and/or requirements section. Both the white and yellow copies of the Certificate of Inspection will be returned to the Division of Building Safety. The Division will notify the Industrial Commission that a Certificate of Inspection was not issued and the reasons why. If the answer is yes, only write in the comments block if there are recommendations, requirements, or restrictions. Do not write "No adverse or hazardous conditions noted" in this block. Our computer system will flag this as a recommendation, requirement, or restriction. (7-1-97)
- aa. Comments and/or Requirements - Only enter comments, requirements, or restrictions that may apply to the certified object. Do not enter any information in this area that does not pertain to an existing requirement, recommendation, or restriction. (7-1-97)
- bb. Inspector - Enter the name of the inspector who performed the inspection for certification of the object. The inspector's name must appear here as it appears on the inspectors Idaho Identification Card. (7-1-97)
- cc. Idaho Identification Card # - Enter the serial numbers from the inspectors Idaho Identification Card. If the Identification Card # is not registered as a current year Idaho commission number, the inspection shall be considered invalid, the certificate of inspection shall be revoked, a letter shall be sent to the owner/user and to the inspecting company to inform them of the situation, and a new inspection shall be performed upon issue of a current year Idaho commission. (7-1-97)
- dd. The white copy of the Certificate of Inspection will be posted in a conspicuous place in the room containing the object. If the object is not certifiable, the white copy shall be sent to the Division of Building Safety. (7-1-97)
- ee. The yellow copy of the Certificate of Inspection shall, in all cases, be sent to the Division of Building Safety. (7-1-97)
- ff. The pink copy is the inspector's file copy. (7-1-97)

IDAPA 17 - INDUSTRIAL COMMISSION
17.07.02 - SAFETY STANDARDS FOR CONSTRUCTION AND
OPERATION OF ELEVATORS - ADMINISTRATION

DOCKET NO. 17-0702-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The national codes pertaining to elevators, escalators, and moving walks, which are incorporated by reference in IDAPA 17.07.02.011, have been updated. The Commission wishes to amend the Idaho Safety Rules for Elevators and Escalators to incorporate the latest versions of the nationally recognized industry standards.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because use of the latest version of nationally recognized standards is generally accepted in the industry and is unlikely to create controversy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mike Poulin, Division of Building Safety, P.O. Box 83720, Boise, Idaho 83720-0048. Telephone (208) 334-3950.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
Industrial Commission
317 Main Street, 2nd Floor East
P. O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208)334-5145

TEXT OF DOCKET NO. 17-0702-9801

011. ADMINISTRATION.

- 01. Incorporation by Reference. (7-1-97)
- a. ANSI/ASME A17.1 - 1993~~6~~ with addenda, Safety Code for Elevators and Escalators. (7-1-97)()

- b. ANSI/ASME A17.2.1 - 1993~~6~~ with addenda, Inspector's Manual for Electric Elevators. (7-1-97)()
- c. ANSI/ASME A17.2.2 - 1994~~7~~ with addenda, Inspector's Manual for Hydraulic Elevators. (7-1-97)()
- d. ANSI/ASME A17.2.3 - 1994 with addenda, Inspector's Manual for Escalators and Moving Walks. (7-1-97)
- e. ANSI/ASME A17.3 - 1993~~6~~ with addenda, Existing Elevators and Escalators. (7-1-97)()
- f. ANSI/ASME A17.4 - 1991, Emergency Evacuation of Passengers from Elevators. (7-1-97)
02. Construction. (7-1-97)
- a. All new elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair-lifts, and escalators, unless otherwise exempted by these rules, to be installed or operated in the state of Idaho shall be designed, constructed, installed, operated, and inspected in accordance with the applicable ANSI/ASME code, the latest addenda, and these rules. (7-1-97)
- b. All elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair-lifts, and escalators, unless otherwise exempted by these rules, shall have a state of Idaho registration number permanently affixed to the equipment. (7-1-97)
- c. All hydraulic elevators shall have a manual shutoff valve in the supply line to the hydraulic cylinder located in the elevator machine room. (7-1-97)
- d. All hydraulic elevators shall have a hydraulic nipple type H-1 located between the hydraulic oil pump and the machine room manual shutoff valve to standardize pressure gage installations. (7-1-97)
03. Registration Fees. (7-1-97)
04. Notification. (7-1-97)
- a. Before any major alteration or repairs are made to existing elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair-lifts, and escalators, unless otherwise exempted by these rules, or before the installation of new elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair-lifts, and escalators, unless otherwise exempted by these rules, notice of such major alteration or installation must be given in writing to the Idaho Division of Building Safety. (7-1-97)
- b. When an accident occurs involving elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair-lifts, and escalators, unless otherwise exempted by these rules, the owner, user, or designated representative shall promptly notify the Division and submit a detailed report of the accident. (7-1-97)
05. Exemptions. (7-1-97)
- a. Elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair-lifts, and escalators in private residences. (7-1-97)
- b. Elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair-lifts, and escalators owned by the Federal Government. (7-1-97)
- c. State inspectors are exempt from the ASME QEI-1 requirements. (7-1-97)
06. Emergency Evacuation of Passengers from Elevators. (7-1-97)

- a. ANSI/ASME A17.4 - 1991, Emergency Evacuation of Passengers from Elevators shall be used as a guide for conducting training and performing emergency evacuation of passengers from an elevator. (7-1-97)
 - b. Whenever possible any evacuation of passengers from an elevator car shall be conducted under the direct supervision of elevator personnel. (7-1-97)
 - c. Only trained personnel shall attempt emergency evacuation of passengers from an elevator. (7-1-97)
 - d. The owner of an elevator shall ensure that there are properly trained personnel capable of performing emergency evacuation of passengers from an elevator. (7-1-97)
 - e. Rescue personnel shall have the proper tools and equipment ready for use prior to attempting emergency evacuation of passengers from an elevator. (7-1-97)
 - f. Specialized elevator door keys shall be used by and available to properly trained personnel. (7-1-97)
07. Elevator Machine Room/Mechanical Spaces. (7-1-97)
- a. Only elevator personnel and authorized personnel shall have access to the elevator machine room and mechanical spaces. (7-1-97)
 - b. No non-elevator related materials shall be stored in elevator machine room and mechanical spaces. (7-1-97)
 - c. No non-elevator related utilities shall be installed or run through elevator machine room and mechanical spaces. (7-1-97)

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.01 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- GENERAL PROVISIONS

DOCKET NO. 17-0801-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.01 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.02 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- HEALTH, SAFETY, AND SANITATION

DOCKET NO. 17-0802-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.02 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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Phone: (208) 334-6000
Fax: (208) 334-5145

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.03 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- EXPLOSIVES AND BLASTING

DOCKET NO. 17-0803-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.03 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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Fax: (208) 334-5145

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION

**17.08.04 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- GARAGES, MACHINE SHOPS, AND RELATED WORK AREAS**

DOCKET NO. 17-0804-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.04 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.05 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- SIGNALS AND SIGNAL SYSTEMS

DOCKET NO. 17-0805-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.05 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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Fax: (208) 334-5145

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.06 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- TRUCK ROAD STANDARDS

DOCKET NO. 17-0806-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.06 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.07 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- TRANSPORTATION OF EMPLOYEES

DOCKET NO. 17-0807-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.07 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.08 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- FALLING AND BUCKING

DOCKET NO. 17-0808-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.08 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.09 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- RIGGING, LINES, BLOCKS, AND SHACKLES

DOCKET NO. 17-0809-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.09 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
Idaho Industrial Commission
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P.O. Box 83720
Boise, Idaho 83720-0041
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION

**17.08.10 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- CANOPY AND CANOPY CONSTRUCTION FOR LOGGING EQUIPMENT**

DOCKET NO. 17-0810-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.10 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.11 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- SKIDDING AND YARDING

DOCKET NO. 17-0811-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.11 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.12 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- ROAD TRANSPORTATION

DOCKET NO. 17-0812-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.12 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

Patricia S. Ramey, Commission Secretary
Idaho Industrial Commission
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Boise, Idaho 83720-0041
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION

**17.08.13 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- LOG DUMPS, LANDING, LOG HANDLING EQUIPMENT, LOADING AND UNLOADING
BOOMS, LOG PONDS, RAFTING, TOWING, STIFF BOOMS, BOOM STICKS AND
FOOT LOGS, POND BOATS AND TOW BOATS AND TRAILER LOADING HOISTS**

DOCKET NO. 17-0813-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.13 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.14 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- HELICOPTER LOGGING

DOCKET NO. 17-0814-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.14 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.15 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- COMMONLY USED LOGGING TERMS

DOCKET NO. 17-0815-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.15 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 17 - INDUSTRIAL COMMISSION
17.08.16 - MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING
- RECOMMENDED SAFETY PROGRAMS

DOCKET NO. 17-0816-9801

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 72-508 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

The Industrial Commission wishes to repeal IDAPA 17.08.16 in its entirety as OSHA has adopted safety standards for logging operations at CFR 1910.266, thereby pre-empting the state in safety regulation in this area.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because federal regulations pre-empt state rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041. Telephone (208) 334-6000 or toll free (800) 950-2110. Fax (208) 334-5145.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 21st day of July 1998.

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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 23 - BOARD OF NURSING
23.01.01 - RULES OF THE BOARD OF NURSING
DOCKET NO. 23-0101-9801
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rules become final and effective July 1, 1999, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1404(9) and 54-1402(d), 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 temporary and proposed rules and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the July 1, 1998 Idaho Administrative Bulletin, Volume 98-7, pages 157 through 176.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Sandra Evans, Executive Director, at (208) 334-3110.

DATED this 22nd day of July, 1998

Sandra Evans
Executive Director
Board of Nursing
280 N. 8th St., Ste. 210
P. O. Box 83720
Boise, ID 83720-0061

IDAPA 23
TITLE 01
Chapter 01

RULES OF THE BOARD OF NURSING

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 157 through 176.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rules become final and effective July 1, 1999, unless the rules are 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 Sections 54-521, Idaho Code.

DESCRIPTIVE SUMMARY: This pending rule is being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 175 and 176.

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

DATED this 16th day of July, 1998.

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
Boise, ID 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 98-7, July 1, 1998,
pages 175 and 176.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

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

DOCKET NO. 24-1001-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rules become final and effective July 1, 1999, unless the rules are 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 Sections 54-521, Idaho Code.

DESCRIPTIVE SUMMARY: This pending rule is being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 179 through 181.

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

DATED this 16th day of July, 1998.

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

IDAPA 24
TITLE 10
Chapter 01

RULES OF THE STATE BOARD OF OPTOMETRY

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 179 through 181.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

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

DOCKET NO. 26-0120-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rules become final and effective July 1, 1999, unless the rules are 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 Sections 67-4223 and 67-4249, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 189 through 199.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Mark E. Brandt, at the address or phone number below.

DATED this 22nd day of July, 1998.

Mark E. Brandt
Agency Policy Coordinator
Idaho Department of Parks and Recreation
P.O. Box 83720
Boise, ID 83720-0065
Phone - (208) 334-4199
FAX - (208) 334-3741

**IDAPA 26
TITLE 01
Chapter 20**

**RULES GOVERNING THE ADMINISTRATION OF PARK
AND RECREATION AREAS AND FACILITIES**

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 189 through 199.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION
26.01.21 – RULES GOVERNING LEASING PRACTICES AND PROCEDURES FOR
RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK

DOCKET NO. 26-0121-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rules become final and effective July 1, 1999, unless the rules are 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 Sections 67-4223 and 67-4249, Idaho Code.

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

The pending rule is being adopted as proposed. This chapter is being repealed in its entirety under this docket. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, page 200.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Mark E. Brandt, at the address or phone number below.

DATED this 22nd day of July, 1998.

Mark E. Brandt
Agency Policy Coordinator
Idaho Department of Parks and Recreation
P.O. Box 83720
Boise, ID 83720-0065
Phone - (208) 334-4199
FAX - (208) 334-3741

IDAPA 26
TITLE 01
Chapter 21

RULES GOVERNING LEASING PRACTICES AND PROCEDURES FOR
RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK

There are no substantive changes
from the proposed rule text.

The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998, page 200.

This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION
26.01.21 – RULES GOVERNING LEASING PRACTICES AND PROCEDURES FOR
RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK

DOCKET NO. 26-0121-9802

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rules become final and effective July 1, 1999, unless the rules are 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 Sections 67-4223 and 67-4249, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 201 through 205.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Mark E. Brandt, at the address or phone number below.

DATED this 22nd day of July, 1998.

Mark E. Brandt
Agency Policy Coordinator
Idaho Department of Parks and Recreation
P.O. Box 83720
Boise, ID 83720-0065
Phone - (208) 334-4199
FAX - (208) 334-3741

IDAPA 26
TITLE 01
Chapter 21

RULES GOVERNING LEASING PRACTICES AND PROCEDURES FOR
RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK

There are no substantive changes
from the proposed rule text.

The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 201 through 205.

This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

**26.01.36 - RULES GOVERNING THE WINTER RECREATIONAL
PARKING PERMIT PROGRAM**

DOCKET NO. 26-0136-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rules become final and effective July 1, 1999, unless the rules are 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 Sections 67-4223 and 67-4249, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 98-7, July 1, 1998, pages 206 and 207.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Mark E. Brandt, at the address or phone number below.

DATED this 22nd day of July, 1998.

Mark E. Brandt
Agency Policy Coordinator
Idaho Department of Parks and Recreation
P.O. Box 83720
Boise, ID 83720-0065
Phone - (208) 334-4199
FAX - (208) 334-3741

**IDAPA 26
TITLE 01
Chapter 36**

**RULES GOVERNING THE WINTER RECREATIONAL
PARKING PERMIT PROGRAM**

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

**The original text was published in the Idaho
Administrative Bulletin, Volume 98-7, July 1, 1998,
pages 206 and 207.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1999 Idaho State Legislature for final adoption.**

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9801
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

RULE 031 - Aliens. Rule 031 was amended to clarify an exception to the zero standard deduction for nonresident aliens covered by the United States - India Income Tax Treaty. The amendment adds that a nonresident alien who qualifies under the United States - India Income Tax Treaty is entitled to the same federal standard deduction amount as if he were a resident for federal income tax purposes if he does not itemize.

RULE 045 - Nonresident. Federal laws that limit the taxation by states of motor and water carriers, air carriers, and rail carriers have been amended and have new citations. Rule 045 was amended to correct references to the United States Code in this rule.

RULE 105 - Adjustments to Taxable Income -- Additions Required of All Taxpayers. Rule 105 was amended due to 1998 legislative changes to Sections 63-3022 and 63-3022M, Idaho Code. Information previously contained in Rule 106 was moved to Rule 105 since the offset now applies to individuals as well as corporations. Code references were updated.

RULE 106 - Adjustments to Taxable Income -- Additions Required Only of Corporations. Rule 106 was amended to delete information regarding the interest expense offset related to tax-exempt interest that was added to Rule 105 due to 1998 legislation to Sections 63-3022 and 63-3022M, Idaho Code, and to update code references.

RULE 115 - Interest Expense Offset Related to Tax-Exempt Interest Income. Rule 115 was amended to conform to 1998 legislation enacting Section 63-3022M, Idaho Code. Computation of total income for partnerships and individuals was added. Code references were updated.

RULE 120 - Adjustments to Taxable Income - Subtractions Available to All Taxpayers. Sections 63-3022(1)(1)(b), 63-3022(1)(2)(b), 63-3022(m) and 63-3022(q), Idaho Code, were repealed in 1998 legislation. Rule 120 rule was amended to delete provisions that were repealed and to reflect the renumbering of Section 63-3022, Idaho Code.

RULE 121 - Adjustments to Taxable Income - Subtractions Available Only to Individuals. Sections 63-3022(1)(1)(b), 63-3022(1)(2)(b), 63-3022(m) and 63-3022(q), Idaho Code, were repealed in 1998 legislation. Rule 121 was amended to delete provisions that were repealed and to reflect the renumbering of Section 63-3022, Idaho Code. This rule was amended to reflect changes to the U.S. - Canada Income Tax Treaty which was amended to provide that social security received from Canada by U.S. residents will be treated the same as U.S. social security.

RULE 150 - Deduction for Alternative Energy Devices. Rule 150 was amended to provide a 30 day time frame for turning in wood stoves to the Department of Health and Welfare, Division of Environmental Quality, in order to qualify for the deduction.

RULE 165 - Additional Household Deduction or Credit for Elderly or Developmentally Disabled Dependents. Rule 165 was amended to incorporate the credit for elderly or developmentally disabled into the rule. Amendments were made to clarify the definition of a family member and the amount of credit allowed for fractions of years.

RULE 170 - Idaho Capital Gains Deduction--In General. Section 63-3022H, Idaho Code, was amended in 1998 legislation to change the holding period of real property from at least 5 years to at least 18 months. Rule 170 was

amended for the change to the holding period of real property and to clarify the treatment of capital loss carry forwards from qualifying property.

RULE 173 - Idaho Capital Gains Deduction - Pass-Through Entities. Section 63-3022H, Idaho Code, was amended in 1998 legislation to change the holding period of real property from at least 5 years to at least 18 months. Rule 173 was amended for the change to the holding period of real property.

RULE 201 - Net Operating Loss Carrybacks and Carryovers. Section 63-3022, Idaho Code, was renumbered during the 1998 legislative session. Rule 201 was amended to update the code reference and to clarify that the election to forego a net operating loss carryback is valid if the box provided on an Idaho income tax return or form is checked. No statement need be attached when the box is checked.

RULE 210 - Reduction of Idaho Tax Attributes and Basis When Income From Indebtedness Discharge in Bankruptcy is Excluded From Gross Income. Rule 210 is a new rule that clarifies how to calculate the Idaho net operating loss when indebtedness is discharged in bankruptcy.

RULE 254 - Nonresident and Part-Year Resident Individuals -- Subtractions Allowed in Computing Idaho Adjusted Income. Sections 63-3022(1)(1)(b), 63-3022(1)(2)(b), 63-3022(m) and 63-3022(q), Idaho Code, were repealed in 1998 legislation. Various subsections of Section 63-3022, Idaho Code, are referenced in Rule 254. This rule was amended to delete the provisions that were repealed and to reflect the renumbering of Section 63-3022, Idaho Code. Federal laws that limit the taxation by states of motor and water carriers, air carriers, and rail carriers have been amended and have new citations. Rule 254 was amended to correct references to the United States Code in this rule.

RULE 260 - Income From Idaho Sources. Rule 260 was amended to delete information regarding income from intangible property that was added to new Rule 266.

RULE 265 - Sole Proprietorships Operating Within and Without Idaho. Rule 265 was amended to include a new subsection that allows the taxpayer to propose an alternative method if the allocation and apportionment method does not fairly represent the extent of the business activity in Idaho of a sole proprietorship.

RULE 266 - Income From Intangible Property. Rule 266 is a new rule which addresses income from intangible property. Information added addresses interest earned on a bank account and covenants not to compete.

RULE 580 - Special Rules -- Special Industries. Rule 580 was amended to update the edition date from May 1996 to September 1997.

RULE 582 - Special Rules -- Financial Institutions. Rule was amended to update the edition date from May 1996 to September 1997. Clarification is provided that a financial institution exempt under Section 63-3036A, Idaho Code does not become taxable as a result of adopting the MTC regulation for computing income of financial institutions. Clarification of the calculation of the apportionment factor was added and Act was defined.

RULE 700 - Credit For Taxes Paid Another State or Territory. Section 63-3029, Idaho Code, was amended in 1998 legislation to clarify circumstances in which an Idaho taxpayer is entitled to an Idaho income tax credit for taxes paid to another state or territory. Rule 700 was amended to delete restatements of Section 63-3029, Idaho Code.

RULE 815 - Extensions of Time. Section 63-3033, Idaho Code, was amended in 1998 legislation to provide for an automatic extension of time to file tax returns. Rule 815 was amended to delete provisions requiring taxpayers to file for an extension of time.

RULE 845 - Designation of School District. Rule 845 was deleted due to repeal of Section 63-3089, Idaho Code.

RULE 855 - Permanent Building Fund Tax. Rule 855 was amended to delete restatements of Section 63-3082, Idaho Code.

RULE 871 - State Income Tax Withholding Required. Sections 63-3035 and 63-3036, Idaho Code, were amended in 1998 legislation to change the withholding requirements for employers. Rule 871 was amended to reflect the changes made to the withholding requirements.

RULE 872 - Reporting and Paying State Income Tax Withholding. Sections 63-3035 and 63-3036, Idaho Code, were amended in 1998 legislation to change the reporting and paying requirements for employers. Rule 872 was amended to reflect the changes made to the filing and payments dates.

RULE 885 - Interest on Refunds. Section 63-3045, Idaho Code, was amended in 1998 legislation to provide for the netting of overpayments and underpayments on the tax return for the same year. Rule 885 was amended to reflect the changes made to the statute and to clarify how to calculate the interest on net refunds.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Janice Boyd, (208) 334-7530.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 22nd Day of July, 1998.

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

TEXT OF DOCKET NO. 35-0101-9801

031. ALIENS (Rule 031).

Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-20-97)

01. Idaho Residency Status. For purposes of the Idaho Income Tax Act, an alien may be either a resident, part-year resident, or nonresident. The individual's residency status for federal income tax purposes does not determine the Idaho residency status of an alien taxpayer. An alien shall determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-20-97)

02. Computation of Idaho Taxable Income. (3-20-97)

a. To compute the Idaho taxable income of an alien, the first step is to determine his taxable income. This will depend on whether the alien is a resident, nonresident, or dual status alien for federal income tax purposes. (3-20-97)

b. Once the alien's taxable income has been computed, the amount of income subject to Idaho income

tax depends on the alien's Idaho residency status. In general, if the alien qualifies as an Idaho resident, he is subject to Idaho income tax on all his taxable income regardless of its source. If the alien qualifies as a part-year resident or nonresident of Idaho, the amount of his taxable income subject to Idaho income tax is determined pursuant to Section 63-3026A, Idaho Code, and Rules 250 through 259 of these rules. (3-20-97)

c. In the case of a nonresident alien who does not elect to be treated as a resident for federal income tax purposes, the standard deduction is zero (0). However, a nonresident alien who qualifies as a student or business apprentice eligible for the benefits of Article 21(2) of the United States - India Income Tax Treaty is entitled to the standard deduction amount as if he were a resident for federal income tax purposes provided he does not claim itemized deductions. (3-20-97)()

03. Filing Status. An alien shall use the same filing status for the Idaho return as used on the federal return. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

045. NONRESIDENT (Rule 045).

Section 63-3014, Idaho Code. (3-20-97)

01. Traveling Salesmen. (3-20-97)

a. A nonresident salesman who works in Idaho is subject to Idaho taxation regardless of the location of his post of duty or starting point. (3-20-97)

b. If an individual is paid on a mileage basis, the gross income from sources within Idaho includes that portion of the total compensation for personal services that the number of miles traveled in Idaho bears to the total number of miles traveled within and without Idaho. If the compensation is based on some other measure, such as hours, the total compensation for personal services must be apportioned between Idaho and other states and foreign countries in a manner that allocates to Idaho the portion of total compensation reasonably attributable to personal services performed in Idaho. See Rule 262 of these rules. (3-20-97)

02. ~~Transportation Motor Carrier~~ Employees Covered By Title 49, Section 14504~~3~~, United States Code. Compensation paid to an interstate rail or motor carrier employee who has regularly assigned duties in more than one state is subject to income tax only in the employee's state of residence. A motor carrier employee is defined in Title 49, Section 31132(2), United States Code, and includes: (3-20-97)()

a. An operator, including an independent contractor, of a commercial motor vehicle; (3-20-97)

b. A mechanic; (3-20-97)

c. A freight handler; and (3-20-97)

d. An individual, other than an employer, who in the course of his employment directly affects commercial motor vehicle safety. Employees of the United States, a state, or a local government are not included. Employer, as used in this rule, means a person engaged in business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it. See Title 49, Section 31132(3), United States Code. (3-20-97)

03. Water Carrier Employees. Compensation paid to a water carrier employee is not exempt from state taxation by Title 49, Section 14503, United States Code. ()

034. Air Carrier Employees Covered By Title 49, Section 40116(f), United States Code. The pay of an employee of Compensation paid to an air carrier employee who has having regularly assigned duties on aircraft in more than one state is subject to the income tax laws of only: (3-20-97)()

- a. The employee's state of residence, and (3-20-97)
- b. The state in which the employee earns more than fifty percent (50%) of the pay from the air carrier. (3-20-97)

05. Rail Carrier Employees Covered by Title 49, Section 11502, United States Code. Compensation paid to an interstate rail carrier employee who performs regularly assigned duties on a railroad in more than one (1) state is subject to income tax only in the employee's state of residence. ()

(BREAK IN CONTINUITY OF SECTIONS)

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (Rule 105).

Section 63-3022, Idaho Code. (3-20-97)

~~021.~~ State Taxes. As provided in Section 63-3022(~~b~~a), Idaho Code, add state income taxes deducted in computing taxable income. This includes taxes paid to states other than Idaho and amounts paid by a pass-through entity. (~~3-20-97~~)()

~~032.~~ Net Operating Loss Deduction. As provided in Section 63-3022(~~e~~b), Idaho Code, add any net operating loss deduction included in taxable income. (~~3-20-97~~)()

~~043.~~ Capital Loss Carryover Deduction. As provided in Section 63-3022(~~k~~j), Idaho Code: (~~3-20-97~~)()

a. A corporation shall add a capital loss deducted in computing taxable income if the capital loss occurred during a taxable year when the corporation did not transact business in Idaho, unless the corporation was part of a unitary group with at least one (1) member of the group taxable by Idaho for that taxable year. (~~3-20-97~~)()

b. An individual shall add a capital loss deducted in computing taxable income if the capital loss was incurred in a business activity not taxable by Idaho at the time it was incurred. (3-20-97)

~~044.~~ Interest and Dividend Income Exempt from Federal Taxation. As provided in Section 63-3022(~~a~~M), Idaho Code, add certain interest and dividend income that is exempt from federal income tax. For example, add interest income from state and local bonds that is exempt from federal income tax pursuant to Section 103, Internal Revenue Code. (~~3-20-97~~)()

a. Interest from bonds issued by the state of Idaho or its political subdivisions is exempt from Idaho income tax and, therefore, is not required to be added to taxable income. (3-20-97)

b. If a taxpayer has both Idaho and non-Idaho state and municipal interest income, expenses not allowed pursuant to Sections 265 and 291, Internal Revenue Code, shall be prorated between the Idaho and non-Idaho interest income as provided in Subsections 105.01.b.i. and 105.01.b.ii. The addition to taxable income required for non-Idaho state and municipal interest income shall be offset by the expenses prorated to that interest income. The allowable offset may not exceed the reportable amount of interest income. An unused offset may not be carried back or carried over. A schedule showing the interest and related offsets shall be attached to the return. (7-1-98)

i. Expenses prorated to Idaho state and municipal interest income shall be based on the ratio of Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

ii. Expenses prorated to non-Idaho state and municipal interest income shall be based on the ratio of non-Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

05. Interest Expense Attributable to Tax-Exempt Interest Income. As provided by Section 63-3022M, Idaho Code, a taxpayer shall add interest expense on indebtedness incurred to purchase or carry certain obligations that produce tax-exempt interest income. Because this addition serves to offset the tax-exempt interest income, it is often referred to as an interest expense offset related to tax-exempt interest income. See Rule 115 of these rules for the computation of the interest expense offset related to tax-exempt interest. ()

106. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF CORPORATIONS (Rule 106).
Section 63-3022, Idaho Code. (3-20-97)

01. Dividends Received Deduction. As provided in Section 63-3022(ed), Idaho Code, add the federal dividends received deduction subtracted in computing taxable income. (3-20-97)()

~~02. Interest Expense Attributable to Tax-Exempt Interest Income. As provided by Section 63-3022(a)(1), Idaho Code, a corporation shall add interest expense on indebtedness incurred to purchase or carry certain obligations that produce tax-exempt interest income. Because this addition serves to offset the tax-exempt interest income, it is often referred to as an interest expense offset related to tax-exempt interest income. See Rule 115 of these rules for the computation of the interest expense offset related to tax-exempt interest. (7-1-98)~~

032. Interest Expense Attributable to Nonbusiness Activities. If dividends or interest income is determined to be nonbusiness income, a multistate corporation's interest expense may be nonbusiness interest expense. This nonbusiness interest expense shall be added to taxable income. Because this addition serves to offset nonbusiness dividends and interest income, it is often referred to as a nonbusiness interest expense offset. For purposes of this subsection, interest expense means the aggregate interest expense deductible in determining taxable income less reductions required by Section 63-3022(a)(1)M, Idaho Code. Dividends and interest income do not include income that is exempt from Idaho income tax pursuant to Section 63-3022(gf), Idaho Code. See Section 63-3027, Idaho Code, and Rules 330 and 335 of these rules for the definitions of business income and nonbusiness income. This addition or offset of nonbusiness interest expense is the lesser of: (3-20-97)()

- a. The interest expense less the sum of business dividends and business interest income; or (3-20-97)
- b. The sum of nonbusiness dividends and nonbusiness interest income. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

115. INTEREST EXPENSE OFFSET RELATED TO TAX-EXEMPT INTEREST INCOME (Rule 115).
Section 63-3022(a)(1)M, Idaho Code. (7-1-98)()

01. In General. The interest expense offset provided by Section 63-3022(a)(1)M, Idaho Code, is a separate and distinct adjustment from provisions in the Internal Revenue Code that disallow interest expense related to federal tax-exempt interest. (7-1-98)()

02. Definitions. For purposes of computing the interest expense offset attributable to tax-exempt interest income, terms are defined as follows: (7-1-98)

- a. ~~Adjusted Basis. Adjusted basis shall mean adjusted basis as defined in the Internal Revenue Code. (7-1-98)~~
- b. ~~Average Adjusted Basis. Average adjusted basis shall mean average adjusted basis as defined in Treasury Regulation Section 1.265-2 relating to certain financial institutions. Average adjusted basis of tax-exempt obligations is generally calculated on a monthly basis. (7-1-98)~~
- e. Average Adjusted Basis of All Assets. Average adjusted basis of all assets shall mean average total

~~assets as computed in Treasury Regulation Section 1.265-2. Average total assets is generally the average of total assets determined at the beginning and end of the taxpayer's taxable year.~~ (7-1-98)

~~da.~~ Aggregate Amount Allowable. The aggregate amount allowable, determined without regard to this section to the taxpayer as a deduction for interest for the taxable year, shall mean the taxpayer's total interest expense deducted in determining federal taxable income. It does not include interest expense not allowed pursuant to Sections 265 and 291, Internal Revenue Code. It does include interest disallowed pursuant to Section 63-3022M, Idaho Code, interest expense from a pass-through entity, and interest expense of a foreign corporation included in a worldwide combined report. (7-1-98)()

~~eb.~~ Tax-Exempt Interest Income. Tax-exempt interest income shall mean interest on qualifying obligations of the United States and interest on qualifying obligations of the state of Idaho, its cities, and political subdivisions. (7-1-98)

i. If a taxpayer owns an interest in a pass-through entity, that entity's tax-exempt income shall also be included to the extent of the taxpayer's interest. (7-1-98)

ii. Interest income that is only partially exempt for federal purposes is not included. Also, expenses related to tax-exempt interest income such as adjustments provided by Sections 265 and 291, Internal Revenue Code, are not included. (7-1-98)

03. Total Income. For purposes of computing the interest expense offset, total income shall be computed as follows: (7-1-98)

a. Corporations. (7-1-98)

i. Total income shall equal the amount reported as total income on Form 1120, U.S. Corporation Income Tax Return, for domestic corporations, plus the amount reported as total income on Form 1120F, U.S. Income Tax Return of a Foreign Corporation, for foreign corporations engaged in a U.S. trade or business, and the amount reported as nonexempt foreign trade income on Schedule B of Form 1120-FSC, Income Tax Return of a Foreign Sales Corporation. (7-1-98)

ii. If a taxpayer files a return using the worldwide combined reporting method, total income shall also include the amount reported as total income on Schedule C of Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, for each foreign corporation included in the combined report. (7-1-98)

iii. If the corporation is a partner in a partnership, total income shall also include the corporation's distributive share of the partnership's total income as reported on page one (1) of Form 1065, U.S. Partnership Return of Income, to the extent this amount is not included in total income on Form 1120. (7-1-98)

iv. Intercompany amounts shall be eliminated to the extent included in these amounts. (7-1-98)

b. S Corporations. (7-1-98)

i. Total income shall equal the amount reported as total income on Form 1120S, U.S. Income Tax Return for an S Corporation, plus the amounts reported as net income from rental real estate activities, net income from other rental activities, interest income, dividend income, royalty income, net short-term and long-term capital gains, other portfolio income, net gain under Section 1231, and other income as listed on Schedule K. (7-1-98)

ii. If the S corporation is a partner in a partnership, total income shall also include the appropriate partnership amounts as provided in Subsection 115.03.a.iii. (7-1-98)

~~c.~~ Partnerships. ()

i. Total income shall equal the amount reported as total income on Form 1065, U.S. Partnership Return of Income, plus the amounts reported as net income from rental real estate activities, net income from other rental activities, interest income, dividend income, royalty income, net short-term and long-term capital gains, other

portfolio income, net gain under Section 1231, and other income as listed on Schedule K. ()

ii. If the partnership is a shareholder in an S corporation, total income shall also include the partnership's distributive share of the S corporation's total income as reported on page one (1) of the Form 1120S, U.S. Income Tax Return for an S Corporation, to the extent this amount is not included in total income on Form 1065. ()

d. Individuals. ()

i. Total income shall equal the amount reported as total income on Form 1040, U.S. Individual Income Tax Return. ()

ii. If the individual is a partner in a partnership, total income shall also include the individual's distributive share of the partnership's total income as reported on page one (1) of Form 1065, U.S. Partnership Return of Income, to the extent this amount is not included in total income on Form 1040. ()

iii. If the individual is a shareholder in an S corporation, total income shall also include the individual's distributive share of the S corporation's total income as reported on page one (1) of the Form 1120S, U.S. Income Tax Return for an S Corporation, to the extent this amount is not included in total income on Form 1040. ()

~~04. Computation of Offset. To compute the interest expense offset, the taxpayer shall multiply the aggregate amount allowable by one of the following ratios:~~ (7-1-98)

~~a. The ratio of the taxpayer's average adjusted basis of the applicable obligations to the average adjusted basis of all assets; or~~ (7-1-98)

~~b. The ratio of the taxpayer's interest income from the applicable obligations to the taxpayer's total income, including tax exempt income, for the taxable year.~~ (7-1-98)

054. Unitary Taxpayers. The interest expense offset shall be computed at the combined group level, not within each corporate entity. Total income, interest expense, and tax-exempt interest amounts from each member of the combined group are used in computing the interest expense offset. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

120. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE TO ALL TAXPAYERS (Rule 120).

Section 63-3022, Idaho Code. (3-20-97)

01. State Income Tax Refund. Subtract from taxable income a state income tax refund included in taxable income, unless the refund has already been subtracted pursuant to Section 63-3022(~~ba~~), Idaho Code. (3-20-97)()

02. Idaho Net Operating Loss. As provided in Section 63-3022(~~dc~~), Idaho Code, subtract the Idaho net operating loss deduction described in Section 63-3021, Idaho Code, and Rules 200 ~~and through~~ 210~~+~~ of these rules. An S corporation or a partnership that incurs a loss is not entitled to claim a net operating loss deduction. The loss is passed through to the shareholders and partners who may deduct the loss. (7-1-98)()

03. Income Not Taxable by Idaho. As provided in Section 63-3022(~~gf~~), Idaho Code, subtract the amount of income that is exempt from Idaho income tax, if included in taxable income. Income exempt from taxation by Idaho includes the following: (3-20-97)()

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted

from taxable income. For the interest expense offset ~~applicable to corporations~~, see Rule 106~~15~~ of these rules.

~~(3-20-97)()~~

b. Idaho lottery winnings exempt by Section 67-7439, Idaho Code. For lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize less than six hundred dollars (\$600).

(7-1-98)

~~04. Federal Alcohol Fuels Credit. As provided by Section 63-3022(m), Idaho Code, subtract the federal alcohol fuels tax credit included in taxable income pursuant to Section 87, Internal Revenue Code.~~

~~(3-20-97)~~

054. Donated Technological Equipment. As provided by Section 63-3022J, Idaho Code, and Rule 180 of these rules, subtract the value of technological equipment donated to qualifying institutions.

(3-20-97)

121. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS (Rule 121).

Section 63-3022, Idaho Code.

(3-20-97)

01. Income Not Taxable by Idaho. As provided in Section 63-3022(~~g~~), Idaho Code, subtract the amount of income that is exempt from Idaho income tax if included in taxable income. Income exempt from taxation by Idaho includes the following:

~~(3-20-97)()~~

a. Certain income earned by Native Americans. See Rule 033 of these rules.

(3-20-97)

b. Retirement payments received pursuant to the old Teachers' Retirement System. Prior to its repeal on July 1, 1967, the old Teachers' Retirement System was codified at Title 33, Chapter 13, Idaho Code. Teachers who were employed by the state of Idaho and who retired on or after January 1, 1966, generally do not qualify for this exemption. Teachers who were not state employees and who retired on or after January 1, 1968, do not qualify. Teachers receiving benefits pursuant to the Public Employees' Retirement System, Title 59, Chapter 13, Idaho Code, do not qualify for the exemption. No exemption is provided for amounts received from other states, school districts outside Idaho, or any other source if the proceeds do not relate to teaching performed in Idaho.

(3-20-97)

02. Military Compensation for Service Performed Outside Idaho. As provided in Section 63-3022(~~j~~), Idaho Code, certain members of the United States Armed Forces may deduct from taxable income their military service pay received for military service performed outside Idaho. See Rule 032 of these rules.

~~(3-20-97)()~~

03. Standard or Itemized Deduction. As provided in Section 63-3022(~~k~~), Idaho Code, deduct either the standard deduction amount as defined in Section 63, Internal Revenue Code, or the itemized deductions allowed by the Internal Revenue Code. ~~If state income taxes are included in itemized deductions for federal purposes pursuant to Section 164, Internal Revenue Code, they shall be added to taxable income. See Subsection 105.02 of these rules.~~

~~(3-20-97)()~~

~~a. Additional Deductions Allowed if Claiming the Standard or Itemized Deduction. The deductions provided in Subsections 121.03.a.i. and 121.03.a.ii. are allowed in addition to claiming the standard or itemized deduction. If state income taxes are included in itemized deductions for federal purposes pursuant to Section 164, Internal Revenue Code, they shall be added to taxable income. See Rule 105 of these rules.~~

~~(3-20-97)()~~

~~i. An additional deduction is allowed by Section 63-3022(l), Idaho Code, for contributions to the state of Idaho for credit to the medical assistance account if the contributions have not been previously deducted in computing Idaho taxable income.~~

~~(3-20-97)~~

~~ii. An additional deduction is allowed by Section 63-3022(l), Idaho Code, for certain expenditures incurred in providing a qualified family member with personal care services if the expenditures have not been previously deducted in computing Idaho taxable income.~~

~~(3-20-97)~~

b. ~~Additional Deductions Allowed if Claiming Itemized Deductions.~~ If an itemized deduction allowable for federal income tax purposes is reduced for the mortgage interest credit or the foreign tax credit, the amount that would have been allowed if the federal credit had not been claimed is allowed as an itemized deduction.

(3-20-97)()

04. Social Security and Railroad Retirement Benefits. As provided in Section 63-3022[(em)](n), Idaho Code, subtract from taxable income the amount of social security and certain railroad retirement benefits included in gross income pursuant to Section 86, Internal Revenue Code. ~~The term railroad retirement benefits means Tier I, Tier II, and supplemental benefits paid by the Railroad Retirement Board. Supplemental benefits, for purposes of this rule, include railroad unemployment and sickness benefits.~~ (3-20-97)()

a. The term social security benefits includes United States social security benefits and Canadian social security pensions received by a United States resident that are treated as United States social security benefits for United States income tax purposes. ()

b. The term railroad retirement benefits means Tier I, Tier II, and supplemental benefits paid by the Railroad Retirement Board. Supplemental benefits, for purposes of this rule, include railroad unemployment and sickness benefits. ()

05. Self-Employed Worker's Compensation Insurance Premiums. As provided in Section 63-3022[(pn)](o), Idaho Code, self-employed individuals may subtract from taxable income the premiums paid to secure worker's compensation insurance for coverage in Idaho if the premiums have not been previously deducted in computing taxable income. The term worker's compensation insurance means "workmen's compensation" as defined in Section 41-506(d), Idaho Code. Premiums paid to secure worker's compensation insurance coverage are those payments made in compliance with Section 72-301, Idaho Code. (3-20-97)()

06. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. (3-20-97)

07. Insulation of an Idaho Residence. As provided in Section 63-3022B, Idaho Code, and Rule 140 of these rules, a deduction from taxable income is allowed for qualified expenses related to the insulation of an Idaho residence. (3-20-97)

08. Alternative Energy Devices. As provided in Section 63-3022C, Idaho Code, and Rule 150 of these rules, a deduction from taxable income is allowed for qualified expenses related to the acquisition of an alternative energy device used in an Idaho residence. (3-20-97)

09. Household and Dependent Care Services. As provided in Section 63-3022D, Idaho Code, and Rule 160 of these rules, a deduction from taxable income is allowed for certain employment related expenses incurred for the care of qualifying individuals. (3-20-97)

10. Household Deduction for Elderly or Developmentally Disabled Dependents. As provided in Section 63-3022E, Idaho Code, and Rule 165 of these rules, a deduction from taxable income is allowed for maintaining a household where an elderly or developmentally disabled family member resides. (3-20-97)

~~11. Participation in a Residential Conservation or Weatherization Program. As provided in Section 63-3022F, Idaho Code, a deduction is allowed for amounts included in taxable income as a result of the taxpayer's participation in a qualified residential conservation or weatherization program.~~ (3-20-97)

~~12.1. Reparations to Displaced Japanese Americans. As provided in Section 63-3022G, Idaho Code, certain individuals are allowed a deduction for amounts included in taxable income relating to reparation payments from the United States Civil Liberties Public Education Fund.~~ (3-20-97)

13. Capital Gains. As provided in Section 63-3022H, Idaho Code, and Rules 170 through 173 of these rules, a deduction from taxable income may be allowed for net capital gains recognized from the sale of qualified property. (3-20-97)

~~14.3. Adoption Expenses. As provided in Section 63-3022I, Idaho Code, and Rule 185 of these rules, a deduction from taxable income is allowed for certain expenses incurred when adopting a child.~~ (3-20-97)

154. Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, and Rule 190 of these rules, a deduction from taxable income is allowed for qualifying contributions to an Idaho medical savings account. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

150. DEDUCTION FOR ALTERNATIVE ENERGY DEVICES (Rule 150). (3-20-97)
Section 63-3022C, Idaho Code.

01. Qualifying Residence. The deduction applies only to a residence of an individual and does not apply to rental housing, unless the renter, rather than the owner, installs and pays for the device. (3-20-97)

02. Converted Rental Unit. If a residence served by an alternative energy device is converted by the owner from a rental unit to his residence, the owner is entitled to any remaining allowable deduction for the year of the conversion based on the portion of the year that the residence served as his residence. For each subsequent year, the owner is entitled to the full amount of the allowable deduction for that year assuming the residence continues to be the owner's residence. (3-20-97)

03. Purchase of a Residence. If a residence served by an alternative energy device is sold, both the seller and the buyer are entitled to a portion of the allowable deduction for the year of the sale based on the fraction of the year each individual had ownership of the residence. The new owner is entitled to any allowable deduction remaining for each subsequent year. The deduction is allowed even if the new owner previously rented the residence as his personal residence. No more than a five thousand dollar (\$5,000) deduction may be prorated in any year. (3-20-97)

04. Common Distribution System. (3-20-97)

a. If the alternative energy device is dependent on and a part of a common distribution system such as a common solar collector facility or a common pipeline that distributes geothermally heated water, the common system is an alternative energy device if owned by the users of the facility. (3-20-97)

b. For purposes of determining the amount of the deduction, each common owner may claim the cost of the portion of the alternative energy system owned solely by that owner that serves only his residence, plus his pro rata share of the costs of installation of the common system. The pro rata share of the cost shall be the actual cost charged to the residential owner for the common system if the costs are allocated by a method that is reasonably related to the actual cost of providing the alternative energy to the various residential owners. (3-20-97)

c. The developer of a common system should provide a statement to each common owner identifying his allocable cost of the common system. If a statement is not provided, the common owners may agree to a reasonable allocation. If the common owners are unable to determine a reasonable allocation, they may petition the Tax Commission to make the determination. (3-20-97)

05. Destruction of Wood Burning Stove. The wood burning stove that does not meet the environmental protection agency requirements for certification shall be surrendered to the Division of Environmental Quality of the Department of Health and Welfare no later than thirty (30) days from the date of purchase of the qualifying alternative energy device. Failure to surrender the wood burning stove within the thirty (30) day period shall result in the new device failing to qualify as an alternative energy device. The thirty (30) day period may be extended only if the taxpayer can show good cause for the delay. ()

(BREAK IN CONTINUITY OF SECTIONS)

165. ADDITIONAL HOUSEHOLD DEDUCTION OR CREDIT FOR ELDERLY OR DEVELOPMENTALLY DISABLED DEPENDENTS (Rule 165).

Sections 63-3022E and 63-3025D, Idaho Code. (3-20-97)()

01. Developmentally Disabled Defined. For purposes of the deduction allowed by Section 63-3022E, Idaho Code, or the credit allowed by Section 63-3025D, Idaho Code, developmentally disabled means a chronic disability that meets all of the following conditions: (3-20-97)()

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism, or other condition closely related to or similar to one (1) of these impairments that requires similar treatment or services. The other condition must result in impairments of general intellectual functioning or adaptive behavior similar to those required for individuals with mental retardation. (3-20-97)

b. Has continued or can be expected to continue indefinitely. (3-20-97)

c. Has substantial functional limitations in three (3) or more areas of major life activity. Individuals with mild mental retardation, controlled epilepsy, and mild cerebral palsy may not be viewed as developmentally disabled since the criteria of substantial handicap may not be met. Individuals who succeed in developing skills to function adequately in five (5) or more major life skill areas will no longer meet the definition of developmental disability. The following are areas of major life activity: (3-20-97)

i. Self-care; (3-20-97)

ii. Receptive and expressive language; (3-20-97)

iii. Learning; (3-20-97)

iv. Mobility; (3-20-97)

v. Self-direction; (3-20-97)

vi. Capacity for independent living; and (3-20-97)

vii. Economic self-sufficiency. (3-20-97)

d. Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and individually planned and coordinated. Individuals who have limited or no need for services specific to disabilities do not qualify. (3-20-97)

02. Qualifying Individual. (3-20-97)

a. Immediate Family Member. An immediate family member is an individual who meets the ~~member of household~~ or relationship test for being claimed as a dependent on the taxpayer's federal income tax return. The family member does not have to be claimed as a dependent on the taxpayer's income tax return to qualify. The family member must receive over one-half (1/2) of his support from the taxpayer. A spouse does not qualify as an immediate family member. (3-20-97)()

b. Additional Household Deduction or Credit for Elderly. For purposes of the additional household deduction or credit for the elderly, a qualifying individual must be an immediate family member. (3-20-97)()

c. Additional Household Deduction or Credit for Developmentally Disabled Dependents. For purposes of the additional household deduction or credit for a developmentally disabled dependent, a qualifying individual includes an immediate family member, the taxpayer, or his spouse. (3-20-97)()

03. Fractions of Years. ()

a. The deduction shall be prorated at eighty-three dollars (\$83) per month if the qualified individual

lives in the taxpayer's household for less than a full year. A fraction of a calendar month exceeding fifteen (15) days shall be treated as a full month. (3-20-97)(____)

b. The credit is not available to part-year or nonresident individuals. If the qualified individual lives in the household for less than a full year, the credit shall be prorated at eight dollars and thirty three cents (\$8.33) per month. (____)

(BREAK IN CONTINUITY OF SECTIONS)

170. IDAHO CAPITAL GAINS DEDUCTION -- IN GENERAL (Rule 170).
Section 63-3022H, Idaho Code. (3-20-97)

01. Losses From Nonqualified Property. Losses from property not qualifying for the Idaho capital gains deduction will not reduce the amount of the deduction, unless the Idaho capital gains deduction would otherwise exceed net capital gain included in Idaho taxable income. See Subsection 170.03 for an explanation of the net capital gain limitation. (3-20-97)

02. Losses From Qualified Property. (____)

a. Losses from property qualifying for the Idaho capital gains deduction shall be netted against gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. (____)

b. A capital loss carryover from property qualifying for the Idaho capital gains deduction shall be netted against current year gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. If a taxpayer has a capital loss carryover consisting of qualified and nonqualified property, the qualified capital loss carryover shall be the proportion that the qualified capital loss bears to the total capital loss shown on the return in the prior year multiplied by the capital loss carryover. (____)

023. Examples. (3-20-97)

a. A taxpayer sells two (2) parcels of Idaho real property ~~held more than five (5) years~~ that qualify for the deduction. These are the only sales during the taxable year. A capital gain of seven thousand five hundred dollars (\$7,500) is recognized on the sale of Parcel A. A capital loss of five thousand dollars (\$5,000) is recognized on the sale of Parcel B. Since both parcels are qualified property, the gain and loss are netted, resulting in a net capital gain from qualified property of two thousand five hundred dollars (\$2,500) and an Idaho capital gains deduction of one thousand five hundred dollars (\$1,500). (3-20-97)(____)

b. A taxpayer recognizes a capital gain of twenty thousand dollars (\$20,000) on the sale of Idaho real property ~~held more than five (5) years~~ that qualifies for the deduction. The taxpayer also recognizes a capital loss of two thousand five hundred dollars (\$2,500) from the sale of shares of stock that he has held for more than one (1) year. These are the only sales during the taxable year. In this case, since the long-term capital loss is not from qualified property, the loss on the sale of stock does not reduce the gain from qualified property for purposes of computing the deduction. The entire gain from qualified property of twenty thousand dollars (\$20,000) is eligible for the Idaho capital gains deduction, resulting in a deduction of twelve thousand dollars (\$12,000). (3-20-97)(____)

034. Net Capital Gain Limitation. (3-20-97)

a. The Idaho capital gains deduction is allowed only if the taxpayer reports a net capital gain, as defined in Section 1222(11), Internal Revenue Code, on his federal income tax return. In addition, the Idaho capital gains deduction may not exceed the net capital gain included in taxable income. (3-20-97)

b. Example. A taxpayer recognizes a capital gain of five thousand dollars (\$5,000) on the sale of Idaho real property ~~held more than five (5) years~~ that qualifies for the deduction. The taxpayer also recognizes a

capital loss of two thousand five hundred dollars (\$2,500) from the sale of shares of stock. These are the only sales during the taxable year. Sixty percent (60%) of the net capital gain from qualified property is greater than the net capital gain included in the taxpayer's taxable income. Therefore, the taxpayer's Idaho capital gains deduction is limited to the net capital gain included in taxable income of two thousand five hundred dollars (\$2,500), not sixty percent (60%) of the net capital gain from the qualified property. (3-20-97)(____)

045. Ordinary Income Limitation. The Idaho capital gains deduction may not include any gains treated as ordinary income pursuant to the Internal Revenue Code. For example, any gain from the sale, exchange, or involuntary conversion of certain depreciable property treated as ordinary income pursuant to Section 1245, Internal Revenue Code, may not be included when computing the Idaho capital gains deduction. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

173. IDAHO CAPITAL GAINS DEDUCTION -- PASS-THROUGH ENTITIES (Rule 173).

Section 63-3022H, Idaho Code. (3-20-97)

01. In General. (3-20-97)

a. Qualified property held by an S corporation or partnership may be eligible for the Idaho capital gains deduction. The deduction is claimed on the return of an individual shareholder or individual partner. (3-20-97)

b. Partnerships and S corporations electing to pay the tax for a nonresident individual pursuant to Section 63-3022L, Idaho Code, are not allowed to claim a capital gains deduction. (3-20-97)

02. Limitation of Interest in Pass-Through Entity. (3-20-97)

a. An individual may claim an Idaho capital gains deduction on the pass-through gain from qualified property of an S corporation or partnership only to the extent that he held his interest in income of the S corporation or partnership for the required holding period. A shareholder's interest in income of the S corporation is his pro rata share of the income or loss. A partner's interest in income of the partnership is his distributive share of partnership profits. The individual must also meet any gross income limitations specified in Section 63-3022H(3), Idaho Code, for that type of property. (3-20-97)

b. Example. A shareholder in an S corporation had a fifty percent (50%) interest in income in years one (1) through three (3). ~~In~~ At the beginning of year four two (42), the shareholder sold half his stock. During years ~~four two (42)~~ four two (42) through ~~eight four (84)~~ eight four (84) the shareholder had a twenty-five percent (25%) ownership interest. In year ~~nine five (95)~~ nine five (95) the shareholder purchased additional stock and his ownership interest increased to fifty percent (50%). ~~In~~ year ten (10) Fifteen (15) months later the S corporation recognizes a capital gain on the sale of Idaho real property held since year one (1). The shareholder reports fifty percent (50%) of the gain on his tax return for year ~~ten six (106)~~ ten six (106), but is entitled to a capital gains deduction on only twenty-five percent (25%) of the total gain. His capital gains deduction is limited to twenty-five percent (25%) of the gain since he did not hold his fifty percent (50%) ownership interest for the full ~~five (5) years~~ eighteen (18) months preceding the date of the sale of the property. (3-20-97)(____)

03. Multistate Entities. A nonresident shareholder of an S corporation or a nonresident partner of a partnership required to allocate and apportion income as set forth in Section 63-3027, Idaho Code, shall compute his Idaho capital gains deduction on his interest in income of that portion of the qualifying capital gains allocated or apportioned to Idaho. (3-20-97)

04. Examples. (3-20-97)

a. XYZ Farms, a multistate partnership, sold a parcel of Idaho farmland purchased seven (7) years ago. The sixty thousand dollar (\$60,000) gain is determined to be business income and is included in income apportionable to Idaho. The partnership has a seventy-five percent (75%) Idaho apportionment factor. The three (3) nonresident partners share equally in the partnership profits. Each partner may claim an Idaho capital gains deduction

of nine thousand dollars (\$9,000), computed as follows: (\$60,000 X 75% = \$45,000 gain apportioned to Idaho X 1/3 = \$15,000 attributable to each partner X 60% = \$9,000 capital gains deduction allowable on each partner's nonresident return). (3-20-97)

b. XYZ Farms, a multistate partnership, sold a parcel of Idaho real estate held for investment for the past seven (7) years. The sixty thousand dollar (\$60,000) gain is determined to be nonbusiness income and is allocated to Idaho. The three (3) nonresident partners share equally in the partnership profits. Each partner may claim an Idaho capital gains deduction of twelve thousand dollars (\$12,000), computed as follows: (\$60,000 gain allocated to Idaho X 1/3 = \$20,000 partner's share X 60% = \$12,000 Idaho capital gains deduction allowable on each partner's nonresident return). (3-20-97)

c. A resident partner's capital gain is not limited by the apportionment factor of the pass-through entity. Therefore, in both of the examples in Subsections 173.04.a. and 173.04.b., a resident partner may claim an Idaho capital gains deduction of twelve thousand dollars (\$12,000). (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

201. NET OPERATING LOSS CARRYBACKS AND CARRYOVERS (Rule 201).

Section 63-3022(~~4~~c), Idaho Code.

~~(3-20-97)~~(____)

01. Definitions For Purposes of Net Operating Loss Carrybacks and Carryovers. (3-20-97)

a. The term net operating loss deduction means the sum of the Idaho net operating losses carried to another taxable year and subtracted in computing Idaho taxable income. (3-20-97)

b. A net operating loss is absorbed when it has been fully subtracted in computing Idaho taxable income. (3-20-97)

02. Adjustments to Net Operating Losses. (3-20-97)

a. Adjustments to a net operating loss shall be determined pursuant to the law applicable to the loss year. (3-20-97)

b. Adjustments to a net operating loss deduction may be made even though the loss year is closed due to the statute of limitations. (3-20-97)

03. Adjustments in Carryback and Carryover Years. (3-20-97)

a. Adjustments to income in a carryback or carryover year shall be made for purposes of determining, how much, if any, of the net operating loss may be carried over to subsequent years. (3-20-97)

b. Adjustments are made pursuant to the law applicable to carryback or carryover year. (3-20-97)

c. Adjustments may be made even though the year is closed due to the statute of limitations. (3-20-97)

04. Net Operating Loss Carrybacks. (3-20-97)

a. Except as provided in Subsection 201.04.c., the net operating loss carryback, not to exceed one hundred thousand dollars (\$100,000) per taxpayer, is applied to the third preceding taxable year and if not absorbed, the difference applied to the second preceding taxable year and if not absorbed, the difference applied to the first preceding year. The loss not absorbed in the carryback years may be subtracted from taxable years arising in the succeeding fifteen (15) years, in order, until absorbed. (3-20-97)

b. For a unitary group of corporations, each corporation having a net operating loss that results from its share of the Idaho apportioned loss adjusted for its nonbusiness income or nonbusiness loss is limited to a maximum carryback of one hundred thousand dollars (\$100,000). (3-20-97)

c. The taxpayer may elect to forego the carryback provision of Subsection 201.04.a., and deduct the net operating loss in the fifteen (15) succeeding taxable years, in order, until the loss is absorbed. (3-20-97)

d. **Timing and Method of Electing to Forego Carryback.** The election must be made by the due date of the loss year return, including extensions. Once the completed return is filed, the extension period expires. Unless otherwise provided in the Idaho return or in an Idaho form accompanying a return for the taxable year, the election referred to in this Subsection is shall be made by attaching a statement to the taxpayer's income tax return for the taxable year of the loss. The statement must contain the following information: (3-20-97)()

i. The name, address, and taxpayer's social security number or employer identification number; (3-20-97)

ii. A statement that the taxpayer makes the election pursuant to Section 63-3022(~~d~~c)(1), Idaho Code, to forego the carryback provision; and (3-20-97)()

iii. The amount of the net operating loss. (3-20-97)

e. If the election is made on an amended or original return filed subsequent to the time allowed in Subsection 201.04.d. of this rule, it is considered untimely and the net operating loss shall be applied as provided in Subsection 201.04.a. (3-20-97)

05. **Order in Which Losses Are Applied in a Year.** Loss carryovers are deducted before deducting any loss carrybacks applicable to the same taxable year. (3-20-97)

06. **Documentation Required When Claiming a Net Operating Loss Deduction.** A taxpayer claiming a net operating loss deduction for a taxable year must file with his return for that year a concise statement setting forth the amount of the net operating loss deduction claimed and all material and pertinent facts, including a detailed schedule showing the computation of the net operating loss and its carryback or carryover. (3-20-97)

07. Conversion of C Corporation to S Corporation. A net operating loss carryback or carryover from a taxable year in which a corporation is a C corporation cannot be carried to a taxable year in which the corporation is an S corporation. However, an S corporation subject to the tax on built-in gains is allowed to deduct a net operating loss carryover from a taxable year in which the corporation was a C corporation against its net recognized built-in gain. ()

202. -- 24909. (RESERVED).

210. REDUCTION OF IDAHO TAX ATTRIBUTES AND BASIS WHEN INCOME FROM INDEBTEDNESS DISCHARGE IN BANKRUPTCY IS EXCLUDED FROM GROSS INCOME (Rule 210).
Section 63-3022(c), Idaho Code.

01. In General. Any taxpayer excluding from taxable income an amount resulting from the discharge of indebtedness in bankruptcy under Section 108(b) of the Internal Revenue Code, shall reduce Idaho net operating loss and basis in accordance with Section 346 of the Bankruptcy Code of the United States. If the discharge occurs outside of bankruptcy, the provisions of these rules shall not apply. ()

02. Order of Reduction. The reduction referred to in Subsection 210.01 shall be made to the following tax attributes in the following order: ()

a. Any net operating loss deduction, as defined in Rule 201 of these rules, shall be reduced by the amount of the indebtedness forgiven or discharged in bankruptcy except as follows: ()

i. A deduction with respect to the liability which is disallowed for any taxable period during or after

the liability is forgiven or discharged. A deduction with respect to the liability includes a capital loss incurred on the disposition of a capital asset with respect to a liability that was incurred in connection with the acquisition of such asset. ()

ii. To the extent that the indebtedness forgiven or discharged consisted of items of a deductible nature that were not deducted by the taxpayer, or resulted in an expired net operating loss deduction or carryover that did not offset income for any taxable period and did not contribute to a net operating loss in or a net operating loss carryover to the taxable period during or after the indebtedness was discharged. ()

b. The basis in the taxpayer's property or of property transferred to an entity required to use the taxpayer's basis in whole or in part shall be reduced by the lesser of: ()

i. The amount of the forgiven or discharged indebtedness, minus the total amount of adjustments made under Subsection 210.02.a.; and ()

ii. The amount of the debtor's total basis of assets before the discharge that exceeds the total preexisting liabilities still remaining after discharge of indebtedness. Basis may not be reduced below a level equal to the remaining undischarged liabilities. ()

03. Exception to Basis Reduction. The basis reduction under Subsection 210.02.b. is not required if the taxpayer elects to treat the amount that would otherwise be applied in reduction of basis as taxable income of the taxable period in which the debt is forgiven or discharged. ()

04. Discharge Not Treated as Discharged Indebtedness. The following provisions exclude from this rule indebtedness that is discharged and treat the debtor as if it had originally issued stock instead of debt. No reduction to the Idaho net operating loss or basis is required if one (1) or more of these provisions are satisfied. ()

a. The indebtedness did not consist of items of a deductible nature and is exchanged for an equity security, other than a limited partnership interest, issued by the debtor or is forgiven as a contribution to capital; or ()

b. The indebtedness consisted of items of a deductible nature, and the exchange of stock for debt has the same effect as a cash payment equal to the fair market value of the equity security that is issued by the debtor or, if the value of the security is less than the value of the debt, only part of the debt will be excluded. ()

211. -- 249. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

254. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUBTRACTIONS ALLOWED IN COMPUTING IDAHO ADJUSTED INCOME (Rule 254).

Section 63-3026A(6), Idaho Code. (3-20-97)

01. Net Operating Loss Carryover. Subtract the net operating loss carryover allowed by Section 63-3022(~~4~~), Idaho Code, to the extent the loss was incurred while residing in or domiciled in Idaho or to the extent the loss was from business activity taking place in Idaho. A net operating loss incurred from a business activity not taxable by Idaho may not be subtracted. (~~3-20-97~~)()

02. State Income Tax Refund. Subtract state income tax refunds included in Idaho gross income. (3-20-97)

03. Income Not Taxable by Idaho. Subtract income that is exempt from Idaho income taxation by a law of the state of Idaho or of the United States, if that income is included in Idaho gross income and has not been

previously subtracted. Income not taxable by Idaho includes: (3-20-97)

a. Interest income from obligations ~~of~~ issued by the United States Government. ~~Subtract interest received from securities issued by the United States Government to the extent the interest is included in Idaho gross income. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules.~~ (7-1-98)()

b. Idaho lottery winnings exempt by Section 67-7439, Idaho Code. For lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize less than six hundred dollars (\$600). (7-1-98)

c. Certain income earned by Native Americans. An enrolled member of a federally recognized Indian tribe who lives on a federally recognized Indian reservation is not taxable on income derived within the reservation. See Rule 033 of these rules. (7-1-98)

d. Certain income earned by transportation employees covered by Title 49, Sections 11504~~2~~, 14503 or 40116, United States Code, and air carrier employees covered by Title 49, Section 40116(f), United States Code. See Rule 045 of these rules. (7-1-98)()

04. Military Pay. Subtract qualified military pay included in Idaho gross income earned for military service performed outside Idaho. Qualified military pay means all compensation paid by the United States for services performed while on active duty as a full-time member of the United States Armed Forces which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more. A nonresident does not report his military pay as Idaho gross income and, therefore, makes no adjustment. See Rule 032 of these rules for information regarding the residency status of members of the United States Armed Forces. (3-20-97)

05. Social Security and Railroad Retirement Benefits. Subtract social security benefits and benefits paid by the Railroad Retirement Board that are taxable pursuant to the Internal Revenue Code, to the extent the benefits are included in Idaho gross income. See Subsections 121.04.a. and 121.04.b. of these rules. (3-20-97)()

06. Household and Dependent Care Expenses. Subtract the allowable portion of household and dependent care expenses that meets the requirements of Section 63-3022D, Idaho Code, if incurred to enable the taxpayer to be gainfully employed in Idaho. To determine the allowable portion of household and dependent care expenses, calculate a percentage by dividing Idaho earned income by total earned income. Multiply the qualified expenses by the percentage. Earned income is defined in Section 32(c)(2), Internal Revenue Code. (3-20-97)

07. Insulation and Alternative Energy Device Expenses. Subtract expenses related to the installation of insulation or alternative energy devices that meet the requirements of Section 63-3022B or 63-3022C, Idaho Code. (3-20-97)

08. Deduction for Dependents Sixty-five (65) or Older or With Developmental Disabilities. Subtract one thousand dollars (\$1,000) for each person who meets the requirements of Section 63-3022E, Idaho Code. The deduction may be claimed for no more than three (3) qualifying dependents. If a dependent has not lived in the maintained household for the entire taxable year, the allowable deduction is eighty-three dollars (\$83) for each month the dependent resided in the maintained household during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. (3-20-97)

09. Adoption Expenses. Subtract the allowable portion of adoption expenses that meets the requirements of Section 63-3022I, Idaho Code. To determine the allowable portion, calculate a percentage by dividing Idaho gross income by total gross income. Multiply the deduction allowable pursuant to Section 63-3022I, Idaho Code, by the percentage. (3-20-97)

10. Capital Gains Deduction. Subtract the Idaho capital gains deduction allowed by Section 63-3022H, Idaho Code. (3-20-97)

11. Idaho Medical Savings Account. (7-1-98)
- a. Subtract contributions to an Idaho medical savings account that meet the requirements of Section 63-3022K, Idaho Code. (7-1-98)
- b. Subtract interest earned on an Idaho medical savings account to the extent included in Idaho gross income. (7-1-98)
- ~~12. Contributions to a Medical Assistance Account. Subtract contributions to the state of Idaho for credit to the medical assistance account. (3-20-97)~~
- ~~13. Expenditures for Personal Care Services. Subtract expenses incurred for personal care services that meet the requirements of Section 63-3022(l)(1)(b) or 63-3022(l)(2)(c), Idaho Code. The deduction is limited to one thousand dollars (\$1,000) for each qualified individual for expenses that have not been reimbursed or previously subtracted in computing Idaho taxable income. (3-20-97)~~
142. Technological Equipment Donation. Subtract donations of technological equipment allowed by Section 63-3022J, Idaho Code. See Rule 180 of these rules. (3-20-97)
- ~~15. Federal Alcohol Fuels Credit. As allowed by Section 63-3022(m), Idaho Code, subtract the amount included in Idaho gross income for the federal alcohol fuels credit. (3-20-97)~~
- ~~163. Worker's Compensation Insurance. As allowed by Section 63-3022[(pn)](o), Idaho Code, a self-employed individual may subtract the cost of premiums paid for worker's compensation for coverage in Idaho to the extent not previously subtracted in computing Idaho taxable income. (3-20-97)()~~

(BREAK IN CONTINUITY OF SECTIONS)

260. INCOME FROM IDAHO SOURCES (Rule 260).

Section 63-3026A(3), Idaho Code. (3-20-97)

~~01. In General. Income from Idaho sources is the gross income, or portion thereof, that is derived from a business, trade, profession, or occupation carried on within Idaho or from any property, trust, estate, or any other source with a situs in Idaho. Income of a nonresident that is derived from property located both within and without Idaho during the taxable year, or from business transactions that occur both within and without Idaho during the taxable year, is attributed to Idaho based on the principles set forth in Rules 261 through 265 of these rules. (3-20-97)()~~

~~02. Income From Intangible Property. Generally, gross income from intangible property is sourced to the state of the owner's domicile. There are three (3) exceptions to this rule. (3-20-97)~~

~~a. If the intangible property is utilized in connection with the owner's trade, business or profession carried on within Idaho, any income derived from or related to the property, including gains from the sale thereof, constitutes income from Idaho sources. For example, if a nonresident pledges stocks, bonds or other intangible personal property as security for the payment of indebtedness incurred in connection with the nonresident's Idaho business operations, the intangible property has an Idaho situs and the income derived therefrom constitutes Idaho source income. (3-20-97)~~

~~b. Interest income from the sale of real or tangible personal property on the installment method is treated as income from the sale of the underlying property and is therefore sourced to Idaho if the underlying property was located in Idaho when sold. (3-20-97)~~

~~e. Interest income paid by an S corporation to a shareholder or a partnership to a partner is sourced to Idaho in proportion to the Idaho apportionment factor of the partnership or S corporation. (3-20-97)~~

(BREAK IN CONTINUITY OF SECTIONS)

265. SOLE PROPRIETORSHIPS OPERATING WITHIN AND WITHOUT IDAHO (Rule 265). (3-20-97)
Section 63-3026A(3), Idaho Code.

01. In General. A sole proprietorship that operates within and without Idaho shall apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of proprietorship income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. (3-20-97)

02. Application of Rule. This rule also applies to farming activities operated as a sole proprietorship. (3-20-97)

03. Alternative Method. If the method described in Subsection 265.01 does not fairly represent the extent of the business activity in Idaho, the taxpayer may propose an alternative method. ()

a. The taxpayer shall fully explain the alternative method in a statement attached to his Idaho individual income tax return. ()

b. The method proposed by the taxpayer may be used in lieu of the method in Subsection 265.01 unless the Tax Commission expressly denies its use. ()

266. ~~299~~: (RESERVED) INCOME FROM INTANGIBLE PROPERTY (Rule 266). ()
Section 63-3026A(3), Idaho Code.

01. In General. Gross income from intangible property generally is sourced to the state of the owner's domicile. There are three (3) exceptions to this rule. ()

a. If the intangible property is employed in the owner's trade, business or profession carried on within Idaho, any income derived from or related to the property, including gains from the sale thereof, constitutes income from Idaho sources. For example, if a nonresident pledges stocks, bonds or other intangible personal property as security for the payment of indebtedness incurred in connection with the nonresident's Idaho business operations, the intangible property has an Idaho situs and the income derived therefrom constitutes Idaho source income. ()

b. Interest income from the sale of real or tangible personal property on the installment method is treated as income from the sale of the underlying property and is therefore sourced to Idaho if the underlying property was located in Idaho when sold. ()

c. Interest income paid by an S corporation to a shareholder or by a partnership to a partner is sourced to Idaho in proportion to the Idaho apportionment factor of the partnership or S corporation. ()

02. Interest Income Earned on a Bank Account. ()

a. Personal Bank Accounts. Interest income earned on a personal bank account is sourced to the owner's state of domicile. A personal bank account is an account that is not used in connection with a business. ()

b. Business Bank Accounts. If the business is a sole proprietorship, see Rule 265 of these rules. If the business is an S corporation or partnership, see Rule 263 of these rules. ()

03. Covenant Not to Compete. Income from a covenant not to compete is sourced to the owner's state of domicile unless the covenant was employed in the owner's business, trade, profession or occupation conducted or carried on in Idaho as described in Subsection 266.01.a. ()

267. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

580. SPECIAL RULES -- SPECIAL INDUSTRIES (Rule 580).

Section 63-3027(s), Idaho Code.

(3-20-97)

01. Adoption of MTC Special Industry Regulations. This rule incorporates by reference the MTC special industry regulations found in "Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States," ~~May~~ September, 1996/7 Edition, published by the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. Copies of the MTC special industry regulations may also be obtained from the Tax Commission offices. The following special industries shall apportion income in accordance with the applicable MTC regulation: ~~(7-1-98)()~~

a. Construction Contractors. The apportionment of income derived by a long-term construction contractor shall be computed in accordance with MTC Regulation IV.18.(d). as adopted July 10, 1980; (3-20-97)

b. Airlines. The apportionment of income derived by an airline shall be computed in accordance with MTC Regulation IV.18.(e). as adopted July 14, 1983; (3-20-97)

c. Railroads. The apportionment of income derived by a railroad shall be computed in accordance with MTC Regulation IV.18.(f). as adopted July 16, 1981; (3-20-97)

d. Trucking Companies. The apportionment of income derived by motor common carriers, motor contract carriers, or express carriers that primarily transport tangible personal property of others shall be computed in accordance with MTC Regulation IV.18.(g). as amended July 27, 1989, for taxable years beginning on or after January 1, 1997. (7-1-98)

e. Television and Radio Broadcasting. The apportionment of income derived from television and radio broadcasting shall be computed in accordance with MTC Regulation IV.18.(h). as amended April 25, 1996, for taxable years beginning on or after January 1, 1995. (3-20-97)

f. Publishing. The apportionment of income derived from the publishing, sale, licensing or other distribution of books, newspapers, magazines, periodicals, trade journals or other printed material shall be computed in accordance with MTC Regulation IV.18.(j). as adopted July 30, 1993, for taxable years beginning on or after January 1, 1995. (3-20-97)

g. Financial Institutions. See Rule 582 of these rules for the apportionment of income by a financial institution for taxable years beginning on or after January 1, 1998. (7-1-98)

02. References. See Rule 581 of these rules for the applicability of references used in the MTC special industry regulations. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

582. SPECIAL RULES -- FINANCIAL INSTITUTIONS (Rule 582).

Section 63-3027(s), Idaho Code.

(7-1-98)

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~~ September, 1996~~7~~ 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. (7-1-98)()

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, which that~~ 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.~~ For purposes of this rule, the following definitions apply: (7-1-98)()

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. (7-1-98)

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. (7-1-98)

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. (7-1-98)

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. (7-1-98)

03. Entities Presumed to Be Financial Institutions. The following entities are presumed to be financial institutions as defined in Subsection 582.02: (7-1-98)

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; (7-1-98)

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; (7-1-98)

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; (7-1-98)

d. Any bank or thrift institution incorporated or organized under the laws of any state; (7-1-98)

e. Any corporation organized under the provisions of Title 12, Sections 611 to 631, United States Code; (7-1-98)

f. Any agency or branch of a foreign depository as defined in Title 12, Section 3101, United States

Code; (7-1-98)

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 (7-1-98)

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. (7-1-98)

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. (7-1-98)

05. Financial Institutions Described in Section 63-3023(b), Idaho Code. ()

a. Transacting business. If an entity described in Section 63-3023(b), Idaho Code, does not maintain an office within Idaho and carries on only the activities listed in Section 63-3023(b)(1) through (4), Idaho Code, it is not deemed to be transacting business within Idaho. The fact that the entity is also a financial institution as defined in this rule will not change the result of Section 63-3023(b), Idaho Code. ()

b. Calculation of apportionment factor attributes. A financial institution described in Section 63-3023(b), Idaho Code, that is a member of a unitary group of corporations with at least one member subject to Idaho income tax, shall include its property, payroll, and sales amounts in the denominators of the unitary group's factors. The calculation of the amount included in the denominators shall be computed as provided in the MTC Recommended Formula for Financial Institutions. Because such a corporation is not deemed to be transacting business within Idaho, the corporation will not have an Idaho corporate income tax liability. A financial institution that is transacting business within Idaho shall compute its Idaho numerator and denominator amounts as provided in the MTC Recommended Formula for Financial Institutions. ()

06. Act Defined. For purposes of applying the rules applicable to Section 63-3027, Idaho Code, references to [Act] in the MTC Recommended Formula for Financial Institutions refers to the Idaho Income Tax Act. ()

07. The Apportionment Percentage. References in Section 1(b) of the MTC Recommended Formula for Financial Institutions to the computation of the apportionment percentage being determined by adding the taxpayer's receipts factor, property factor, and payroll factor together and dividing the sum by three (3) shall be replaced with adding two (2) times the taxpayer's sales factor, the taxpayer's property factor, and the taxpayer's payroll factor together and dividing the sum by four (4) as required by Section 63-3027(i), Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

700. CREDIT FOR TAXES PAID ANOTHER STATE OR TERRITORY (Rule 700).
Section 63-3029, Idaho Code. (7-1-98)

01. ~~Excise Tax or Franchise Tax Measured by Income Defined. For purposes of computing the credit for taxes paid another state or territory, an excise tax or franchise tax is measured by income only if the statute imposing the excise tax or franchise tax provides that the base of the tax:~~ (7-1-98)

a. ~~Includes revenue from sales, revenue from services rendered, and income from investments; and~~ (7-1-98)

b. ~~Permits a deduction for the cost of goods sold and the cost of services rendered.~~ (7-1-98)

021. Taxes Not Eligible for the Credit. Any tax or portion thereof imposed on capital stock, retained earnings, stock values, or a basis other than income is not eligible for the credit. (7-1-98)

032. Credit Calculated on a State-by-State Basis. The credit and credit limitations shall be calculated on a state-by-state basis. The taxpayer may not aggregate the income taxed by other states or the taxes paid to the other states for purposes of calculating the credit and its limitations. (7-1-98)

043. Income Tax Payable to Another State. The income tax payable to another state shall be the tax paid after the application of all credits. The tax paid to the other state must be for the same taxable year that the credit is claimed. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

815. EXTENSIONS OF TIME (Rule 815).

Section 63-3033, Idaho Code. (3-20-97)

01. ~~Individuals. An individual requesting an extension must file Idaho Form 51 on or before the fifteenth day of the fourth month following the close of the taxable year. The extension request must show the same filing status and social security numbers that will be used on the tax return.~~ (3-20-97)

02. ~~Estates, Trusts and Partnerships. An estate, trust, or partnership requesting an extension must file Idaho Form 41E on or before the fifteenth day of the fourth month following the close of the taxable year.~~ (3-20-97)

03. ~~Corporations. A corporation requesting an extension must file Idaho Form 41E on or before the fifteenth day of the fourth month following the close of the taxable year. Extension requests must be filed using the name and federal employer identification number of the corporation whose name will be on the Idaho corporate income tax return. If an extension request is filed for a group return, a list of all corporations required to file in Idaho must be attached.~~ (3-20-97)

04. ~~Approval of Extension. An extension of time to file will be approved if it is filed on time, is complete and any tax estimated to be due is paid in full. If approved, the extension extends the time for filing, without delinquency penalty, up to six (6) months after the due date of the return. The completed return may be filed at any time prior to the expiration of the six (6) month period. Once the completed return is filed, the extension period expires. Any remaining tax is due when the completed return is filed. The taxpayer will be notified only if the extension request is denied.~~ (3-20-97)

051. Taxpayers Abroad. ~~In addition to the automatic two (2) month extension provided in Section 63-3033(a), Idaho Code, an additional four (4) month extension is granted if the individual files a valid Idaho Form 51 before the end of the automatic two (2) month extension period. An extension granted by the Internal Revenue Service when a taxpayer has not yet met either the bona fide resident test or the physical presence test pursuant to Section 911, Internal Revenue Code, but expects to qualify after the two (2) month extension, is accepted as a valid extension for Idaho filing purposes. A copy of the approved federal extension form must accompany the Idaho income tax return.~~ (3-20-97)()

062. Individuals in Combat Zone. Section 7508, Internal Revenue Code, applies to individuals who are serving in a combat zone or who are hospitalized as a result of serving in a combat zone. In this case, returns are not due until one hundred eighty (180) days after the period of qualified service or qualified hospitalization, whichever occurs last. (3-20-97)

~~073.~~ Interest. ~~If an extension of time to file an income tax return is granted, it does not alter the due date of the return for computing interest.~~ Interest accrues on the portion of the tax not withheld or paid from the due date until the date the return is filed and the full amount of tax is paid. However, ~~if an extension of time was granted,~~ the taxpayer will not receive interest on amounts withheld or on corporation estimated tax in excess of the actual tax liability. See Section 63-3073, Idaho Code. (3-20-97)(____)

~~08.~~ Penalties. ~~The estimated tax paid with the request for extension, when combined with the tax previously withheld or paid, must be at least eighty percent (80%) of the total tax due pursuant to the provisions of this chapter, or must equal or exceed the total tax reported on the tax return for the preceding year. If the taxpayer did not file a return last year, he must pay at least eighty percent (80%) of the total tax due for this taxable year. Total tax due means a tax that is correctly determined on the tax return. Any deficiency may be subject to a five percent (5%) penalty in addition to interest.~~ (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

~~841. -- 844.~~ (RESERVED).

~~**845. DESIGNATION OF SCHOOL DISTRICT (Rule 845).**~~

~~Section 63-3089, Idaho Code. For purposes of designating the school district, the taxpayer's permanent place of residence is determined as of the last day of the taxable year.~~ (3-20-97)

~~846.1. -- 854.~~ (RESERVED).

855. PERMANENT BUILDING FUND TAX (Rule 855).

Sections 63-3082 through 63-3087, Idaho Code. (3-20-97)

01. In General. The permanent building fund tax is an excise tax of ten dollars (\$10) reportable on each income tax return required to be filed unless specifically exempt. The proceeds of this tax are credited to the Permanent Building Fund pursuant to Section 57-1110, Idaho Code. (3-20-97)

02. Pass-through Entities. The permanent building fund tax does not apply to partnerships, estates, trusts or S corporations if all the income of the entity is distributed to or otherwise reported on the income tax return of another taxpayer. ~~A pass-through entity reporting and paying taxes of a nonresident partner, shareholder, or beneficiary is subject to the permanent building fund tax for each nonresident who is required to file an Idaho income tax return.~~ (3-20-97)(____)

03. Corporations Included in a Group Return. The permanent building fund tax applies to each member of a unitary group transacting business in Idaho, authorized to transact business in Idaho, or having income attributable to Idaho and included in a group return. (3-20-97)

04. Inactive or Nameholder Corporations. An inactive or nameholder corporation that files Form 41 to pay the twenty dollar (\$20) minimum tax shall pay the permanent building fund tax. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

871. STATE INCOME TAX WITHHOLDING REQUIRED (RULE 871).

Sections 63-3035 and 63-3036, Idaho Code. (3-20-97)

01. ~~In General~~ Employers Other Than Farmers. An employer is required to withhold from all salaries, wages, tips, bonuses, or other compensation paid to an employee for services performed in Idaho if: (3-20-97)(____)

a. ~~The employee is a resident of Idaho; or~~ required to withhold for federal purposes; and

(3-20-97)()

b. ~~The employee is an Idaho resident; or the employee is a nonresident and~~ Compensation of one thousand dollars (\$1,000) or more will be paid during a calendar year to ~~a~~ the nonresident employee for services performed in Idaho. ~~;~~ ~~or~~ (3-20-97)()

e. ~~Compensation of one thousand dollars (\$1,000) or more will be paid during a calendar year to an agricultural, household or domestic employee.~~ (3-20-97)

02. Farmer-Employers. An employer who is a farmer is required to withhold from all salaries, wages, tips, bonuses, or other compensation paid to an employee for services performed in Idaho if compensation of one thousand dollars (\$1,000) or more will be paid during a calendar year to an agricultural employee. ()

023. Services Performed Within and Without Idaho. An employer is required to withhold only on the portion of the employee's total compensation that is reasonably attributable to services performed in Idaho regardless of his post of duty. Compensation may be allocated to Idaho based on work days, hours, mileage, or commissions. (3-20-97)()

034. Exceptions to Withholding Requirements. Withholding is not required if: (3-20-97)

a. The salaries, wages, tips, bonuses, and other compensation paid by an employer are for services performed wholly outside Idaho regardless of the residency or domicile of either the employer or employee. (3-20-97)

b. The compensation is paid by the United States Armed Forces to a nonresident serving on active duty in Idaho; (3-20-97)

c. The compensation is paid to an interstate transportation employee of a rail, ~~motor or water~~ carrier covered by Title 49, Section 11504~~2~~, United States Code, who is a nonresident of Idaho; or (3-20-97)()

d. The compensation is paid to an interstate transportation employee of a motor carrier covered by Title 49, Section 14503, United States Code, who is a nonresident of Idaho; or ()

~~e.~~ The compensation is paid to an employee of an interstate air carrier covered by Title 49, Section ~~4512~~ 40116, United States Code, who is a nonresident of Idaho and earns ~~less than~~ fifty percent (50%) or less of his compensation in Idaho; or (3-20-97)()

f. The compensation is paid to an employee of an interstate water carrier covered by Title 49, Section 14503, United States Code, who is a nonresident of Idaho and earns fifty percent (50%) or less of his compensation in Idaho; or ()

~~eg.~~ The compensation is exempt from federal withholding, ~~except as described in Section 63-3036, Idaho Code, and Subsection 871.01.e.~~ (3-20-97)()

872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872). (3-20-97)
Sections 63-3035 and 63-3036, Idaho Code.

~~01. Filing of Returns. Generally, an employer shall file returns monthly to report payroll and remit any state income tax withheld.~~ (3-20-97)()

a. ~~Employers who owe less than five hundred dollars (\$500) per calendar quarter and have established a satisfactory record of timely filing and payment of the tax may be allowed to file returns and remit the tax withheld quarterly. In general, an employer shall file returns quarterly to report payroll and state income tax withheld.~~ (3-20-97)()

b. Farmer-employers. Agricultural, household and domestic Generally, an employers who is a farmer shall file returns annually to report payroll and ~~remit any~~ state income tax withheld. However, an employer who is a

farmer shall file returns quarterly if required to remit income tax withheld quarterly. (3-20-97)()

c. Zero tax returns. A return shall be filed for each reporting period. For reporting periods in which the employer had no payroll or withheld no tax, the return shall be completed and filed by the due date. (3-20-97)()

02. Extension of Time to File Returns. The Tax Commission may allow a one (1) month extension of time to file the withholding return. (3-20-97)

a. The employer shall file a written request that identifies the reason for the extension and include the required minimum payment by the due date of the withholding return. The minimum payment shall be at least ninety percent (90%) of the tax withheld for the period or one hundred percent (100%) of the tax withheld for the same period of the prior year. (3-20-97)

b. The employer shall file a return reporting the actual tax withheld for the period within one (1) month of the due date. The tax paid with the extension request shall be shown on the adjustment line of the return. Interest from the due date applies to any additional tax due. (3-20-97)

03. Payment of State Income Tax Withheld. ()

a. In general. An employer shall remit monthly any state income tax withheld. However, employers who owe less than five hundred dollars (\$500) per calendar quarter and have established a satisfactory record of timely filing and payment of the tax may be allowed to remit the tax withheld quarterly. ()

b. Farmer-employers. Generally an employer who is a farmer shall remit state income tax withheld on or before the last day of February. However, an employer who is a farmer shall remit the state income tax withheld quarterly if he pays salaries exceeding twenty thousand dollars (\$20,000) for that quarter. ()

034. Employer's Annual Reconciliation. On or before the last day of February, employers shall file a return reconciling the tax remitted throughout the preceding calendar year and the state income tax withholding reported on the W-2s. (3-20-97)

045. Employee's Wage and Tax Statements. Federal Form W-2 or a form of similar size and design may be used. In addition to the information required by the Internal Revenue Code, Total Idaho wages paid, Idaho income tax withheld, and the name of the state shall be shown in the appropriate boxes. Altered forms are not accepted. (3-20-97)()

a. The employer shall furnish each employee a W-2 before February 1, or at the request of the employee within thirty (30) days after termination of his employment. (3-20-97)

b. On or before the last day of February, each employer shall file with the Tax Commission a W-2 for each employee to whom Idaho taxable wages were paid, regardless of whether Idaho income tax was withheld. (3-20-97)

c. If a corrected W-2 is filed with the Internal Revenue Service, the W-2c shall be filed with the Tax Commission. (3-20-97)

d. Each employer with fifty (50) or more Idaho employees who is required to file returns on magnetic media or other machine-readable form by Section 6011, Internal Revenue Code, shall file in a similar manner with Idaho. In addition to the information required by the Internal Revenue Code, the magnetic media or machine readable form shall also include the employer's Idaho withholding account number, Idaho wages, and Idaho withholding. Employers who are required to file on magnetic media but fail to do so are subject to the provisions of Section 63-3046(e), Idaho Code, and treated as if no W-2s were filed. (3-20-97)

e. If services are performed within and without Idaho, the state wages shown on the W-2 furnished to the employee shall include the portion of the employee's total wages reasonably attributed to services performed within Idaho. Wages may be allocated to Idaho based on work days, hours, mileage or commissions. ()

056. Valid Returns. All withholding returns and other documents required to be filed pursuant to Sections 63-3035 and 63-3036, Idaho Code, and this rule shall be filed using the proper forms as prescribed by the Tax Commission. The forms shall include the taxpayer's name, signature, withholding account number, and federal employer identification number. Returns that fail to meet these requirements are invalid and may be returned to the taxpayer to be refiled. Failure to file a valid return by the due date may cause interest and penalties to be imposed. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

885. INTEREST ON REFUNDS (Rule 885).

Sections 63-3073 and 63-3045, Idaho Code.

~~(3-20-97)~~(____)

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. (3-20-97)

02. Computation. Except as provided in Subsection 885.03, ~~the~~ Tax Commission shall compute interest on a net refunds as follows: ~~(3-20-97)~~(____)

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. (3-20-97)

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. (3-20-97)

c. Tentative payments. The Tax Commission may not pay interest on a refund resulting from an estimated or tentative payment. (3-20-97)

~~03.~~ Refunds ~~from a Net Operating Loss and a Capital Loss Carryback.~~ 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. ~~(3-20-97)~~(____)

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9802
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

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

October 14, 1998, at 10:00 a.m, in Conference Room 1CR5, at the Idaho State Tax Commission, 800 Park Blvd. Plaza IV, Boise, Idaho.

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 address below.

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

Rule 615 - This is a new Property Tax Rule being promulgated to help clarify Section 63-602L, Idaho Code, which was amended by the 1998 Legislature to expand the exemption of intangible personal property and include taxpayer selected options for determining the value of such exempt property for operating property companies.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee is applicable.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the effected interests have been involved in developing the proposed rule.

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

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 22th day of July, 1998.

Alan Dornfest, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 344-7530
FAX (208) 344-7844

TEXT OF DOCKET NO. 35-0103-9802

601. -- ~~6314.~~ (RESERVED).

615. PROPERTY EXEMPT FROM TAXATION - CERTAIN INTANGIBLE PERSONAL PROPERTY (Rule 615).

01. Definitions. The following definitions apply to the exemption for certain intangible personal property. ()

a. Contracts and contract rights. Contracts and contract rights are enforceable agreements, which establish mutual rights and responsibilities, and rights created under such agreements. ()

b. Copyrights. Copyrights are rights granted to the author or originator of literary or artistic productions, by which he or she is invested with the sole and exclusive privilege of making, publishing or selling copies for a specified time. ()

c. Custom computer programs. Custom computer programs means those programs defined in Section 63-3616, Idaho Code. ()

d. Customer lists. Customer lists are proprietary lists containing information about a business enterprise's customers. ()

e. Franchises. Franchises are special privileges. ()

f. Goodwill. Goodwill is the expectation of continued public patronage of a business. Goodwill is the ability of a business to generate income in excess of a normal rate due to such things as superior managerial skills, superior market position, favorable community and customer reputation and high employee morale. ()

g. Licenses. Licenses are permissions to do acts, which are not allowed without such permissions. ()

h. Method A. Method A is the method by which the value of exempt intangible personal property is excluded from the value of operating property by subtracting the market value of exempt intangible personal property from the market value of the operating property at the system level. ()

i. Method B. Method B is the method by which the value of exempt intangible personal property is excluded from the value of operating property by subtracting the market value of exempt intangible personal property from the market value of the operating property at the state level. ()

j. Method C. Method C is the method by which the value of exempt intangible personal property is excluded from the value of operating property by using valuation models which value only the nonexempt assets. ()

k. Patents. Patents are grants from the government conveying and securing the exclusive right to make, use and sell inventions. ()

l. Rights-of-way which are possessory only and not accompanied by title. Rights-of-way, which are possessory only and not accompanied by title, are easements by which grantees acquire only the rights to pass over or to access for installation or maintenance, without acquiring exclusive use of the rights-of-way. ()

m. Trademarks. Trademarks are marks of authenticity, through which products of particular manufacturers or vendible commodities of particular merchants may be distinguished from those of others. ()

n. Trade secrets. Trade secrets are formulas, patterns, compilations, programs, devices, methods, techniques or processes, deriving independent economic values from not being generally known by other persons who can obtain economic values from disclosure or use. Trade secrets are the subjects of efforts that are reasonable to maintain secrecy. ()

02. Tangible Property Value Not Affected by Intangible Personal Property Value. The values of the exempt intangible personal properties shall not affect the values of any tangible properties or the value of the

attributes of any tangible properties, regardless of the role of the intangible personal properties in the use of the tangible properties. The exempt values shall not include any values attributable to availability of a skilled work force, condition of surrounding property, geographic features, location, rights-of-way, accompanied by title, view, zoning, and attributes or characteristics of real properties. ()

03. Operating Property Election, Reporting and Methods. The following apply to operating property for the identification of valuation methods to be used by the State Tax Commission, election of Method A, Method B or Method C by the property owners, reporting by owners and valuation using Method C. ()

a. Identification of valuation methods. When the State Tax Commission mails the blank Operators' Statements to the property owners, the State Tax Commission shall identify proposed changes in valuation methods compared to those relied on in the prior year. ()

b. Election default. In the event of default of the taxpayer to make an election, the State Tax Commission shall use the method proposed in the notice accompanying the Operator's Statement. ()

c. Election of exclusion method. When submitting the Operator's Statement, the owner has the right to elect the method for exclusion of the values of the exempt intangible personal properties from the operating property value. ()

d. Amending election. An owner may amend the elected method on seven (7) days written notice prior to informal appraisal review with the State Tax Commission or a hearing under Rule 407 of these rules. ()

e. Reporting. The State Tax Commission shall consider the value and supporting data provided by the owners. If no supporting intangibles valuation information is provided by the owners, known exempt intangible personal property will be subtracted or will not be impounded in the value. ()

f. Valuation using Method C. When the owner elects Method C, the State Tax Commission shall give primary consideration to the cost less depreciation model, without regulatory adjustment, in valuing tangible personal property and nonexempt intangible personal property. Only if this model fails to produce market value of the tangible personal property and nonexempt intangible personal property, shall the State Tax Commission consider other appropriate valuation models. ()

616. -- 634. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9803
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

Some rules have also been renumbered and the new number is in parentheses after the current number in the following descriptive summary.

Rule 108 (Rule 611) - Value of Residential Property in Certain Zoned Areas - Amend Rule 108 to correct inconsistency with the law, Section 63-602H, Idaho Code.

Rule 120 - Investigation of Written Complaints - The State Tax Commission promulgated a new Rule 120 to provide a procedure for investigations of complaints for actions by public officials relating to assessments or administration of property taxes. Section 63-105A, Idaho Code.

Rule 165 (Rule 635) - Land Actively Devoted to Agriculture Defined - Amend Rule 165 to provide a definition for a homesite contiguous with agricultural land, but not actively devoted to agriculture. Section 63-604, Idaho Code.

Rule 180 - Amount of Tax Reduction - The 1998 legislature eliminated the requirement to promulgate a rule for annually updated circuit breaker tax reduction brackets and provided that the brackets would be published. Rule 180 was deleted. Section 63-705, Idaho Code.

Rule 244 (Rule 314) - County Valuation Program to be Carried on by Assessor - Rule 244 was amended to define several terms such as field inspection and index. Section 63-314, Idaho Code.

Rule 250 - Ratio Studies - School Districts - Amended Rule 250 to add commercial subdivision category to make the rule consistent with Rule 327, which provides for county ratio studies. Section 63-315, Idaho Code

Rule 328 (Rule 131) - Use of Ratio Study in Equalization - Rule 328 was amended to provide consistent procedures for including sales and adding appraisals from extended time periods that are consistent with school district ratio studies. Section 63-109, Idaho Code.

Rule 492 (Rule 962) - Taxation of Large Size Forest Tracts - Rule 492 was amended to clarify the productivity formula and to change the code reference from legislation passed by the 1998 legislature. Section 63-1705, Idaho Code.

Rule 496 (Rule 964) - Yield Tax on Applicable Forest Products - Rule 496 was amended to correct an error in the mathematical formula used to update bare forest land value of assessment purposes. Section 63-1706, Idaho Code.

Rule 562 (Rule 802) - Limitation on Budget Requests - Rule 562 was amended to clarify the requirement for the new construction roll to include the value of new construction in a revenue allocation area within an urban renewal district. The rule was also amended to provide a method for computing value on the new construction roll for property which had previously been on the property roll, but became exempt pursuant to Section 63-301A, Idaho Code.

Rule 610 - Property Exempt from Taxation--Residential Improvements--Special Situations - Promulgate a new Rule 610 to help clarify the homeowner's exemption in special situations involving multiple residences. Section 63-602G, Idaho Code.

Rule 650 (Rule 317) - Occupancy Tax on Newly Constructed Improvements on Real Property - Rule 650 was amended to delete the requirement that the county clerk send a certified copy of the occupancy tax roll to the State Tax Commission. The deletion is to save unnecessary paper work for a product that is neither used nor retained by the State Tax Commission. Section 63-317, Idaho Code.

Rule 709 - Property Tax Relief ("Circuit Breaker") Program--Special Situations - Promulgate a new Rule 709 to help clarify the 'circuit breaker' program in special situations involving multiple residences. Section 63-701, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee is applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed change is of a general application and the Tax Commission is unable to identify representatives of affected interests.

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

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 22nd day of July, 1998.

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

TEXT OF DOCKET NO. 35-0103-9803

105. -- 1078. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

116. -- 12419. (RESERVED).

120. INVESTIGATION OF WRITTEN COMPLAINTS (Rule 120).

01. Definitions. To investigate written complaints, the following terms are defined. ()

a. Complaint. Complaint means a written request for the State Tax Commission to investigate any

actions by public officials relating to property tax assessment or administration. ()

b. Complainant. Complainant means any individual making a complaint. ()

c. Investigation. Investigation means observation and close examination of a public official's application of assessment law and State Tax Commission rules. The investigation may require field inspections of property, analysis of public records or the interviewing of witnesses. The formal investigation will be focused or limited to cover only those issues raised by the complainant. ()

d. Public official. The term public official means the elected or appointed official whose actions are the subject of the complaint. ()

02. Investigation Procedure. The following procedures apply to an investigation of a complaint. ()

a. Filed in writing. All complaints must be submitted to the State Tax Commission in writing and signed by the complainant. ()

b. Examination of complaint. The complaint will be examined by the State Tax Commission to decide if a formal investigation will be conducted. ()

c. Notification of public official subject to investigation. The State Tax Commission will notify the public official to review the complaint, as soon as a formal investigation is contemplated. ()

d. Delivery of investigation order. The State Tax Commission will deliver to the public official a copy of the investigation order naming the investigators and outlining what is to be investigated. ()

e. Preliminary report. A preliminary report will be prepared by the investigator and legal council. The report will include findings and recommendations, and may include responses from the public official. ()

f. Presentation of preliminary report. The preliminary report will be presented to the complainant and the public official. The State Tax Commission investigators will be present when the report is discussed with the public official, subject to investigation, and the complainant. ()

g. Comment period. The complainant and the public official will be given a specified time to review and comment on the preliminary report, particularly to correct any errors of fact. ()

h. Final report. At the end of the review by the complainant and the public official a final report will be prepared by the investigator and legal council and submitted with any changes from the preliminary report highlighted. ()

03. Public Official's Response to Final Report. After the final report is completed, the public official shall outline how the investigator's recommendations will be implemented and provide a written explanation of why any recommendation has been rejected. ()

04. Conclusion of Investigation. The investigator's final report and the public official's written response to the report shall conclude the investigation. The conclusion of the investigation does not preclude the State Tax Commission from enforcing additional powers and duties as prescribed by law or the complainant and public official from exercising his or her right to appeal property valuations before a County Board of Equalization, the State Board of Tax Appeals or in District Court. ()

121. -- 124. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

128. -- 1330. (RESERVED).

328131. USE OF RATIO STUDY IN EQUALIZATION (Rule 131).

01. Annual Ratio Study. Each year, beginning in 1996, the State Tax Commission shall conduct a ratio study to assist in the equalization of assessments of property within and among the categories of property established in ~~IDAPA 35.01.03, Section~~ Rule 327 of these rules. The ratio study shall be conducted in accordance with the "Standard on Ratio Studies" published in 1990 by the International Association of Assessing Officers. The annual ratio study shall test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The State Tax Commission may delete sales when necessary to improve representativeness. The study shall be based on sales occurring between October 1 preceding the January 1st assessment date through September 30 following the January 1st assessment date. The study shall be completed in February following the end of the period studied. The appropriate ratio study statistical measure of level shall be determined as follows: (7-1-98)(____)

a. Given a normal distribution, the probability that the true mean level of assessment is between ninety percent (90%) and one hundred ten percent (110%) must be at least five percent (5%) or the mean based ninety five percent (95%) (one tailed) confidence interval must include some part of the range between ninety percent (90%) and one hundred ten percent (1010); or (4-5-95)(____)

b. Given a nonnormal distribution, the median based ninety percent (90%) (two tailed) confidence interval must include some part of the range between ninety percent (90%) and one hundred ten percent (110%). (4-5-95)

02. Tested for Equalization. Categories which will be tested for equalization purposes will include the following, provided that adequate samples can be obtained: (4-5-95)

a. Improved urban residential: Abstract Items 20 and 41; (4-5-95)

b. Unimproved urban residential: Abstract Item 20; (4-5-95)

c. Improved rural residential: Subcategory 1 (tracts): Abstract Items 12, 18, 34, and 40; Subcategory 2 (subdivisions): Abstract Items 15 and 37; (4-5-95)

d. Unimproved rural residential: Subcategory 1 (tracts): Abstract Items 12 and 18; Subcategory 2 (subdivisions): Abstract Item 15; (4-5-95)

e. Commercial: Abstract Items 11, 13, 16, 21, 27, 33, 35, 38, and 42. (Urban and rural categories and land and improved categories will be analyzed separately, if adequate samples are available.) (4-5-95)

f. Condominiums: Abstract Items 26 and 27, which may be analyzed separately, if adequate samples are available. (7-1-98)

g. Manufactured Housing: Abstract Items 46, 47, 48 and 65. (4-5-95)

03. Separate Analyzations. Categories 18 and 40 may be analyzed separately from Categories 12 and 34 if adequate samples are available. If these categories (18 and 40) are not used for residential property, they should not be included in the 12/34 study. (7-1-98)

04. Follow Up Ratio Study. When the annual ratio study provided in ~~IDAPA 35.01.03, Subsections 328131.01 and 328131.02,~~ discloses that assessments in any category of property in a county are out of compliance with the equalization standards of ~~IDAPA 35.01.03, Subsection 328131.03,~~ the State Tax Commission shall conduct a

follow up ratio study. The follow up ratio study shall test the assessments for January 1 of the year following the year tested by the annual ratio study and shall be based on property sales occurring during the calendar year immediately preceding that date. The State Tax Commission shall notify the county assessor of the results of the follow up ratio study. The notice shall indicate whether any adjustments will be considered by the State Tax Commission at its next equalization meeting in August based on either the annual or any follow-up ratio study and the reason for the proposed adjustments. (7-1-98)(____)

05. Use of Ratio Study Results. The results of the annual ratio study or any follow-up ratio study shall be one source of information upon which the State Tax Commission may rely when equalizing assessments of property by category under Section 63-6105~~2~~, Idaho Code. When the results of any ratio study show, with reasonable statistical certainty, that the appropriate measure of level of a category studied is less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessment of property within that category may be considered not equalized. When this occurs, the State Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in the category in an amount the State Tax Commission finds necessary to accomplish equalization of assessments of property in that category. (7-1-98)(____)

06. Use of Alternate Ratio Study. When the follow-up ratio study required by ~~IDAPA 35-01-03, Subsection 328131.04~~ does not measure the true assessment level, the State Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the State Tax Commission has reason to question the representativeness of the sample used in an annual or follow up ratio study conducted on any category of property, the State Tax Commission may delay implementation of any order to adjust property values until two successive years' ratio studies fail to produce an appropriate ratio study measure of level between ninety percent (90%) and one hundred ten percent (110%). (7-1-98)(____)

07. Submission of Additional Information. Any party may petition the State Tax Commission to consider any information or studies relevant to equalization. The petition shall include a description of the information to be presented and the petitioner's conclusions drawn from the information. (4-5-95)

132. -- 133. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

160. -- 164~~5~~. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

180: AMOUNT OF TAX REDUCTION:

01. Adjustment. ~~The adjustment effective January 1, 1997, is two and nine tenths percent (2.9%).~~ (3-23-98)

02. Effective Date. ~~Effective January 1, 1998, the brackets in Section 63-705, Idaho Code, are adjusted as follows:~~ (3-23-98)

income is \$7,620 or under	\$1,100, or actual taxes, whichever is less
\$7,621 but not more than \$7,940	\$1,070, or actual taxes, whichever is less;
\$7,941, but not more than \$8,260	\$1,040, or actual taxes, whichever is less;
\$8,261, but not more than \$8,600	\$1,020, or actual taxes, whichever is less;

\$8,601, but not more than \$8,900-	\$990, or actual taxes, whichever is less
\$8,901, but not more than \$9,230-	\$960, or actual taxes, whichever is less
\$9,231, but not more than \$9,560-	\$940, or actual taxes, whichever is less
\$9,561, but not more than \$9,870-	\$910, or actual taxes, whichever is less
\$9,871, but not more than \$10,190	\$880, or actual taxes, whichever is less
\$10,191, but not more than \$10,530-	\$860, or actual taxes, whichever is less
\$10,531 but not more than \$10,850-	\$830, or actual taxes, whichever is less
\$10,851, but not more than \$11,170	\$800, or actual taxes, whichever is less
\$11,171, but not more than \$11,500	\$780, or actual taxes, whichever is less
\$11,501, but not more than \$11,810	\$750, or actual taxes, whichever is less
\$11,811, but not more than \$12,140	\$720, or actual taxes, whichever is less
\$12,141, but not more than \$12,460	\$700, or actual taxes, whichever is less
\$12,461, but not more than \$12,780	\$670, or actual taxes, whichever is less
\$12,781, but not more than \$13,100	\$640, or actual taxes, whichever is less
\$13,101, but not more than \$13,430	\$620, or actual taxes, whichever is less
\$13, 431, but not more than \$13,760	\$590, or actual taxes, whichever is less
\$13,761, but not more than \$14,080	\$560, or actual taxes, whichever is less
\$14,081, but not more than \$14,380	\$540, or actual taxes, whichever is less
\$14,381, but not more than \$14,720	\$510, or actual taxes, whichever is less
\$14,721, but not more than \$15,050	\$480, or actual taxes, whichever is less
\$15,051, but not more than \$15,360	\$460, or actual taxes, whichever is less
\$15,361, but not more than \$15,700	\$430, or actual taxes, whichever is less
\$15,701, but not more than \$16,020	\$400, or actual taxes, whichever is less
\$16,021, but not more than \$16,330	\$380, or actual taxes, whichever is less
\$16,331, but not more than \$16,670	\$350, or actual taxes, whichever is less
\$16,671, but not more than \$16,970	\$320, or actual taxes, whichever is less
\$16,971, but not more than \$17,310	\$300, or actual taxes, whichever is less
\$17,311, but not more than \$17,630	\$270, or actual taxes, whichever is less
\$17,631, but not more than \$17,950	\$240, or actual taxes, whichever is less
\$17,951, but not more than \$18,270	\$210, or actual taxes, whichever is less
\$18,271, but not more than \$18,580	\$180, or actual taxes, whichever is less
\$18,581 but not more than \$18,920	\$150, or actual taxes, whichever is less

(3-23-98)

1840. -- 183. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

244. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR.

01. Continuing Program of Valuation Defined. "Continuing program of valuation" means the program by which each assessor completes the appraisal of all taxable properties each year. The assessor shall budget for personnel, supplies and equipment required. The program shall include: (11-28-94)

a. A plan outlining the continuing valuation program. The plan must show the total number of parcels by category and must include maps or written descriptions of the geographic areas to be appraised each year. It must also include the number of parcels to be appraised each year. The plan must be submitted to the Tax Commission on or before the first Monday of February in 1997, and every fifth year thereafter. (11-28-94)

b. A market data bank including sale prices of arm's length transactions of all types of property and information on income and expenses for commercial, industrial, and agricultural properties. (11-28-94)

e. Maps, prepared in accordance with Section 63-301, Idaho Code, and aerial photos or facsimiles of aerial photos which identify the current characteristics of each geographic area. (11-28-94)

d. A property record for each parcel, complete with the property characteristics necessary for an accurate prediction of the current market value. (11-28-94)

02. Appraisal Defined. "Appraisal" is a process which includes a field inspection of at least twenty percent (20%) of the properties each year. Such field inspection shall be comprehensive enough to collect and verify all property characteristics necessary for an accurate prediction of current market value. Appraisal also includes collection, verification, and analysis of market value sales, income and expense data and building cost information, and application of this information to predict market value. (11-28-94)

03. Index Defined. "Index" refers to any annual adjustment or trending factor applied to existing assessed values to reflect current market value. Ratio studies or other market analyses can be used to develop indexes based on property type, location, size, age or other characteristics. (11-28-94)

04. Assessed Values. Assessed values shall be tested annually by the Tax Commission as described in Section 63-605, Idaho Code, and Idaho Property Tax Administrative Rule 328 to determine whether they "reflect current market value". (11-28-94)

05. Procedures. The Tax Commission may examine the procedures used by each county in determining market value for assessment purposes for any category of property. (11-28-94)

245. -- 249. (RESERVED).

250. RATIO STUDIES - SCHOOL DISTRICTS (Rule 250).

01. Procedures for School District Ratio Studies. The ratio study conducted by the State Tax Commission to comply with the requirements of Section 63-315, Idaho Code, shall be conducted in accordance with the "Standard on Ratio Studies" published in 1990 by the International Association of Assessing Officers. For school district ratio studies completed after January 1, 1998, the following specific procedures will be used. (7-1-98)

a. Information on property sales, which meet the requirements of arm's length and market value sales, will be obtained and assembled into samples representing various categories of property and designations defined in Subsection 250.02 of this rule in each school district. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each school district between October 1 of the year preceding the year for which adjusted market value is to be computed and September 30 of the year for which adjusted market value is to be computed. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which adjusted market value is to be computed, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking.

The State Tax Commission may delete sales when necessary to improve representativeness. (7-1-98)()

b. A ratio will be determined for each sale by dividing the market value for assessment purposes of the property by the adjusted sale price or appraised value. (7-1-98)

c. A statistical analysis is to be conducted for the sales and any appraisals in each property designation defined in Subsection 250.02 of this rule in each school district and appropriate measures of central tendency, uniformity, reliability, and normality computed. (7-1-98)()

d. With the exception of any property designations with extended time frames or added appraisals, if fewer than five (5) sales and appraisals are available, no adjustment to the taxable value of the designation will be made. (7-1-98)

e. If there are five (5) or more sales and appraisals and it is determined with reasonable statistical certainty that the property designation is not already at market value for assessment purposes, an adjusted market value will be computed for the school district by dividing the taxable value for the year for which adjusted market value is to be determined by the appropriate ratio derived from the ratio study. The appropriate ratio to be used is one of the following: (7-1-98)

i. The weighted mean ratio, provided that the distribution of ratios is normal and the Price Related Differential (PRD) is between 0.98 and 1.03; (7-1-98)

ii. The unweighted mean ratio, provided that the distribution of ratios is normal and the PRD is less than 0.98 or greater than 1.03; or (7-1-98)

iii. The median ratio, if the distribution of ratios is not normal. (7-1-98)

f. Within each school district, adjusted market value or taxable value for each category of real, personal and operating property will be summed to produce the total adjusted market value for the school district. The school district taxable value will then be divided by this adjusted market value to produce the overall ratio of assessment in each school district. Statewide totals are to be calculated by compiling county totals. (7-1-98)

g. Urban renewal increment values will not be included in the taxable value or the adjusted market value for any school district. (7-1-98)

h. "Reasonable statistical certainty," that the property designation in question is not at market value for assessment purposes, is required. Such certainty is tested using ninety percent (90%) confidence intervals about the weighted mean, mean or median ratios. If the appropriate confidence interval includes one hundred percent (100%), there is not "reasonable statistical certainty" that the property designation is not at market value for assessment purposes. (7-1-98)

i. Categories of property subject to adjustment following the procedure outlined in this rule and ratio study designations from which measures of central tendency used for adjustments will be derived are:

Category	Property Category	Ratio Study Designation
41	Urban Residential Improvements	Residential
20	Urban Residential Land	Residential
37	Rural Residential Subdivision Improvements	Residential
15	Rural Residential Subdivision Land	Residential
34 & 40	Rural Residential Tract and Other Rural Improvements	Residential
12 & 18	Rural Residential Tracts and Other Lands	Residential
42	Urban Commercial Improvements	Commercial

Category	Property Category	Ratio Study Designation
21	Urban Commercial Land	Commercial
35 & 38	Rural Commercial Tract <u>and Subdivision</u> Improvements	Commercial
13 & 16	Rural Commercial Tracts and Subdivisions <u>Land</u>	Commercial
46, 47, & 65	Manufactured Homes and Attachments	Manufactured Homes and Attachments
48	Manufactured Homes Declared to be Real Property	Residential
26	Residential Condominiums	Residential
27	Commercial Condominiums	Commercial

(7-1-98)()

j. For all other property categories not contained in the list in Subsection 250.01.i. ~~of this rule,~~ adjusted market value will equal taxable value. (7-1-98)()

k. "Appraisal" or "appraised value" refers to any State Tax Commission provided independently conducted property appraisal. (7-1-98)

02. Use of Property Designations. In computing the ratio for each school district, the State Tax Commission will designate property as residential, commercial, or manufactured housing and shall assign appropriate property categories defined in ~~Section Rule 3287 of this chapter~~ these rules to these designations. For each school district, adjusted market value shall be computed by dividing the appropriate ratio ascertained for each of these designations into the sum of the taxable values for each category of property assigned to a designation. For the taxable value in any category to be included in said sum, at least one observation (sale or appraisal) from that category must be present in the ratio study. If the ratio for any given designation in a school district indicates that the market value for assessment purposes cannot be determined with reasonable statistical certainty to differ from statutorily required market value, the taxable value shown on the school district abstract(s) required pursuant to Subsection 250.04 ~~of this rule~~ for each of the categories included in that designation shall be the adjusted market value for said designation for said school district. (7-1-98)()

03. Assessor to Identify School Districts. Each county assessor will provide to the State Tax Commission the school district in which each sale submitted for the ratio study is located. (7-1-98)

04. Abstracts of Value by School District. Each county auditor shall provide to the State Tax Commission abstracts of the taxable value of all property within the portion of each school district in each county. These abstracts shall be submitted in the same manner and at the same time as provided for county abstracts of value. (7-1-98)

05. Urban Renewal Increment and Exemption to Be Subtracted. The taxable value of each category of property within each school district shall not include the value that exceeds the value on the base assessment roll in any urban renewal district pursuant to Chapter 29, Title 50, and shall not include the value of any exemption pursuant to Sections 63-602P, 63-602AA, 63-602K, 63-602G, 63-602X, 63-602CC, and 63-602BB, Idaho Code. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

302. -- 32613. (RESERVED).

314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR (Rule 314).

01. Definitions. ()
- a. Continuing program of valuation. "Continuing program of valuation" means the program by which each assessor completes the assessment of all taxable properties each year. ()
- b. Field inspection. The "field inspection" shall include an observation of the physical attributes of all structures which significantly contribute to the property value, the visible land amenities, and a notation of any other factors which may influence the market value of any improvements. ()
- c. Index. "Index" refers to any annual adjustment or trending factor applied to existing assessed values to reflect current market value. Ratio studies or other market analyses can be used to develop indexes based on property type, location, size, age or other characteristics. ()
- d. Prediction of market value. As used in Section 63-314, Idaho Code, "prediction of market value" means an estimate of market value. ()
02. Plan for Continuing Program of Valuation. The plan for continuing program of valuation shall include: ()
- a. General contents. A parcel count by category, the number of parcels to be appraised each year, maps that show each of the market areas, an analysis of staff requirements, a budget analysis (that includes labor costs, capital and supply costs, travel and education costs), and the method of program evaluation. ()
- b. Market data bank. A market data bank including collection, verification and analysis of sales, income and expense data, building cost information, and application of this information to estimate market value. ()
- c. Maps. Maps prepared in accordance with Section 63-209, Idaho Code, which identify characteristics of each geographic area. ()
- d. Property record. A property record for each parcel, complete with the property characteristics necessary for an estimate of the current market value. ()
03. Date Plan is Submitted. The plan must be submitted to the State Tax Commission on or before the first Monday of February in 1997, and every fifth year thereafter. ()
04. Testing for Current Market Value. Assessed values shall be tested annually by the State Tax Commission as described in Section 63-109, Idaho Code, and Rule 131 of these rules to determine whether they reflect "current market value". ()

315. -- 316. (RESERVED).

~~650~~317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY (Rule 317).

01. Manufactured Housing. Occupancy tax shall apply to industrial structures and new manufactured housing. Used manufactured housing is not subject to the occupancy tax. (3-23-94)
02. Value Prorated Monthly. The value for occupancy tax purposes shall be prorated at least monthly. (3-23-94)
03. Market Value. The market value for occupancy tax purposes shall be entered on an occupancy tax valuation roll. Occupancy tax shall not be included in the assessed value of any taxing district, but must be declared in the certified budget. (3-23-94)
04. Certified Copy. The county clerk shall certify a copy of the occupancy tax valuation roll to the Commission by the fourth (4th) Monday of January immediately following the year of first occupancy. (3-23-94)

318. -- 326. **(RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

328. **(RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

~~490. -- 491.~~ **~~(RESERVED).~~**

4930. -- 4956. **(RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

551. -- 5642. **(RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

601. -- 63409. **(RESERVED).**

610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS (Rule 610).

01. Scope. This rule addresses issues relating to the homeowner's exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. ()

02. Dual Residency Couples. As used in this rule, "dual residency couple" means a husband and wife, each of whom has established a different dwelling place as his or her primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 135.02 of these rules. ()

03. Dual Residency Couples -- General Principles. ()

a. Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homeowner's exemption. The test to be applied is the general test set out in Subsection 135.02 of these rules. ()

b. If a residential improvement is community property, either the husband or wife may exercise full management or control over it, except that neither the husband nor the wife can sell or encumber the property without the written consent of the other. Thus, either the husband or the wife can file an application for the homeowner's exemption regarding community property on his or her own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. ()

c. Neither spouse is a partial owner of community property. (This principle is an exception to laws

generally governing community property interests. It applies only for matters relating to the homeowner's exemption or the circuit breaker property tax relief program. See Section 63-701(8) Idaho Code.) Thus, there is no authority to reduce the amount of homeowner's exemption proportionally to reflect an ownership in community property. For purposes of the homeowner's exemption, a community property interest is treated the same as a full ownership interest. ()

d. An owner may apply only once for the homeowner's exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property. ()

04. Example -- Both Residences Are Community Property. ()

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. ()

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The full amount of homeowner's exemption applies to the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. ()

05. Example -- One (1) Residence Is Community Property, the Other Is Separate Property. ()

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. ()

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The full amount of homeowner's exemption applies to the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. ()

06. Example -- Both Residences Are Separate Property. ()

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as his or her separate property. Each applies for the homeowner's exemption for the residence in which he or she resides. ()

b. Both residential improvements qualify for the full homeowner's exemption. Neither application is a second application by the same owner. Each spouse is a sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. ()

07. Multiple Ownerships Including Community Interests as Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a husband and wife and to an adult child of theirs, the husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a two-thirds (2/3) partial interest and the child holds a one-third (1/3) partial interest in the property. Qualification of the property for the homeowner's exemption is as follows: ()

a. If the residential improvement is the primary dwelling of the husband and wife but not the child, the improvement qualifies for two-thirds (2/3) of the homeowner's exemption. ()

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the improvement qualifies for one-third (1/3) of the homeowner's exemption. ()

c. If the residential improvement is the primary dwelling of the husband, wife and child, the improvement qualifies for the full homeowner's exemption. ()

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the improvement qualifies for two-thirds (2/3) of the homeowner's exemption unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.06. The two-thirds (2/3) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Subsection 610.03.c. ()

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the improvement qualifies for the full homeowner's exemption unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02. through 610.06. ()

~~408~~611. VALUE OF RESIDENTIAL PROPERTY IN CERTAIN ZONED AREAS (Rule 611).

01. Improvements. The residential improvements and any additional garage, shed, or out-buildings on the same lot shall be appraised equitably with comparable improvements on residential lots in the vicinity. (7-1-93)

02. To Qualify for Exemption. The owner must reside in the residence in order to qualify. A residence purchased after January 1, 1980, in an area zoned other than residential, does not qualify for this exemption. (7-1-93)()

612. -- 634. (RESERVED).

~~465~~635. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (Rule 635).

01. Definitions. The following definitions apply for the implementation of the exemption for the speculative value portion of agricultural land. ()

a. Homesite. The "homesite" is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. ()

b. Associated site improvements. The "associated site improvements" include developed access, grading, sanitary facilities, water systems and utilities. ()

c. Speculative value exemption. The "speculative value exemption" is the exemption allowed on land actively devoted to agriculture. ()

042. Improved Homesite Assessment. Effective January 1, 1999, Each IMPROVED homesite and residential and other improvements, located on the homesite, on land actively devoted to agriculture shall be assessed at market value each year. (7-1-93)

a. Only land upon which residential improvements are located shall be considered a homesite. Accepted assessment procedures. Market value shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (7-1-93)()

b. Value shall be determined by establishing the value of raw land from market information on

~~comparable land and adding the typical cost of on site and off site improvements. Improvements include roads, grading, sanitary facilities, water systems, and utilities. Appropriate market and comparable selection. The appropriate market is the market most similar to the homesite and improvements, located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use.~~
(7-1-93)()

~~02c. Category 10 Listing. Assigning category. The value of the homesite acreage will be listed as in eCategory 10.~~
(7-1-93)()

~~03d. Homesite independent of remaining land. The value and classification of the homesite will be independent of the classification and valuation of the remaining land.~~
(7-1-93)()

~~043. Valuation of Remaining Land Valuing Land, Excluding the Homesite. The assessor shall value the remaining land, excluding the homesite, on the following basis:~~
(7-1-93)()

a. ~~Land used for personal use or pleasure. Any land, regardless of size, utilized for the grazing of animals kept primarily for personal use or pleasure and not a portion of a profit making agricultural enterprise, shall be valued at market value using appraisal procedures identified in Subsection 635.02 utilizing the market data approach and shall not qualify for this the speculative value exemption.~~
(7-1-93)()

b. ~~Land in a subdivision with restrictions prohibiting agriculture use. Land in a subdivision with restrictions prohibiting agricultural use shall be valued at market value using appraisal procedures identified in Subsection 635.02 utilizing the market data approach and shall not qualify for this the speculative value exemption.~~
(7-1-93)()

c. ~~Land, five (5) acres or less. Land parcels of five (5) acres or less shall be presumed nonagricultural, shall be valued at market value using appraisal procedures identified in Subsection 635.02 utilizing the market data approach, and shall not qualify for the speculative value exemption. If the owner produces bona fide evidence that the land has been devoted to agricultural use for the last three (3) growing seasons; and it agriculturally produced for sale or home consumption fifteen percent (15%) or more of the owner's or lessee's annual gross income; or it produced gross revenue in the immediate preceding year of one thousand dollars (\$1,000) or more, the land actively devoted to agriculture, shall be valued utilizing the income approach and shall qualify for this the speculative value exemption. For parcels of five (5) acres or less income is measured by production of crops, grazing, and includes or net income from sale of livestock. Income shall be estimated from crop prices at harvest. Application for agricultural classification. The use of the land and the income received in the prior year must be filed certified with the assessor by March 15, each year.~~
(7-1-93)()

~~ed. Lease income considered. Lease income may be considered in determining income qualifications only if the lease terms are defined, the carrying capacity is shown, and the rent is consistent with market rent.~~
(7-1-93)()

~~de. Land, more than five (5) acres. Land Pparcels of more than five (5) contiguous acres under one (1) ownership, producing agricultural field crops, timber, or grazing, or in a cropland retirement or rotation program, as part of a bona fide profit making agricultural enterprise, shall be assessed utilizing the income approach and shall qualify for the speculative portion of value of agricultural land exemption. Land not annually meeting any of these requirements shall be valued at market value using appraisal procedures identified in Subsection 635.02 utilizing the market data approach and shall not qualify for the exemption. Application for agricultural classification must be filed with the assessor by March 15. A successful application need only be filed once where the ownership and qualifying conditions remain unchanged in subsequent years.~~
(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

6540. -- 654. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

656. -- 999708. (RESERVED).

709. PROPERTY TAX RELIEF ("CIRCUIT BREAKER") PROGRAM -- SPECIAL SITUATIONS (Rule 709).

01. Scope. This rule addresses issues relating to the "circuit breaker" property tax relief program as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. ()

02. General Principles. Relief under the circuit breaker program is only available to owners of property which have first qualified for the homeowner's exemption under Section 63-602G, Idaho Code. Rule 610 of these rules addresses when property qualifies for the homeowner's exemption in the special situations discussed in this rule. ()

03. Dual Residency Couples. The definition of "dual residency couple" in Rule 610 of these rules applies to this rule. ()

a. Example -- Both residences are community property. Circuit breaker relief is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610 of these rules. ()

b. Example -- One (1) residence is community property, the other is separate property. Circuit breaker relief is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610 of these rules. ()

c. Example -- Both residences are separate property. Circuit breaker relief is available in regard to both residential improvements. See Rule 610 of these rules. ()

d. Household income. In the three (3) examples in Subsection 709.03, the household income upon which qualification is determined is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence plus the income of any other household member. ()

04. Multiple Ownerships Including Community Interests as Partial Owners. Example: A deed conveys title to real property to a husband and wife and to an adult child of theirs. The husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a two-thirds (2/3) partial interest and the child holds a one-third (1/3) partial interest in the property. Qualification of the property for the circuit breaker tax relief is as follows: ()

a. If the residential improvement is the primary dwelling of the husband and wife but not of the child, the improvement qualifies for two-thirds (2/3) of the benefits. Household income is the total of the community and separate income of the spouses and the income of any other household member. ()

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the improvement qualifies for one-third (1/3) of the benefits. Household income is the total of the child's income and the income of any other household member. ()

c. If the residential improvement is the primary dwelling of the husband, wife and child, the improvement qualifies for the full benefits. Household income is the total of the community and separate income of the spouses, the income of the child and the income of any other household member. ()

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the improvement qualifies for two-thirds (2/3) of the benefits unless the residential improvement

of the other spouse has qualified for the homeowner's exemption. Household income is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence plus the income of any other household member. ()

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the improvement qualifies for the full benefits unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption. Household income is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence plus the income of the child and the income of any other household member. ()

710. -- 801. (RESERVED).

562802. LIMITATION ON BUDGET REQUESTS, SECTIONS 63-802 AND 63-22301A, IDAHO CODE (Rule 802).

01. Budget Requested Documents. Each Board of County Commissioners shall submit a budget request for each taxing district in the county that certifies a budget request to finance the ad valorem portion of its annual budget to the State Tax Commission and shall not submit other documents unless requested to do so by the State Tax Commission. Documents not to be submitted to the State Tax Commission unless requested include newspaper advertisements, school district budget books, entire budget documents, other than the budget request, and similar documents. (7-1-98)

02. Classification of Land Use Change. "Change of land use classification" shall mean any change in land use resulting in a category change and in an increase in taxable land value to be reflected on the current assessment roll. Beginning with the assessment roll prepared to reflect value as of January 1, 1997, the increase in taxable land value due to change of land use classification shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (7-1-97)

03. New Construction Roll Listing. "Listing" shall mean a summary report of the net taxable value of property listed on the new construction roll. This listing shall include the taxable value of qualifying new construction throughout each taxing district or unit, including qualifying new construction within any revenue allocation area within any urban renewal district encompassed by the taxing district or unit. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. (7-1-97)()

04. Corrected New Construction Roll. The values shown on the listing required in ~~IDAPA 35-01-03, Subsection 56802.03~~ shall be subject to the adjustment if net taxable value for any property included on the new construction roll is changed by the county board of equalization meeting pursuant to Section 63-501, Idaho Code. Each county assessor must certify the corrected values to the appropriate county auditor. Each county auditor must report the corrected values to the State Tax Commission and to each taxing district prior to the first Monday of August on the notification required pursuant to Section 63-510(1), Idaho Code. (7-1-98)()

05. Manufactured Housing. "Installation" of new or used manufactured housing shall mean capturing the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

06. Partial New Construction Values. The net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Any increase in a parcel's taxable value, due to new construction, shall be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. In the case of partially completed property previously reported on the property roll, but subsequently exempt pursuant to Section 63-602W, Idaho Code, the increase in value to be reported on the new construction roll following loss of this exemption shall be the difference between previously reported new construction roll value and the taxable value for the year in which the occupied property is first entered on the property roll. If any of this difference is attributable to inflation, such value shall not be included on the new construction roll. (7-1-97)()

Example: Assume a partially completed, never occupied residential improvement was assessed at ten thousand dollars (\$10,000) as of January 1, 1997. The improvement was occupied February 2, 1998. Assume the ten

thousand dollars (\$10,000) value was on the 1997 new construction roll. Assume that in 1999 the improvement is assessed at ninety thousand dollars (\$90,000) and a forty-five thousand dollars (\$45,000) homeowner's exemption is then deducted. Assume there has been no inflation. The amount that can be reported on the 1999 new construction roll is calculated as follows: ()

<u>1999 Value (before homeowner's exemption)</u>	<u>\$90,000</u>
<u>1999 Homeowner's Exemption</u>	<u><45,000></u>
<u>1999 Taxable Value (after homeowner's exemption)</u>	<u>\$45,000</u>
<u>1997 Value Already Reported on New Construction Roll</u>	<u><10,000></u>
<u>1999 New Construction Roll Value (this improvement)</u>	<u>\$35,000</u>

07. Nonresidential Structure. Nonresidential Structure shall mean any structure listed by the assessor in any category not described as residential, manufactured homes, or improvements to manufactured homes pursuant to IDAPA 35.01.03, Section Rule 327 of these rules. (7-1-97)()

08. Change in Exemption Status. A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W, Idaho Code. ()

089. Annexation Values for Operating Properties. Pursuant to Section 63-802, Idaho Code, the State Tax Commission shall certify the current year's taxable values of operating properties within annexations made during the previous calendar year. This certification will be a list summarizing the values of said operating properties for each applicable taxing district or unit. The State Tax Commission shall send this list to the "appropriate county auditor" on or before the third Monday in July. The State Tax Commission shall calculate these values based on the best available information. (7-1-98)

0910. Corrected Annexation Values for Operating Properties. If any annexation values reported pursuant to IDAPA 35.01.03, Subsection 56802.089 require correction, the State Tax Commission shall report such corrected annexation values for operating properties on or before the first Monday of September. The State Tax Commission shall send these values to the "appropriate county auditor". (7-1-98)()

101. County Auditor to Notify Taxing Districts or Units. As soon as possible, but not later than fourteen (14) days after receipt of the list pursuant to IDAPA 35.01.03, Subsection 56802.089 or the corrected values pursuant to IDAPA 35.01.03, Subsection 56802.0910, the "appropriate county auditor" shall send these values to the affected taxing districts or units. (7-1-98)()

112. "Appropriate County Auditor" Defined. For IDAPA 35.01.03, Subsections 56802.089, 56802.0910, and 56802.101, the "appropriate county auditor" is each county auditor of each county within which any annexed areas are located. (7-1-98)()

803. -- 961. (RESERVED).

492962. TAXATION OF LARGE SIZE FOREST TRACTS (Rule 962).

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

STEP 1 :	(MAD) MEAN ANNUAL GROWTH INCREMENT MULTIPLIED BY THE (SV) STUMPAGE VALUE
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STEP 2 :	ADD OTHER AGRICULTURAL RELATED INCOME
STEP 3 :	MINUS COSTS
STEP 4 :	THE SUM OF STEPS 1 - 3 DIVIDED BY THE CAPITALIZATION RATE
STEP 5 :	EQUALS THE PRODUCTIVITY VALUE
$\frac{\text{MAI} \times \text{SV} + \text{other agricultural related income} - \text{costs}}{\text{Capitalization Rate}}$	
KEY:	
MAI = Mean Annual g Growth Increment, board feet/acre/year	
SV = Stumpage Value, preceding five (5) year rolling average <u>value</u> of timber harvested within the forest value zone from state timber sales or the best available data for the same five (5) year period.	
Other Agricultural Related Income = Grazing income from the forest land.	
Costs = Annualized expenses directly related to producing the forest crop, including, but not limited to the establishment, maintenance, improvement, and management of the crop over the rotation period, including the forest protection fee currently charged by the Idaho Department of Lands.	
Capitalization Rate = Shall be the five (5) year rolling average from the Spokane office of the Farm Credit Service determined in accordance with the procedures described for the determining of the capitalization rate for agricultural lands in Section 63-602k1705, Idaho Code.	

(7-1-97)()

02. Forest Valuation Zones. The state shall be divided into four (4) forest valuation zones:

(7-1-97)()

- a. ZONE 1 - Boundary, Bonner, Kootenai counties. (7-1-97)
- b. ZONE 2 - Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, Idaho counties. (7-1-97)
- c. ZONE 3 - Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka counties. (7-1-97)
- d. ZONE 4 - The remaining nineteen (19) counties. (7-1-97)

03. Classification of Forest Lands. Forest valuation Zones 1 and 2: There shall be three (3) separate productivity classes of forest land poor, medium, and good. These broad classes are related in the following manner by definition to the "~~MEYER~~ Reyer ~~AND~~ and ~~HAIG~~ Haig ~~TABLES~~ Tables". These classes apply to forest land which may or may not be stocked with commercial or young growth timber. (7-1-93)()

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

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

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

d. Forest land shall be stratified into areas of similar productive potential using the habitat typing methodology described in Forest Habitat Types of Northern Idaho: A Second Approximation, 1991 edition. Within these stratified areas, site index trees will be selected and measured that will identify the site index to be used to place the land in one (1) of the three (3) productivity classes listed above. (7-1-97)

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

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

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

(7-1-97)()

05. Deficient Areas. Lakes, solid rock bluffs, talus slopes, and continuously flooded swampy areas, larger than five contiguous acres in size which can be identified on aerial photos shall be valued at forty percent (40%) of the poor bare land value as defined in Section 63-1706, Idaho Code. These areas are defined as being incapable of growing trees. (7-1-97)

963. (RESERVED).

964. YIELD TAX ON APPLICABLE FOREST PRODUCTS (Rule 964).

01. The ~~formula shown~~ calculation described below will be used to update the bare forest land value for tax assessment purposes on an annual basis:

$$BLV_z = [(0.5 \times \frac{|T_z - T_n|}{T_n}) + 1] \times (BLV_y)$$

:

STEP 1 :	SUBTRACT T_n FROM T_{n+1} T_z
STEP 2 :	DIVIDE THE ANSWER IN STEP 1 BY T_n
STEP 3 :	MULTIPLY THE ANSWER IN STEP 2 BY 0.5
STEP 4 :	ADD 1 TO THE ANSWER IN STEP 3
STEP 5 :	MULTIPLY BLV_y BY THE ANSWER IN STEP 4 BY BLV_y
STEP 6 :	DIVIDE THE ANSWER IN STEP 5 BY T_n TO GET BLV_{y+1}
KEY:	
BLV_{y+1} = Bare land value for next year	
BLV_y = Bare land value for current year	
T_{n+1} = Five year average stumpage value (\$/MBF) for the period ending in the current year	
T_n = Five year average stumpage value (\$/MBF) for the period ending one year ago	
The stumpage value used in the formula shall be the same as that used in the productivity formula by zone, and the bare forest land values shall be reviewed by the <u>State Tax</u> Commission periodically.	

(7-1-97)()

02. Landowner's Report. By June 1, of each year the county treasurer shall make a written report to include the forest landowner's name, legal description of forest property owned, and yield taxes paid for the current assessment year. This report shall be submitted to the county auditor and shall be kept on file. (7-1-97)

965. -- 999. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9804
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

Operating Property Rules 369 through 416 and Rule 600. These rules have been amended to clarify and reorganize the existing operating property rules to reflect current procedures and terminology. The following are rules that are being renumbered with the new number in parentheses immediately after the current number: Rule 369 (Rule 404); Rule 377 (Rule 405); Rule 386 (Rule 407); Rule 404 (Rule 407); Rule 391 (Rule 408); Rule 404 (Rule 411); Rule 408 (Rule 413); Rule 412 (Rule 415); Rule 416 (Rule 417). Rules 373, 381, 400 and 600 are being deleted because they are obsolete. The rule number 400 is being used for a new Rule 400. Chapter 4, Title 63, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee is applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed change is of a general application and the Tax Commission is unable to identify representatives of affected interests.

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

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 22nd day of July, 1998.

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

TEXT OF DOCKET NO. 35-0103-9804

~~370.---372. (RESERVED).~~

~~373. MANNER OF ASSESSMENT-VALUATION-~~

~~All railroad, pipeline, and utility companies, operating in the state, shall furnish and file with the Commission, by April 30, on forms provided or approved by the Commission, information pertinent to the company ownership and operation. Information is to be prepared and presented in such manner as to be reliable data for purposes of preparing a mathematical estimate of market value. Reference: ISTC 047 for specific contents. (7-1-93)~~

~~374.---376. (RESERVED).~~

~~377. MANNER OF ASSESSMENT-VALUATION-~~

~~01. Appraisal Techniques. Appraisal techniques used by the Commission in estimating market value for assessment purposes will be the same as recognized by court decisions, supported by text books and technical publications common to the industry. These techniques include the cost approach, income approach, and stock and debt or market approach. By correlation of these approaches, market value is estimated. (3-4-96)L~~

~~02. Unitary Method of Valuation. The unitary method of valuation is, in most cases, used by the department on centrally assessed properties. This method values the entire units of property as one (1) thing or going concern. valuation. For example, the estimated market value of a line of interstate railroad or utility is something more than an aggregation of the value of separate parts of it, operated separately. It is the aggregate of these values plus that arising from the unitary operation of the whole which constitutes the full value of property. Then each state has an equal right to a just proportion of that value. (3-1-96)L~~

~~03. Material Relating to Valuation. The material relating to valuation, value approaches, reproduction and replacement cost approaches to value, historical and original cost approaches to value, the income approach and stock and debt approach to value shall also apply to the assessment of private railroad car companies except as provided otherwise in Idaho Property Tax Administrative Section 204 of these rules. (3-1-96)L~~

~~04. Value Approaches. The level of market value sought shall be consistent with the market value concept defined in Section 204 of these rules. The appraiser shall consider one (1) or more of the following, as may be appropriate for the property being appraised. (3-4-96)L~~

~~a. The price or prices at which the property and comparable properties have recently sold the comparative sales approach. (7-1-93)~~

~~b. The prices at which fractional interests in the property or comparable property have recently sold, and the extent to which prices would have been increased had there been no prior claims on the assets (stocks and debt approach). (7-1-93)~~

~~e. The cost of replacing reproducible property with new property of similar utility, or of reproducing the property at its present site and at present price levels, less the extent to which the value has been reduced by depreciation, including both physical deterioration and obsolescence the replacement or reproduction cost approach. (7-1-93)~~

~~d. The amount invested in the property or the depreciation computed the method employed by the regulatory agency if the income from the property is regulated by law and the regulatory agencies use historical cost or historical cost less depreciation as a rate base the historical cost approach. (7-1-93)~~

~~e. The amount that investors would be willing to pay for the right to receive the income that the property would be expected to yield, with the risk attendant upon its receipt the income approach. (7-1-93)~~

~~05. Reproduction and Replacement Cost Approaches to Value. (7-1-93)~~

a. ~~The reproduction or replacement cost approach to value is used in conjunction with other value approaches and is preferred when neither reliable sales data including sales or fractional interests nor reliable income data are available and when the income from the property is not so regulated as to make such costs irrelevant. It is particularly appropriate for construction work in progress.~~ (7-1-93)

b. ~~The reproduction cost of a property may be extended either by 1) adjusting the property's original cost for price level changes and abnormalities, if any, or 2) applying current prices to the property's labor, material, components, with appropriate additions for managerial services, interest on borrowed or owner-supplied funds, or other costs typically incurred in bringing the property to a finished state (or to a lesser state as unfinished on the lien date). Estimates may be made by using square feet, cubic feet, or other unit costs; a summarization of the in place costs of all components; a quantity survey of all material, labor and other cost elements; or combination of these methods.~~ (7-1-93)

e. ~~The original costs of reproducible property shall be adjusted, in the aggregate or by groups, for price level changes since original construction by multiplying the cost incurred in a given year by an appropriate price index factor. When detailed investment records are unavailable for earlier years or when only a small percent of the total investment is involved, the investments in such years may be lumped and factored to present price levels by means of an index number that represents the appraiser's best judgement of the weighted average price change. If the property was not new when acquired by its present owner and its original cost is unknown, its acquisition cost may be substituted for original cost in the foregoing calculations.~~ (7-1-93)

d. ~~The replacement cost of property may be estimated as indicated by applying current prices to the labor and material components of a substitute property capable of yielding the same services and amenities, with appropriate additions as specified in Subsection 377.05.b.~~ (7-1-93)

e. ~~Reproduction or replacement cost shall be reduced by the amount that such cost is estimated to exceed the current value of the reproducible property by reason of physical deterioration, misplacement, over or under improvement, and other forms of depreciation or obsolescence. The percent that the remainder represents, of the reproduction or replacement cost, is the property's percent good.~~ (7-1-93)

~~06. Historical and Original Cost Approaches to Value.~~ (7-1-93)

a. ~~Historical cost is the first cost of a property item regardless of the present owner or interim sales transactions. It usually refers, in utility properties, to the cost of a property item when first devoted to public service.~~ (7-1-93)

b. ~~Original cost is the cost of a property item to the present owner. At times, it is used as equivalent to historical cost. The majority of utility companies have had their major growth under control of state and federal regulatory bodies. Original cost has been defined by the regulatory agencies as the cost of property when first devoted to utility service. This amount is nearly always the amount shown on the books of the company as investment in operative plant. If one (1) operating company were to purchase another operating company, and consolidate the books, the amount the surviving company would be permitted and required to show in its investment in plant accounts is the amount the dead company had invested, regardless of whether the purchase price was more or less than the book amount, with the difference being carried in a balance sheet account, the amount to be written off during a period of time through surplus. This depreciated original cost is the basis used by the regulatory bodies to develop a rate base upon which the utility may earn.~~ (7-1-93)

~~07. The Income Approach to Value.~~ (7-1-93)

a. ~~The income approach to value should be used in conjunction with other recognized approaches when the property under appraisal is typically purchased in anticipation of a money income. It is the preferred approach for the appraisal of land when reliable sales data for comparable properties are not available. It is the preferred approach for the appraisal of improved real properties and personal properties when reliable sales data are not available and the cost approaches are unreliable because the reproducible property has suffered physical depreciation, functional or economic obsolescence, is a substantial over or under improvement, is misplaced, or is subject to legal restriction on income that is unrelated to cost.~~ (7-1-93)

~~b. Using the income approach, an appraiser values an income property by computing the present worth of future income. This present worth depends upon the size, shape, duration of the estimated income stream and upon the capitalization rate at which future income is discounted to its present worth. (7-1-93)~~

~~e. The income to be capitalized is the amount which an informed owner and informed buyer may anticipate on the lien date that the taxable property existing on that date will yield under prudent management and subject to such legal enforceable restrictions as such persons may foresee as of that date. This income is the amount of operating income or revenue left after paying operating expenses and certain other recognized obligations but before payment of any interest on debt or dividends on stock. These terms mean the net income available to all interests in the property, i.e., the debt holders and the stockholders. (7-1-93)~~

~~d. The income approach shall be used according to nationally accepted appraisal techniques. The direct capitalization techniques or derivatives thereof shall not be used in estimating the value for the income approach. (3-4-96)L~~

~~08. Stock and Debt Approach to Value. (7-1-93)~~

~~a. Application. It is important to use the stock and debt approach to value in conjunction with other approaches to the unit value of property 1) when the value of the stock and debt can be adequately measured by reference to market transactions and 2) when the value of the property approaches the value of all the property of the enterprise or can be extracted from the value of all the property of the enterprise by means of reasonable allocation devices. The approach is based on the accounting concept that the value of the assets, property, of an enterprise equals the sum of the values of the enterprise's capital stock and its liabilities. (7-1-93)~~

~~b. Valuation of Stocks. The stocks to be valued are the outstanding shares of preferred and common stock other than those held by an affiliate included in the unit to be valued, plus any publicly held shares of such affiliates. The value of the shares of preferred or common stock is indicated by their market prices per share on the lien date, or the average prices per share over a recent relatively short period, multiplied by the number of shares outstanding on the lien date or at the end of the period. For shares traded over the counter, either the average of their bid and ask prices or their actual sales prices may be used as market prices. If neither market prices nor bid and ask prices are available for a stock that is a comparatively unimportant part of the capitalization, such stock may be valued by reference to preferred stock yields or common stock yields and price/earnings ratios for issues of comparable quality. (7-1-93)~~

~~e. Valuation of Current Liabilities. The current liabilities to be valued are those current and deferred liabilities that are actual legal obligations. The market value of these debts is indicated by their face or book value in the absence of evidence to the contrary. Contingent liabilities should be excluded unless there is evidence that they represent actual legal obligations. The objective is to include any obligation that purchasers of the total equity interest would assume, at the amount the purchaser would reduce the price he pays for the equity interest by reason of the obligation assumed. (7-1-93)~~

~~d. Exclusions. The market value of the stock plus the market value of the debts equals the value of the enterprise. When the enterprise owns nontaxable property, such as cash, receivables, and securities, or property assessable by other agencies, the enterprise value must be reduced by the amount these items are estimated to contribute to the stock and debt value in order to arrive at the market value of the assessable property. If the objective of the appraiser is to arrive at an indicator of the value of the taxable unitary property, the enterprise value must also be reduced by the value of any non-unitary property within the assessor's jurisdiction. (7-1-93)~~

~~e. Additions. The stock and debt value includes only the so-called bonus value of leased property, which may be positive or negative. Consequently, if leased properties are included in the unit that is being appraised, the capitalized net rental payments must be added to the stock and debt value to derive the unit value indicator. (7-1-93)~~

~~09. Method of Apportionment Situs Property. (7-1-93)~~

~~a. Property which is of such nature that it cannot be reasonably apportioned on the basis of rail, wire,~~

or pipeline mileage shall be referred to as situs property. The word SITUS shall be interpreted as meaning the place where something exists. Undepreciated cost is considered by the Commission to be of prime importance and the basis of apportionment for such situs property to the county and district in which this property is situated. Property having this status is generally considered as being microwave stations and radio relay towers which are not physically connected with wires; fish facilities of an electrical power company where in such facilities are located in a district in which no wire miles exist; furniture and fixtures located in a district having no track, wire or pipeline miles. (7-1-93)

b. Leased machinery and equipment, leased land, buildings and improvements located thereon which are considered as being used as a stage of utility or materiality to the operating company's business are situated to insure proper identification of property assessment, and billing of taxes to the lessee as well as the lessor. (7-1-93)

~~378.---380. (RESERVED);~~

~~381. ATTENDANCE OF AGENTS OF UTILITY.~~

01. Attendance at Hearing. The Commission may require the attendance of the person to be assessed under Section 63-701, Idaho Code, et seq., or Section 63-801, Idaho Code, et seq., or the officers, managers or agents of such person with or without a formal hearing. Notice of the Commission's requirement of testimony may be given by mail, and if a formal hearing has been requested, the notice may be sent with the Notice of Hearing. (7-1-93)

02. Designation of Witness. The Commission may require the person to be assessed to designate a witness who consents to testify on any matter designated by the Commission which in the judgement of the Commission, would assist it in fixing the value of the property. The person designated shall testify as to matters known or reasonably susceptible to being ascertained by the person to be assessed. (7-1-93)

03. Required Documents or Items Needed for Assessment. The notice may also require the person to be assessed to produce all documents or items which the Commission might designate to enable it to value or assess the property, whether or not a formal hearing has been requested or testimony is to be taken. (7-1-93)

~~382.---385. (RESERVED);~~

~~386. TAXPAYER ENTITLED TO HEARING PROCEDURES BEFORE THE STATE TAX COMMISSION.~~

01. Procedure Governed. These rules shall govern all practice and procedure before the Commission in all matters arising under Section 63-701, Idaho Code, et seq., and Section 63-801, Idaho Code, et seq. (7-1-93)

02. Liberal Construction. These rules shall be liberally construed to secure just, speedy and economical determination of all issues presented to the Commission. In special cases, where good cause appears, not contrary to statute, the Commission may permit deviation from these rules insofar as it may find compliance therewith to be impracticable or unnecessary. (7-1-93)

03. Communication. All notices and petitions herein required to be filed with the Commission must be in writing, identify the filing party, signed by the filing party, dated and give the filing party's mailing address and telephone number. Filing shall not be complete until the documents or items are received by the Commission. (7-1-93)

04. Service by Commission. All notices and orders required to be served by the Commission may be served by mail and service thereof shall be complete when a true copy of such document, properly addressed and stamped, is deposited in the United States mail. (7-1-93)

05. Parties. (7-1-93)

a. Petitioner. Persons petitioning for formal hearings shall be called petitioners. (7-1-93)

b. Staff. Commission staff may appear as a party at any hearing and may be represented by Deputy Attorney Generals assigned to the Commission. (7-1-93)

06. ~~Appearances and Practice.~~ (7-1-93)
- a. ~~Rights of Parties. At any hearing, all parties shall be entitled to enter an appearance, to introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding.~~ (7-1-93)
- b. ~~Taking of Appearances. The presiding officer conducting the hearing may require appearances to be stated and shall see that all parties present are identified on the record.~~ (7-1-93)
- e. ~~Representation of Parties. Appearances and representation of parties shall be made as follows: A party who is a natural person may represent himself or herself or be represented by an attorney. A partnership may be represented by a partner, duly authorized full-time employee or by an attorney. A corporation may be represented by an officer, duly authorized full-time employee or by an attorney. A municipal corporation or nonprofit organization may be represented by an officer, duly authorized full-time employee or by an attorney. All other parties may appear and shall be represented by an attorney. An attorney who is not admitted to practice in the state may not appear and represent parties unless such attorney is duly admitted to practice and in good standing before the highest court of any state and is associated with an attorney who is admitted to practice and in good standing in the state.~~ (7-1-93)
07. ~~Pre-Hearing Conferences.~~ (7-1-93)
- a. ~~General. The Commission may, upon written or other sufficient notice to all interested parties, hold a pre-hearing conference for the purpose of formulating or simplifying the issues, obtaining admissions of fact and of documents which will avoid unnecessary proof, arranging for the exchange of proposed exhibits or prepared expert testimony, limitation of number of witnesses, procedure at the hearing, and such other matters which may expedite orderly conduct and disposition of the proceedings or settlements thereof.~~ (7-1-93)
- b. ~~Action Taken. The actions taken at such conference and the agreements made thereat by the parties concerned shall be recorded and the Commission may issue a pre-hearing order in respect thereto. When so issued such pre-hearing order will control the course of subsequent proceedings unless modified at the hearing to prevent manifest injustice.~~ (7-1-93)
- e. ~~Facts Disclosed Privileged. Facts disclosed in pre-hearing conferences are privileged. Except by agreement, they shall not be used against participating parties, before the Commission or elsewhere, unless proved by evidence other than that employed in disclosing such facts.~~ (7-1-93)
08. ~~Hearings.~~ (7-1-93)
- a. ~~Request for Hearing. All requests for formal hearings shall be in the form of a petition and two (2) copies filed with the Commission on or before August 1st of the current year. The petition shall state all factual and legal basis on which the request is based.~~ (7-1-93)
- b. ~~Notice of Hearing. The Commission shall notify all petitioners of the place, date and time of the formal hearing.~~ (7-1-93)
- e. ~~Motions. Motions may be submitted for the Commission's decision on either written or oral argument and the filing of affidavits in support or contravention thereof may be permitted. Motions filed by different parties but involving the same point of law may be set for hearing at the same time. The practice respecting motions and forms thereof shall conform insofar as practicable with the practice in the district courts of the state.~~ (7-1-93)
- d. ~~Hearing Officer. The hearing shall be conducted by the Commissioner supervising the ad valorem section of the Commission or his designate. The Commissioner shall not vote on any matters where he has been staff supervisor.~~ (7-1-93)
- e. ~~Testimony Under Oath. All testimony to be considered by the Commission in formal hearings, except matters noticed officially or entered by stipulation, shall be sworn testimony. Before taking the witness stand each person shall swear, or affirm, that the testimony he is about to give in hearing before the Commission shall be the~~

~~truth, the whole truth and nothing but the truth.~~

(7-1-93)

f. ~~Rules of Evidence. In conducting any investigation, inquiry or hearing, neither the Commission nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding or in the manner of taking of testimony shall invalidate any order, decision, or rule made, approved or confirmed by the Commission. Rules of evidence before the courts of the state will be generally followed but may be relaxed at the discretion of the Commission when deviation from the technical rules of evidence will aid in ascertaining the facts. When objection is made to the admissibility of evidence such evidence may be received subject to later ruling by the Commission. The Commission, at its discretion either with or without objection may exclude inadmissible, incompetent, cumulative or irrelevant evidence or order such evidence discontinued. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered. The evidence to be admitted at hearing shall be material and relevant to the issue.~~

(7-1-93)

g. ~~Recessing Hearing for Conference. In any proceeding the presiding officer may, in his discretion, call all parties together for a conference prior to the taking of testimony, or may recess the hearing for such conference, with the view of carrying out the purpose of this rule. The presiding officer shall state on the record the results of such conference.~~

(7-1-93)

h. ~~Transcript. An official transcript of the hearing will be taken. Any party desiring the taking of stenographic notes by a qualified court reporter may so request in writing. The party requesting the report shall bear the expense of the reporter's attendance fees and if the reporter's transcript is deemed by the Commission or presiding officer as the official transcript of the hearing, the party requesting the reporter shall furnish the Commission a transcript free of charge.~~

(7-1-93)

i. ~~Transcript Copies. Any person desiring a copy of the record of proceedings taken at any hearing must inform the Commission in writing or on the record. Upon completion of the record, the Commission shall notify the person requesting a copy of its completion and the fee for producing such record. Upon receipt by the Commission of the amount of the fee in cash, certified check or money order, the Commission will forward a copy of the record to the requesting party.~~

(7-1-93)

369. -- 386. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

391. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

400. ~~CAR COMPANIES DEFINED~~ STATEMENT ACCESS TO INFORMATION ON VALUATION (Rule 400).

01. ~~Filing a Statement. Representatives of all railroad car companies or business enterprises, other than railroad companies operating a line of railroad or any sleeping cars owned by a car company, owning or operating any cars or having any property in the state for the year ending December 31 of the preceding year, shall by April 30 of each year, file a statement with the Commission. Public Records and Qualifying Disclosure Exemption. Public records are presumed to be open to the public. Records containing certain information pertaining to private businesses may be exempt from disclosure. See Sections 9-337 and 9-340(4), Idaho Code.~~

(7-1-93)(____)

02. ~~Report Form for Car Companies. To obtain uniformity, the Commission has prepared a report form for car companies. The report form will be T.C. Form AR-1 captioned RAILROAD CAR COMPANIES ANNUAL REPORT. Three (3) copies of such report forms will be mailed by the Commission to all known car companies following the assessment date, January 1, each year. One (1) completed copy of the report form must be returned to~~

~~the Commission by April 30 of each year. Additional report forms will be available upon request. Designation of Information as Confidential. The taxpayer, whose operating property is assessed by the State Tax Commission, or the operator of this property may designate all or part of the information in the operator's statement as confidential. Information submitted as a supplement or schedule to the operator's statement may also be designated in whole or in part as confidential. The request must be made in writing and attached to the operator's statement required by Rule 404 of these rules.~~ (7-1-93)()

03. ~~No Obviation of Assessment or Tax Payment. The fact that report forms are inadvertently not mailed or a company may not have received report forms will in no case be grounds to obviate an assessment or payment of tax. Treatment of Designated Information. The State Tax Commission shall treat the designated confidential information and the portions of the appraisal reports, incorporating such information, as exempt from disclosure under Section 9-340(4), Idaho Code.~~ (7-1-93)()

04. ~~Additional Documents to Be Filed. In addition to the above report, it is requested that a copy of the last annual report of the Board of Directors, or other officers, for the stockholders of the company, and a copy of its Interstate Commerce Commission Report, be furnished the Commission. Assessor's Access to Designated Information. The assessor of a county in which the value of an operating property is apportioned may, in the offices of the State Tax Commission, examine the information designated as confidential for the operating property in question. An assessor cannot disclose this information. The assessor cannot obtain or make copies of this information.~~ (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

~~369~~404. OPERATING OR'S STATEMENT--CONTENTS (Rule 404).

01. ~~Operator's Statement and Operating Statement. The operator's statement, required to be filed under Section 63-704 Idaho Code, and operating statement, specified in Section 63-705, Idaho Code, shall be interpreted as being one and the same statement. In the operator's statement, the number of miles of railroad track, electrical and telephone wire, pipeline, etc., must be reported to the hundredth mile in decimal form (0.00) in each taxing district or taxing authority and must be reported by the uniform tax code area method.~~ (7-1-93)()

a. ~~The contents of the operating statement, provided in this section, among other things, requires railroad companies to report total number of miles of each line within each state, the number of miles of mail line, branch line, second track, siding and spurs being separately shown, and the number of miles within any county. For purposes of such reporting, the words mail line shall be interpreted as meaning main line of railroad trackage.~~ (7-1-93)

b. ~~The reporting of the number of miles of railroad track, electrical and telephone wire miles, pipeline miles, etc., in each taxing district or taxing authority must be carried to two (2) figures beyond the decimal point and will be reported by the uniform tax code area method.~~ (7-1-93)

02. ~~Tax Code Area Maps. Current tax code area maps shall be made available in the following manner: By February 15 of each year, the State Tax Commission shall send to all companies having operating property within the state of Idaho, except private railcar fleets, a list of all changes in tax code area boundary lines. The reporting company shall review the list of changes to identify any tax code areas, within which any of the company's operating property is located. The reporting company shall report, under Subsection 404.01, based on these identified tax code areas. The State Tax Commission shall provide the tax code areas maps to the reporting company at cost.~~ (7-1-93)()

a. ~~Immediately following January 1 of each year the Commission shall update tax code area tracings from which blue line prints can be made. The updated tax code area tracings and blue line prints shall include new taxing districts and changes in district boundaries of existing taxing districts.~~ (7-1-93)

b. ~~Approximately January 30 of each year, the Commission shall circulate to all companies having~~

operating property within the state of Idaho, except car companies, a mimeographed list of all changes in tax code areas in all counties.

Hypothetical example: BINGHAM COUNTY

Tax Code Area

Number

01 Has been enlarged to include annexation to City of Blackfoot. Such annexation occurring is SW 1/4 Section 2, T 3 N, R 35 E, B.M.

Number

041 New number added due to incorporation of the City of Springfield located in SW 1/4 Section 28, T 4 S, R 32 E, B.M., such area being previously included in tax code area No. 18. (7-1-93)

e. It then becomes the responsibility of the reporting company to review the mimeographed list of changes to determine if any changes affect their company. (7-1-93)

d. Blue line prints of tax code area maps may be obtained from the Tax Commission at cost. (7-1-93)

03. Reporting of Mileage. The following procedures apply for reporting mileage. (7-1-93)()

a. Railroads. The report of track mileage for all railroads shall consist of the name of the main line and branch lines, and the track miles of such lines shall be reported under the column captioned Main track miles. Track miles consisting of passing track, yard switching, spurs, sidings, etc., shall be reported under the column captioned Second track miles. All track miles shall be reported by tax code area numbers and extended to two (2) figures beyond the decimal point. The railroad track mileage shall be reported by the name of the main line and branch lines with the track mileage for the main line and branch lines reported as Main Track Miles. Track miles consisting of passing track, yard switching, spurs, sidings, etc., shall be reported as Secondary Track Miles. (7-1-93)()

b. Electric Power Companies—Definition. To obtain clarification in distinguishing between transmission and distribution lines, the following definitions will be used, which as far as practicable are in conformity with those set forth by the Federal Power Commission in their booklet entitled Uniform System of Accounts. Transmission system means: all land, conversion structures and equipment, employed at a primary source of supply, i.e., generating station or point of receipt in the case of purchased power, to change the voltage of electrical energy for the purpose of its more efficient or convenient transmission; all land, structures, lines, switching and conversion stations, high tension apparatus, and their control and protective equipment, between a generating or receiving point and the entrance to a distribution center or wholesale point; and all lines and equipment whose primary purpose is to augment, integrate or tie together the sources of power supply. Distribution system means: All lands, structures, conversion equipment, lines, line transformers, and other facilities, employed between the primary source of supply, i.e., generating station or point of receipt in the case of purchased power, and the customer, which are not includable in transmission systems as defined in subsection (a) above, whether or not such lands, structures and facilities are operated as part of a transmission system or as part of a distribution system. Substations which change the energy from transmission to distribution voltage shall be classified as distribution systems. Where poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys and right of way shall be classified as transmission systems. The conductors, crossarms, braces, grounds, tie wires, insulators, etc., shall be classified as transmission or distribution facilities according to the purpose for which used. Land, other than rights of way, and structures used jointly for transmission and distribution purposes shall be classified as transmission or distribution according to the major use thereof. Transmission and distribution lines shall be defined based on the "Uniform System of Accounts" published by the Federal Energy Regulatory Commission. Cooperative electrical associations may include lines designed to accommodate thirty-four thousand five hundred (34,500) volts or more as transmission or distribution lines. Transmission or distribution lines shall be reported by single linear wire mile. (7-1-93)()

c. Telephone Companies. All telephone wire mileage shall be reported on a single linear wire mile basis, and include any ground wires. ()

d. Natural Gas and Water Distribution Companies. All natural gas and water distribution companies shall report pipeline miles on a three (3) inch comparison basis. For example, a company with five (5) miles of six (6) inch pipe will report ten (10) pipeline miles: five (5) times six (6) divided by three (3) equals ten (10) miles. ()

e. Transmission Pipelines. Transmission pipelines are reported in actual pipe sizes, without adjustment, because the pipe is normally uniform in size over long distances. ()

04. Electric Transmission Lines. To be classified as transmission, the line shall be designed to accommodate forty-four thousand (44,000) volts or more. REAs may insert thirty-four thousand five hundred (34,500) volts as transmission. Transmission lines shall be reported by single linear wire mile and by tax code area numbers on the appropriate pages of the company's annual report to the Commission. Situs Property. Situs property includes microwave stations and radio relay towers. This property is not apportioned on the basis of mileage. The investment in this property shall be reported in the tax code area, within which it is located. (7-1-93)()

a. A line generally consists of three (3) wires per circuit. Example: Fifteen (15) single circuit miles = forty five (45) single linear wire miles. (7-1-93)

b. Two (2) three (3) wire circuits constructed on the same line of poles or structures provide double circuit facilities and shall be reported as six (6) single linear wire miles per mile of pole line. Example: Fifteen (15) double circuit miles = ninety (90) single linear wire miles. (7-1-93)

e. In special cases, a single wire may be used to provide service to isolated points. Example: Fifteen (15) single wire miles = fifteen (15) single linear wire miles. (7-1-93)

d. Underground cable lines should be reported on a single linear wire mile basis in the same manner as aerial wire. Underground transmission system may consist of three (3) separate energized conductor wires and no neutral conductor wire. The cable is protected by a grounded metallic shield which should not be considered or reported as a conductor for allocation purposes. Example: One (1) mile of cable x three (3) energized conductor wires = three (3) single linear wire miles. (7-1-93)

e. The use of one (1) or more additional wires to serve as ground, shield, or static wire on the transmission circuit, are to be included in the investment plant account, but shall not be reported or included in the report of wire miles for allocating assessed value into the various taxing districts. (7-1-93)

05. Electric Distribution Lines. To be classified as distribution, the line shall be less than forty four thousand (44,000) volts. Distribution lines shall be reported by single linear wire mile and by tax code area number on the appropriate pages of the company's annual report to the Commission. Record of Property Ownership. The following procedures apply for maintaining records of operating property ownership. (7-1-93)()

a. Distribution lines may vary from a single wire to any number and may consist of various groups and combinations of single, two (2), three (3), and four (4) wire circuits of either primary, secondary, or street light wires. Wire miles may, therefore, vary from a single or two (2) wire line in rural areas to a multiplicity of wires comprising several primary, secondary, and street light circuits on a feeder or express line. STC Form R. A record of each property owned, leased, or otherwise operated by each railroad, private railcar fleet or public utility shall be maintained by the State Tax Commission, the appropriate railroad, private railcar fleet or public utility, and the appropriate county assessor's office. Each record shall be maintained on a form identified as STC Form R. The State Tax Commission shall send a copy of each STC Form R to the appropriate company and the appropriate county assessor's office. (7-1-93)()

b. Distribution wire miles to be reported are the product of the distance in feet of pole line or cable times the number of wires, divided by five thousand two hundred eighty (5,280) feet.

Distance in feet of pole line or cable X number of wires = 5,280 wire miles	= Single linear
Distribution line examples:	
	Single Linear Wire Miles
9,240 ft. 4-wire primary circuit (9,240 x 4 / 5,280)	= 7.00
6,000 ft. 2-wire primary circuit (6,000 x 2 / 5,280)	= 2.27
1,500 ft. 3-circuit 4-wire primary (1,500 x 12 / 5,280)	= 3.41
1,500 ft. 2-wire street light circuit (1,500 x 2 / 5,280)	= 0.57
350 ft. 3-wire secondary circuit (350 x 3 / 5,280)	= 0.20
Underground	
660 ft. 3 single conductor w/concentric neutral (660 x 4 / 5,280)	= 0.50
350 ft. 3 conductor PILC (Paper Insulated Lead Cover) (350 x 3 / 5,280)	= 0.20
350 ft. neutral in duct (350 x 1 / 5,280)	= 0.07

Identification of Operating Property and Nonoperating Property. The State Tax Commission shall identify which property is operating property and which property is nonoperating property. (7-1-93)()

c. ~~Overhead Conductor and Underground Cable (Primary and Secondary).~~ Overhead or underground circuits may contain from one (1) to three (3) conductor wires and may be accompanied by a neutral wire. Each conductor and neutral shall be used for calculating wire miles. The neutral wire shall be reported for wire miles whether it is a separate wire or concentric wrapped on a cable. A shield wire on an overhead circuit must be used as a neutral to be considered in the calculation of wire miles. Filing of Property Ownership by Railroad Companies. Each railroad company shall file the original railroad right-of-way maps with the State Tax Commission. Each railroad shall file an STC Form R, only, for property that is acquired, leased, or transferred between operating and nonoperating status, or sold during the prior year. (7-1-93)()

d. ~~If an underground circuit is constructed with more than one (1) cable, each having a concentric neutral and with all cable installed in a common trench or duct, the concentric neutrals shall be considered as one (1) neutral.~~ (7-1-93)

e. ~~Other Wires.~~ Wires other than those covered above, consisting principally of highline and other communication conductors used in conjunction with a power system, are not to be reported on the basis of wire miles. Costs of communications systems are reported in investment plant account but linear wire mileage does not apply as the basis for apportioning assessed value into the various tax code areas. Distribution lead-in wires from the transformer to the panel or meter at the residence or business should not be reported for allocation purposes. (7-1-93)

06. Telegraph Companies. Telegraph companies shall report on a single linear wire mile basis where it is appropriate. Filing Date for Operator's Statement. By April 30 each year, each railroad, private railcar fleet, and or public utility company operating in Idaho shall file information pertinent to the company's ownership and operation with the State Tax Commission. This information must be reliable for preparing an estimate of market value. For each company submitting a written request for an extension on or before April 30, the State Tax Commission may grant an extension of the filing date until May 31. (7-1-93)

07- Gas and Water Distribution Companies. All gas and water distribution companies shall report the actual length and size of pipeline miles. All mileage shall be converted and reported on a three (3) inch comparison basis.

Three-inch (3") comparison basis example:

1" equals 0.33	6" equals 2.00	11" equals 3.66
2" " 0.66	7" " 2.33	12" " 4.00
3" " 1.00	8" " 2.66	13" " 8.00
4" " 1.33	9" " 3.00	14" " 12.00

(7-1-93)

~~08. Transmission Pipelines. Transmission pipelines are normally constructed of a uniform size of pipe for great distances. Therefore, it is not necessary to make an adjustment in such actual pipe sizes in order to properly report.~~ (7-1-93)

~~09. Microwave Stations or Radio Relay Towers. Companies having operating property comprised of microwave stations or radio relay towers with communications transmitted from one (1) station or tower to another without being physically connected by a wire, the investment, undepreciated, of each unit shall be reported on a situs basis in the tax code area in which it is located.~~ (7-1-93)

~~10. Permanent Record of Real Estate Ownership. (7-1-93)~~

~~a. A permanent record of real estate owned, leased, or operated by railroads and telegraph, telephone, electric, pipeline, water, and barge line companies shall be maintained in the office of the Commission, company, and affected county assessor's office. (7-1-93)~~

~~b. Record of real estate ownership shall be filed in triplicate on the STC Form R, together with two (2) copies of a map locating such property, and a statement as to the intended use of the property. The Commission shall determine whether such property should be designated operating or nonoperating. (7-1-93)~~

~~e. Each time a parcel of real estate is acquired, transferred between operating and nonoperating status, or sold, it shall be necessary to file a new STC Form R with the Commission. (7-1-93)~~

~~d. Railroad companies are required to file original railroad right-of-way maps with the Commission in lieu of STC Form R's. For each transaction thereafter, Subsection 369.10.a. applies. Such right-of-way maps must be prepared in a draftsmanlike manner and show the boundary of such right-of-way, together with parcels of real estate which may be adjacent to such right-of-way and considered reasonably necessary for the successful operation of the company. (7-1-93)~~

~~d. Blue line prints of tax code area maps may be obtained from the Tax Commission at cost. (7-1-93)~~

404. STATEMENT BY RAILROAD COMPANY.

~~01. Statement Filing Date. The president or other officer of every railroad company whose lines of railroad track runs through, in, or into this state shall, by April 15 of each year file a statement with the Commission. The statement has been prepared and will be available upon request to the Commission. The statement will be referred to as STC Form C-1 entitled RAILROAD COMPANY'S REPORT OF PRIVATE CAR COMPANIES—ANNUAL STATEMENT OF MILEAGE MADE BY PRIVATE line cars in the state of Idaho for the year ending December 31, _____. (7-1-93)~~

~~a. Such complete statement will show: the name of the reporting railroad company; the name of each private car company, defined under Section 63-803, Idaho Code; business address of car companies; classification of cars by symbol, XC, SC, etc., according to Official Railway Equipment Register or by general description such as flat, tank, refrigerator, etc.; car initials; total number of miles traveled on their lines of railroad trackage, main line, branches, sidings, spurs, and warehouse or industrial trackage in this state during the year ending December 31 of the preceding year; rate per mile stated in cents, and amounts paid for mileage in Idaho. (7-1-93)~~

~~02. STC Form C-1. The use of STC Form C-1 by the various railroad companies is optional so long as the information received is legible and virtually in the same manner and order as specified on the approved statement. (7-1-93)~~

~~03. Other Use of STC Form C-1. In addition to using such report as the basis of assessment, it will serve as a means of alerting the Commission of any car companies operating within the state for the first time, which in turn will enable the Commission to supply such car companies with the necessary reports to be filed with the Commission. (7-1-93)~~

405. ~~407.~~ (RESERVED) ASSESSMENT OF OPERATING PROPERTY (RULE 405).

01. The Unit Method. The unit method of valuation is preferred for valuing a railroad or public utility when the individual assets function collectively, are operated under one ownership and one management, are interdependent, and the property would be expected to trade in the marketplace as a unit. Under the unit method, the value of the tangible and intangible property is equal to the value of the going concern. The market value of the unit shall be referred to as the system value. For interstate property, allocation factors shall be used to determine what part of the system value is in Idaho. ()

02. Identifying the Unit To Be Appraised. The unit includes all property used or useful to the operation of the system, property owned, used or leased by the business and the leased fee and leasehold interests. All title and interest in unit property shall be assessed to the owner, lessee or operating company. See Rule 615 of these rules for treatment of intangibles. ()

03. Appraisal Approaches. The three approaches to value may be considered for all property. ()

04. Appraisal Procedures. Market value shall be determined through procedures, methods, and techniques accepted by nationally recognized appraisal and valuation organizations. For operating property, the direct capitalization techniques or derivatives thereof shall not be used in estimating value. ()

05. The Cost Approach. For operating property, the appraiser may consider replacement, reproduction, original or historical cost. ()

a. Contributions in aid of construction. Contributions in aid of construction are valued at zero in the cost approach. ()

b. Construction work in progress. Construction work in progress may be considered in the cost approach. ()

c. Obsolescence. The appraiser shall attempt to measure obsolescence, if any exists. If obsolescence is found to exist, it may be considered in the cost approach. ()

06. The Income Approach. For operating property, the income approach is based on the premise that value can be represented by the present worth of future benefits derived from the ownership, use or operation of the unit. The appraiser shall consider yield capitalization in processing the income approach. ()

07. The Market Approach. In the market approach for operating property, the appraiser shall consider the sales comparison approach or the stock and debt approach. ()

08. Reconciliation. Reconciliation, also called correlation, is an opinion regarding the weight that should be placed on each approach. The appropriate weight to be given each indicator is based on the appraiser's opinion of the inherent strengths and weaknesses of each approach and the data utilized. The appraisal report shall disclose the weight given to the indicators. ()

09. Allocation. Factors should use readily available data from existing records. Factors themselves should not be an allocation. ()

406. (RESERVED).

407. APPEAL OF OPERATING PROPERTY ASSESSMENTS (Rule 407).

01. Procedure Governed. This rule shall govern all practice and procedure before the State Tax Commission sitting as a Board of Equalization in hearings under Section 63-407, Idaho Code. ()

02. Liberal Construction. These rules shall be liberally construed to secure just, speedy and economical determination of all issues presented to the State Tax Commission. For good cause the State Tax Commission may permit deviation from these rules. ()

03. Communication. All notices and petitions required to be filed with the State Tax Commission must be in writing. Each notice must identify the filing party, be signed by the filing party, be dated and give the filing party's mailing address and telephone number. The provisions of Section 63-217, Idaho Code, apply to the filing of documents with the State Tax Commission. ()

04. Service by State Tax Commission. All notices and orders required to be served by the State Tax Commission may be served by mail. Service shall be complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail. ()

05. Notice to County Assessors. When the calendar of hearings under Section 63-407, Idaho Code, is final, the State Tax Commission shall send a copy of this calendar to the assessor of each county. ()

06. Parties. The following are parties to a hearing of the State Tax Commission meeting as Board of Equalization. ()

a. Petitioner. A person petitioning for a hearing shall be called the petitioner. ()

b. Staff. The State Tax Commission staff may appear as a party at the hearing and may be represented by one (1) or more Deputy Attorneys General assigned to the State Tax Commission. ()

c. Legal advisor to the commission. When sitting as a Board of Equalization, the State Tax Commission may obtain legal advice from a Deputy Attorney General who is not representing the State Tax Commission staff. ()

07. Appearances and Practice. The following apply for appearances and practice in a hearing. ()

a. Rights of parties. At any hearing, both parties may appear, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding. ()

b. Taking of appearances. The presiding officer conducting the hearing shall require appearances to be stated and shall see that both parties present are identified on the record. ()

c. Representation of taxpayers. An individual may represent himself or herself or be represented by an attorney. A partnership may be represented by a partner, authorized employee or by an attorney. A corporation may be represented by an officer, authorized employee or by an attorney. ()

08. Pre-Hearing Conferences. The following apply for holding pre-hearing conferences. ()

a. Reasons for holding pre-hearing conferences. The State Tax Commission may, upon notice to both parties, hold a pre-hearing conference for the following purposes: ()

i. Formulating or simplifying the issues; ()

ii. Obtaining admissions of fact and of documents which will avoid unnecessary proof; ()

iii. Arranging for the exchange of proposed exhibits or prepared expert testimony; ()

- iv. Limiting the number of witnesses; ()
- v. Setting the procedure at for the hearing; and ()
- vi. Reviewing other matters to expedite the orderly conduct and disposition of the proceedings. ()
- b. Action taken. Any action taken at the conference and any agreement made by the parties concerned may be recorded and the State Tax Commission may issue a pre-hearing order which will control the course of subsequent proceedings unless modified. ()
- c. Compromise and offers to compromise. Evidence of an offer or agreement to compromise the dispute and the conduct and statements made in compromise negotiations are not admissible at the hearing. ()
09. Hearings. The following apply to the hearings. ()
- a. Request for hearing. A request for a hearing shall be in the form of a petition filed with the State Tax Commission on or before August 1 of the current year. The petition shall state the factual and legal basis on which the request is based. ()
- b. Notice of hearing. The State Tax Commission shall notify both parties and all counties of the place, date and time of the hearing. ()
- c. Motions. Motions may be submitted for the State Tax Commission's decision by written or oral argument or both. The filing of affidavits in support or opposition is permitted. Motions filed by different parties but involving the same point of law may be set for hearing at the same time. The practice for motions shall generally conform to the Idaho Rules of Civil Procedure, with modifications and exceptions as ordered by the State Tax Commission. ()
- d. Presiding officer. The Chairman of the State Tax Commission shall appoint an individual who is not a member of the State Tax Commission's staff to conduct the hearing. In the absence of a conflict of interest or other good cause, this person will normally be the Commissioner overseeing the centrally assessed property section of the State Tax Commission or the designee thereof. A Commissioner shall not vote on any matters where he has oversight. ()
- e. Testimony under oath. All testimony to be considered by the State Tax Commission in hearings, except matters noticed officially or entered by stipulation, shall be under oath. Before taking the witness stand each person shall swear, or affirm, that the testimony he is about to give shall be the truth. ()
- f. Rules of evidence. No informality in any proceeding or in the manner of taking testimony shall invalidate any order or decision made by the State Tax Commission. The Idaho Rules of Evidence will be generally followed but may be modified at the discretion of the State Tax Commission to aid in ascertaining the facts. When objection is made to the admissibility of evidence, the evidence may be received subject to later ruling by the State Tax Commission. The State Tax Commission, at its discretion either with or without objection may limit or exclude inadmissible, incompetent, cumulative or irrelevant evidence. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered. ()
- g. Recessing hearing for conference. In any proceeding the presiding officer may, in at his discretion, call both parties together for a conference prior to the taking of testimony, or may recess the hearing for a conference. The presiding officer shall state on the record the results of the conference. ()
- h. Transcript. An official transcript of the hearing will be taken. A petitioner desiring the taking of stenographic notes by a qualified court reporter may notify the State Tax Commission in writing and shall arrange for the hiring of a reporter and bear the expense of the reporter's fees. If the reporter's transcript is deemed by the State Tax Commission or presiding officer as the official transcript of the hearing, the petitioner shall furnish the State Tax Commission a transcript free of charge. ()

i. Transcript copies. A request for a copy of the transcript of proceedings at any hearing must be in writing or on the record. Upon completion of the transcript, the State Tax Commission shall notify the person requesting a copy of the fee for producing the transcript. Upon receipt of the fee, the State Tax Commission will send a copy of the transcript. ()

391-408. RE-EXAMINATION OF VALUE--COMPLAINT BY ASSESSOR (Rule 408).

~~A complaint by an assessor to the Commission to examine the valuation and allocation of value of operating property will be acknowledged as being properly filed if such complaint is submitted in the following manner and contains the particulars outlined below: (7-1-93)~~

~~01. Complaint Must Be in Writing. Complaint must be in writing and contain clear and concise statements, in paragraphs separately numbered, of the matters that lay a foundation for re-examination: Request for Reexamination of Value. Section 63-408, Idaho Code, entitles the assessor (complainant) of any county in which the value of operating property is apportioned, to request that the State Tax Commission reexamine the valuation. (7-1-93)()~~

~~02. Final Filing Day. The final day for filing a complaint must be within twenty (20) days following the Commission's certification of values of operating property to the county auditor. Information To Be Provided by the State Tax Commission. After final values are established and sent to the respective taxpayers, the State Tax Commission shall send to each County Assessor a statement of the value allocated to Idaho for each centrally assessed taxpayer, together with the previous year's Idaho value for that taxpayer. (7-1-93)()~~

~~03. Complaint Shall State Specific Grounds. Complaint shall state the specific grounds for examining valuation or allocation and must precisely express: reason for re-examination of value as to change of allocation or change in value, if any; the basis for such reason; the particular matter submitted for determination; a concise recital of the facts affecting such matter; a concise specification of the particular relief sought; a statement of the ease law, if any, relied upon. On or before July 15, a complainant may file a complaint under Section 63-408, Idaho Code. A complaint by an assessor to the State Tax Commission to examine the valuation and allocation of value of operating property must be in writing and contain clear and concise questions regarding the valuation and allocation in question. The State Tax Commission shall send a copy of the complaint promptly to the taxpayer. (7-1-93)()~~

~~04. Examination of Complaint by Commission. Upon a filing of a complaint by the assessor, the Commission will examine same and notify the complainant as to its acceptance, or if said complaint is unacceptable, within five (5) days. Meeting to Examine Valuation and Allocation. Upon receipt of a complaint under Section 63-408, Idaho Code, the staff of the State Tax Commission shall schedule a meeting between the staff appraiser(s) who performed the valuation and allocation and the complainant. Notice of this meeting shall be sent to the taxpayer in question. At this meeting, the staff appraiser(s) shall answer the complainant's questions to the best of his knowledge. The taxpayer or representative may participate in this meeting. (7-1-93)()~~

~~05. Request for Appearance. The Commission may request appearance of assessor or representative of any company whose operating property may be in question. (7-1-93)~~

~~06. Notice of Findings. Upon a filing of acceptable complaint, the Commission will make an examination of valuation or allocation of value and give notice of the findings of such examination within thirty (30) days following the notice of acceptance of such petition. (7-1-93)~~

~~07. Idaho Code Provisions. Nothing contained in this section or rule should be interpreted as replacing or modifying in any way the provisions under Section 63-712, Idaho Code, providing for the county auditor to carefully examine the statement of assessed values from the Commission with the previous year's assessment and shall notify the Commission, if in the opinion of the county auditor errors were made or any property in the county subject to assessment by the Commission has not been assessed, as soon as any error or omission in such statement is discovered by the county auditor. (7-1-93)~~

409. -- 410. (RESERVED).

411. PRIVATE CAR REPORTING BY RAILROAD COMPANIES (Rule 411).

The president or other officer of each railroad company whose railroad tracks run through, in or into Idaho shall, by

April 15 of each year file a report with the State Tax Commission. The report form is available from the State Tax Commission upon request. The completed report shall include the following: ()

- 01. Name of Reporting Railroad Company. The name of the railroad company making the report. ()
- 02. Name of Private Railcar Fleet. The name of each private railcar fleet, defined under Sections 63-201(14) and 63-411, Idaho Code, having traveled on the reporting railroad company's track. ()
- 03. Private Railcar Fleet's Address. The business address of each reported private railcar fleet. ()
- 04. Car Classification. Classification of cars by symbol, XC, SC, etc., according to Official Railway Equipment Register. ()
- 05. Initials. Car initials. ()
- 06. Miles Traveled. Total number of miles traveled on the reporting railroad's track, including main line, branches, sidings, spurs, and warehouse or industrial track in Idaho during the year ending December 31 of the preceding year. ()

412. (RESERVED).

~~408~~413. SPECIAL PROVISIONS FOR PRIVATE RAILCAR FLEETS (Rule 413).

01. ~~Railcar Valuation, Allocation and Apportionment. For tax year 1998 and for each year thereafter, the State Tax Commission will appraise the system value of private railcar fleets and allocate a portion of the system value to Idaho to obtain the Idaho taxable value as set forth below. The Idaho taxable value will then be apportioned to various counties in the state pursuant to statute. Definitions. The following terms are defined for the valuation, allocation and apportionment of private railcar fleets.~~ (7-1-98)()

a. ~~System value is the value of the entire private railcar fleet regardless of the location of its various components. Idaho Miles. The Idaho miles are the total number of miles traveled in Idaho by all cars in the private railcar fleet during the calendar year immediately preceding the current tax year.~~ (7-1-98)()

b. ~~Idaho Taxable Value. The Idaho taxable value is that portion of the system value that reflects the value of that part of the private railcar fleet located in Idaho during all or part of a tax year.~~ (7-1-98)()

c. ~~System Miles. The system miles are the total number of miles, both in and out of Idaho, traveled by all cars in the private railcar fleet during the calendar year immediately preceding the current tax year.~~ ()

d. ~~System Value. The system value is the value of the entire private railcar fleet regardless of the location of its various components.~~ ()

02. ~~Railcar Valuation, Allocation and Apportionment. System value is to be allocated using the "miles to miles" method of allocation. For tax years beginning on or after 1998, the State Tax Commission will appraise the system value of each private railcar fleet and allocate a portion of the system value to Idaho to obtain the Idaho taxable value as set forth below. The Idaho taxable value will be apportioned to the appropriate counties in Idaho pursuant to section 63-411, Idaho Code.~~ (7-1-98)()

03. ~~"Miles to Miles" Method of Allocation. The State Tax Commission will divide Idaho miles by system miles and multiply the quotient by five tenths (0.5). The product of this calculation will be multiplied by the system value to determine Idaho taxable value. System value is allocated using the "miles to miles" method of allocation.~~ (7-1-98)()

a. ~~System miles are the total number of miles traveled by all cars in the private railcar fleet during the calendar year immediately preceding the current tax year.~~ (7-1-98)

b. ~~Idaho miles are the total number of miles traveled in Idaho by all cars in the private railcar fleet during the calendar year immediately preceding the current tax year.~~ (7-1-98)

04. "Miles to Miles" Method of Allocation. The State Tax Commission will divide Idaho miles by system miles and multiply the quotient by five-tenths (0.5). The product of this calculation will be multiplied by the system value to determine Idaho taxable value. ()

~~4134. --415.~~ (RESERVED).

415. APPORTIONMENT OF RAILCAR FLEETS ASSESSED VALUES WITHIN THE STATE (Rule 415).

01. ~~Railroad Companies' Reports to the Commission.~~ Railroad companies' reports to the Commission include the various in service main and branch line track miles by county and tax code area for purposes of apportioning railroad valuation. The same track miles are used for the apportionment of assessed values, of five hundred thousand dollars (\$500,000) or more, of private car companies. Private Railcar Fleet Apportionment. Railroad track miles shall be used for the apportionment of each private railcar fleet's assessed value when the value within Idaho equals five hundred thousand dollars (\$500,000) or more. The Idaho value of each private railcar fleet shall be multiplied by a ratio of this private railcar fleet's mileage for each railroad to this private railcar fleet's total mileage in Idaho and divided by the in service main track mileage of that particular railroad, to obtain a rate per mile. This rate per mile is multiplied by the in service main track mileage in each county and tax code area to calculate the apportioned value. For the purpose of apportioning value by miles traveled, main track includes branch lines, as well as main lines, but does not include industrial spurs, sidings or passing tracks. (7-1-93)()

02. ~~Assigned Values.~~ This car company value is first assigned to the railroad systems generating the mileages of each company in the proportion that the individually produced miles compare to the total state mileage. The assigned values are then divided by the in service main track mileage, of that particular railroad, to obtain a rate per mile. This rate is then used to apportion value on the basis of the number of miles of track existing in each county and tax code area. For the purpose of apportioning value by miles traveled, main track is interpreted as including branch lines, which are the main tracks of the railroad between designated points, as well as main lines normally considered as being used for through freight, wherein both contribute to the total mileage, but does not include industrial spurs, sidings or passing tracks. Determination of Average Tax Rate -- Private Railcar Fleets Under Five Hundred Thousand Dollars (\$500,000) Assessed Value. For private railcar fleets having an assessed value of less than five hundred thousand dollars (\$500,000), the average tax rate is computed each year by dividing the current taxes for all private railcar fleets with assessed value of five hundred thousand dollars (\$500,000) or more by the current Idaho value of all such fleets. By November 1 of each year, each county treasurer must provide the State Tax Commission with the amount of taxes due from all private railcar fleets in the county. (7-1-93)()

03. ~~Conducting Studies to Ascertain Trackage.~~ The Commission will, from time to time, conduct studies to ascertain the trackage, of the railways, over which the various types of cars are traveling. For example, the freight car movement over the Simplot spur of the Oregon Short Line Railroad Company, located between Fort Hall, Idaho, and the Gay Mine in Bingham County, consisting of twenty one and forty nine one hundredths (21.49) miles, is entirely a shale rock haul and would never, under present conditions, have refrigerator type cars wheeled over such line. Therefore, the Commission is justified in eliminating such trackage from the track mileage used for prorating the value on refrigerator type cars in the county by tax code areas. The county auditor places such valuation on the assessment rolls of the county and applies the appropriate tax levies to determine the amount of tax to be collected by the county treasurer in the same manner as applies to personal property. (7-1-93)

04. ~~Prorating Assessment on a Mileage Basis.~~ Assessed value in counties and taxing districts within the state is allocated by prorating on a mileage basis as follows: (7-1-93)

a. ~~Example:~~ Assume that private car company P has an assessed value of one hundred two thousand dollars (\$102,000); that the cars of company P were propelled by the following railroad companies over their trackage for a total of twenty three million five hundred forty two thousand one hundred (23,542,100) miles within the state. (7-1-93)

b. The number of miles of railroad track over which cars were propelled, existing in each county and

~~tax code area, as reported to the Commission by each railroad company, times rate per mile, Column 7 above, equals the assessed value to be certified to the county auditor. Assessed value of car companies as provided in Section 63-804A, Idaho Code, and apportioned to the counties shall be placed on the personal property assessment rolls of the counties. Collection of such taxes shall be made in the same manner as other personal property taxes. See Title 63, Chapter 13, Idaho Code. (7-1-93)~~

~~05. Determination of Average Tax Rate Car Companies Under Five Hundred Thousand Dollars (\$500,000) Assessed Value. For car companies having an assessed value of less than five hundred thousand dollars (\$500,000), the Commission shall determine the tax to be charged on their property, by applying to the assessed value the average tax rate in the state for the current year. The average tax rate is ascertained by obtaining from each county auditor the amount of tax computed in such county in which assessed value was allocated, and dividing the total of all the counties' taxes by the total assessed value for all car companies having an assessed value of five hundred thousand dollars (\$500,000) or more in the state. (7-1-93)~~

~~a. Total computed tax received from all county auditors = Average Tax Rate Assessed value all car companies over \$500,000, state of Idaho. (7-1-93)~~

~~b. The Commission will circulate a letter of inquiry to all county treasurers, requesting the amount of such taxes approximately October 15 of each year which must be returned to the Commission by November 1 of each year. (7-1-93)~~

~~06. Collection of Taxes Car Companies Under Five Hundred Thousand Dollars (\$500,000) Assessed Value. The Commission will prepare tax notices for the various car companies having an assessed value under five hundred thousand dollars (\$500,000) and mail such tax notice to the companies by the fourth (4th) Monday of November of each year. Taxes on private car companies become delinquent on the twentieth day of December. In the event of delinquency in the payment of tax, a two percent (2%) penalty of the amount of the taxes plus one percent (1%) interest per month dating back to January 1st will be added to the original amount of the tax as provided in Section 63-1302, Idaho Code. (7-1-93)~~

416. (RESERVED).

4167. PENALTY FOR FAILURE TO MAKE STATEMENT (Rule 417).

~~In the event a car company should fail or refuse to make statement, report as provided by Section 63-802, Idaho Code, by April 30 of each year, the Commission shall add a fifty percent (50%) penalty to the assessed value as determined by the Commission, as provided by this section; provided, however, that in the event an emergency may exist, the company may petition the Commission for an extension of time for filing, not to exceed thirty (30) days; provided further that for such petition to be valid it must be submitted in writing to the Commission, Property Tax Division, by April 30 of each year. If a private railcar fleet fails or refuses to file the operator's statement as provided by Section 63-404, Idaho Code, by April 30 of each year, the State Tax Commission shall add a penalty. The penalty is fifty percent (50%) of the assessed value, determined by the State Tax Commission, as provided by Section 63-411, Idaho Code. When an emergency exists, the company may petition the State Tax Commission for an extension of time for filing, not to exceed thirty (30) days. For such petition to be valid it must be submitted in writing to the State Tax Commission by April 30 of each year. (7-1-93)()~~

4178. -- 429. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~**586. -- 599. (RESERVED).**~~

~~**600. COOPERATIVE ELECTRICAL ASSOCIATIONS -- TAXING GROSS EARNINGS -- DEFINITIONS.**~~

~~01. Cost of Power Purchases and Generation Dollar Amounts. The cost of power purchases and generation dollar amounts shall be taken from the "Rural Electrification Administrations Uniform System Of~~

~~Accounts Bulletin 181-1". (7-1-93)~~

~~a. To develop generation expense figures Accounts 500 through 554 shall be used. (7-1-93)~~

~~b. To develop cost of power purchases Accounts 555, 556 and 557 shall be used. (7-1-93)~~

~~02. Utility That Is Not a Borrower. For any utility not a borrower from the Rural Electrification Administration, the actual costs of purchased power and generation shall be the same as Subsections 600.01.a. and 600.01.b., above. (7-1-93)~~

~~601-586. -- 634. (RESERVED).~~

IDAPA 35 - STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-9801
NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

Amend Motor Fuels Tax Rule 510 to conform to legislation in 1998 H.B. 580 that clarified when the transfer fee is imposed on a fuel distributor in Section 41-4908, Idaho Code, to correct exemption from the transfer fee when a distributor sells to a railroad, to correct cross references that were in error, and to further define products subject to the transfer fee.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees are applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the amendments to Motor Fuels Tax Rule 510 were made due to 1998 legislative changes.

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

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 22nd day of July, 1998

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

TEXT OF DOCKET NO. 35-0105-9801

510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (Rule 510).

01. Application. (6-23-94)

a. The Petroleum Transfer Fee applies to the ~~act of delivering or storing~~ receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product ~~delivered or stored~~ received. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid ~~for~~ on the same petroleum or petroleum product. (6-23-94)()

b. The legal incident of the fee is on the distributor required to report it to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. (6-23-94)

02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products shall be determined according to ~~Rule 110 of these rules~~ Section 63-2403, Idaho Code. (6-23-94)()

03. Exemption to Application of the Transfer Fee. The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)

a. Returned to the refinery or pipeline terminal. (6-23-94)

b. Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule ~~1540~~ of these rules. (6-23-94)()

c. ~~Transferred~~ Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor, ~~other than a licensed distributor that is a railroad or railroad company,~~ to a railroad or railroad ~~company~~ corporation or any employee of them is ~~not~~ subject to the Petroleum Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad ~~company~~ corporation. (6-23-94)()

d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

04. Casualty Loss and Shrinkage Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. The deductions allowed to ~~gasoline~~ motor fuel distributors for fuel lost by fire or similar casualty, see Section 63-2407(3), Idaho Code; and the two percent (2%) discount for cost of collection and loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code; are not deductions applicable to the Petroleum Transfer Fee. (6-23-94)()

05. Petroleum and Petroleum Products. The products subject to the Petroleum Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as gasohol and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), bio-diesel, heating oil, aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil, brake fluid, tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. (6-23-94)()

06. Licensed Distributors and Limited Licenses. Any person holding a ~~gasoline~~ distributor's license issued by the State Tax Commission under Section 63-2427A, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who ~~first~~ receives any petroleum or petroleum product in this state, ~~the delivery or storage of which is subject to the fee,~~ but who is not a licensed distributor nor required to obtain a license under Section 63-2427A, Idaho Code, shall apply to the State Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under Chapter 24, Title 63, Idaho Code. (7-1-97)()

07. Reporting Requirements. (6-23-94)

a. Distributors licensed under Section 63-2409~~27A~~, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the ~~gasoline~~ taxes imposed by Sections 63-2405, ~~63-2408~~ and 63-2416, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report the ~~gasoline~~ tax on the same fuel. (6-23-94)(____)

b. Persons holding a limited license shall file a monthly report with the State Tax Commission on forms prescribed by the State Tax Commission on or before the last day of the month following the month to which the report relates. (6-23-94)(____)

c. The provisions of Rule 14~~30~~ of these rules, apply to reports of the Petroleum Transfer Fee. (6-23-94)(____)

08. Payment. (6-23-94)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

09. Incorporation of Other Relevant Rules. Section 41-4908, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Administration and Enforcement Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (7-1-97)

IDAPA 35 - STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-9802
NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

New Motor Fuels Tax Rule 105 for the reporting requirements for a gaseous fuels distributor license created by new Section 63-2427B, Idaho Code, from 1998 HB 580.

Renumber Motor Fuels Tax Rule 115 to a new Rule 135 which would allow alternate annual filing and reporting for certain consumers instead of filing a monthly Fuel Distributor's Report. Section 63-2406, Idaho Code, allows the State Tax Commission to authorize alternative filing periods and forms for the distributor's report.

Amend Motor Fuels Tax Rule 120 to require the reporting of gross gallons for all motor fuels as authorized by Section 63-2404, Idaho Code.

Amend Motor Fuels Tax Rule 130 to correct cross references to new rule. Motor Fuels Tax Rule 130 is authorized by Section 63-2406, Idaho Code.

Amend Motor Fuels Tax Rule 140 to apply the retail dealers' allowance to all motor fuels, as is required by 1998 HB 580's amendments to Section 63-2407, Idaho Code. Move section in Motor Fuels Tax Rule 140 for documentation of exempt gaseous fuels sales to new Motor Fuels Tax Rule 105. Motor Fuels Tax Rule 140 clarifies the deductions found in Section 63-2407, Idaho Code.

Renumber Motor Fuels Tax Rule 260 to Rule 110 and move section on sales and reporting of annual gaseous fuels permits to new Motor Fuels Tax Rule 105. Motor Fuels Tax Rule 260 now Motor Fuels Tax Rule 110 provides for the method of computing the fuel tax rates for gaseous fuels and is authorized by Section 63-2424, Idaho Code.

Renumber Motor Fuels Tax Rule 261 to Motor Fuels Tax Rule 115 with the original Motor Fuels Tax Rule 115 being renumbered to Motor Fuels Tax Rule 135. Motor Fuels Tax Rule 261 now Motor Fuels Tax Rule 115 provides for a method to adjust the annual gaseous fuels permit fees when there is a gasoline tax rate increase and is authorized by Section 63-2424, Idaho Code.

Amend Motor Fuels Tax Rule 290 to rename 'Off-loading Allowances' to 'Power-Take-Off and Auxiliary Engine Allowances' and to clarify what types of uses may be refunded. Delete unused allowances and add new allowances in Motor Fuels Tax Rule 290 that pertain to Idaho. Section 63-2416, Idaho Code, only imposes the special fuels (diesel, propane, and natural gas) tax on all special fuels used for the operation or propulsion of any motor vehicle which is licensed or required to be licensed and is operated on a highway. Special fuels used off-highway or for purposes other than to propel or operate a motor vehicle on a highway are not taxable.

Amend Motor Fuels Tax Rule 410 to clarify that the International Fuel Tax Agreement (IFTA) applies to all motor fuel users that are required to be licensed under IFTA. Section 63-2442A, Idaho Code, authorizes IFTA in Motor Fuels Tax Rule 410.

Amend Motor Fuels Tax Rule 500 to delete subsection that is inconsistent with ruling of Idaho Supreme Court.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees are applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the amendments to the rules for the distributor's fuel tax report do not change the reporting requirements except for changes required by legislative action. The new Rule 135, reduces the reporting requirements by allowing annual filing for certain companies who would normally be required to file a monthly distributor's report, and the creation of a separate gaseous fuels distributor license reduces the amount of reporting required for this type of distributor.

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

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 22nd day of July, 1998

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

TEXT OF DOCKET NO. 35-0105-9802

101. -- 1404. (RESERVED).

105. LICENSED GASEOUS FUELS DISTRIBUTOR'S REPORTS (Rule 105).

01. Monthly Reports. Every licensed gaseous fuels distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: ()

- a. The total gross taxable gallons of gaseous fuels sold must be reported on a receipt schedule: ()
- b. The gross taxable gallons of gaseous fuels sold: ()
- c. The net taxable gallons: ()
- d. The gallons after deduction of a two percent (2%) allowance. See Rule 140 of these rules: ()
- e. The tax computation: ()
- f. The bad debt amounts, refer to Rule 140 of these rules: ()

- g. The gaseous fuels permit fees; and ()
- h. The net tax due. ()

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates together with the payment of any tax, annual gaseous fuels permit fees, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. ()

03. Failure to Collect and Remit Tax and Permit Fees. Any gaseous fuels distributor required to collect the tax or permit fee imposed by Section 63-2424, Idaho Code, who fails to collect such tax or permit fee, or any gaseous fuels distributor required to remit the tax or permit fee pursuant to this section who fails to make such remittance shall be liable to the State Tax Commission for the amount of tax or permit fee not collected or remitted plus any applicable penalty or interest. The State Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. ()

04. Receipt of Gaseous Fuels. The special fuels tax is not imposed on gaseous fuels when the fuels are received. ()

05. Gaseous Fuels. Propane or natural gas will be presumed to be tax-exempt fuels unless delivered into the supply tank of a licensed, or required to be licensed, motor vehicle. ()

06. Annual Gaseous Fuels Permits. Persons operating vehicles powered by gaseous fuels may buy an annual gaseous fuels permit instead of paying the special fuel taxes on the purchase of propane or natural gas. Gaseous fuels distributors who sell these permits must issue a decal to be displayed in a conspicuous spot visible on the outside of the permitted vehicle. The fees for gaseous fuels permits are based on the gross vehicle weight of the vehicles and are set by Rule 115 of these rules as is mandated by Section 63-2424(2), Idaho Code. ()

07. Documentation of Untaxed Sales of Gaseous Fuels into Motor Vehicles. Gaseous fuels delivered into the fuel supply tank of a licensed, or required to be licensed, motor vehicle are taxable except for: ()

a. Government. Gaseous fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the special fuels tax on gaseous fuels. In this case, the licensed distributor must record on the document of sale, the name of the governmental entity, the license or identification number, and the type of vehicle. ()

b. Motor vehicles displaying valid annual gaseous fuels permits. Gaseous fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid "Gaseous Fuels" decal are exempt from tax. For the exempt status to be valid, sales documentation must have the purchaser's name, address, vehicle license number, and the words "gaseous fuels decal". ()

106. -- 109. (RESERVED).

26110. CALCULATION OF TAX ON GASEOUS FUELS (Rule 26110).

01. In General. In all cases in which any tax under Chapter 24, Title 63, Idaho Code, must be calculated for any special fuel that is a gaseous fuel, the following equivalency formulas shall be used to calculate the amount of tax due. (6-23-94)

- a. One (1) therm of natural gas will be the equivalent of one (1) gallon of liquid. (6-23-94)
- b. Four and one-fourth (4 1/4) pounds of propane will be the equivalent of one (1) gallon of liquid. (6-23-94)

02. Equivalent BTU's. Special fuels tax on gaseous fuels will be computed based upon the equivalent

BTU's per gallon of gaseous fuels. The following values will be used in a formula establishing the rate:

Gasoline	127,000	BTU's per gallon
Propane	92,000	BTU's per gallon
Natural Gas	100,000	BTU's per gallon

$$\frac{(\text{Natural gas } 100,000 \text{ BTU} \times \text{current tax rate})}{\text{gasoline } 127,000 \text{ BTU}} = \text{tax per therm}$$

$$\frac{(\text{Propane } 92,000 \text{ BTU} \times \text{current tax rate})}{\text{gasoline } 127,000 \text{ BTU}} = \text{tax per } 4 \frac{1}{4} \text{ pounds}$$

(6-23-94)

~~03. Annual Fee. Vehicles powered by gaseous special fuels may pay an annual fee instead of the special fuel taxes on propane or natural gas for a gaseous fuels permit. Special fuels dealers who sell these permits must issue a decal to be displayed in a conspicuous spot visible on the outside of the permitted vehicle. The fees for a gaseous fuels permit are based on the gross vehicle weight of the vehicle and are set out in Section 63-2424, Idaho Code. The annual fee for gaseous fuels permits, together with any penalty and interest due shall be remitted with the special fuels dealer report required in Section 63-2420, Idaho Code.~~ (6-23-94)

~~04. Liability to the Commission. Any gaseous special fuels dealer required to collect the fee imposed by Section 63-2424(2), Idaho Code, who fails to collect such fee or any gaseous special fuels dealer required to remit the fee pursuant to this section who fails to make such remittance shall be liable to the commission for the amount of fee not collected or remitted plus any applicable penalty or interest. The commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code.~~ (6-23-94)

111. -- 114. (RESERVED).

26115. WHEN THE GASOLINE TAX RATE INCREASES, USE CONVERSION FACTOR TO ADJUST ANNUAL GASEOUS FUELS PERMIT FEES (Rule 26115).

01. Gasoline Tax Rate Increase Conversion Factors. When the gasoline tax rate increases, the following conversion factors for each vehicle weight class should be multiplied by the new tax rate for gasoline found in Idaho Code, Section 63-2405 and rounded to nearest dollar to adjust the annual gaseous fuels permit fees. (7-1-97)

a. A conversion factor of two hundred thirty-eight (238) for vehicles weighing zero (0) to eight thousand (8,000) lbs. (7-1-97)

b. A conversion factor of three hundred fifty-seven (357) for vehicles weighing eight thousand and one (8,001) to sixteen thousand (16,000) lbs. (7-1-97)

c. A conversion factor of seven hundred fourteen (714) for vehicles weighing sixteen thousand and one (16,001) to twenty six thousand (26,000) lbs. (7-1-97)

d. A conversion factor of eight hundred thirty-three (833) for vehicles weighing twenty six thousand and one (26,001) lbs. and above. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

120. MEASUREMENT OF GALLONS (Rule 120).

~~All reports requiring reporting the number of gallons of gasoline or aircraft engine fuel shall be stated in gross~~

~~gallons.~~ Complete all reports using gross gallons.

~~(6-23-94)~~()

(BREAK IN CONTINUITY OF SECTIONS)

130. DISTRIBUTOR'S FUEL TAX REPORTS (Rule 130).

01. Monthly Reports. Every licensed distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. The distributor must keep detailed inventory records. All reports which require the reporting of the number of gallons of motor fuels and other petroleum products shall be stated in gross gallons. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor shall include a listing of each person from inside and/or outside Idaho supplying motor fuels to the distributor during the month and the number of gallons supplied by each supplier, on a load by load basis. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (7-1-98)

- a. The beginning inventory of motor fuels and other petroleum products on the first day of the month; (7-1-98)
- b. The total quantity of motor fuels and other petroleum products received during the month; (7-1-98)
- c. The total quantity of motor fuels and other petroleum products disbursed to licensed distributors tax not collected or exported, and gasoline and aircraft engine fuel sold to the Idaho National Guard during the month; (7-1-98)
- d. The total quantity of motor fuels and other petroleum products transferred or relabeled from one (1) fuel type to another; (7-1-98)
- e. The casualty loss documented with satisfactory written explanation of proof of loss; (7-1-98)
- f. The ending inventory of motor fuels and other petroleum products on the last day of the month; (7-1-98)
- g. The gross taxable gallons of motor fuels and other petroleum products; (7-1-98)
- h. The tax-paid purchases; (7-1-98)
- i. The net taxable gallons; (7-1-98)
- j. The gallons after deduction of a one percent (1%) or two percent (2%) allowance, whichever is appropriate. See ~~Subsections Rule 140.02 and 140.03~~ of these rules; ~~(7-1-98)~~()
- k. The tax computation; (7-1-98)
- l. The bad debt amounts, refer to Rule 140 of these rules; (7-1-98)
- m. The gaseous fuels permit fees; (7-1-98)
- n. The net tax due; (7-1-98)

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates. Supporting detailed schedules required by the State Tax Commission must accompany the report, together with all documentation and the payment of any tax, transfer fee, penalty or interest due. See ~~Motor Fuels Tax Administrative Rule; 010 of these rules~~ ~~Subsection 010.04~~ relating to method of

payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-98)()

k. The tax computation; (7-1-98)

l. The bad debt amounts, refer to Rule 140 of these rules; (7-1-98)

m. The gaseous fuels permit fees; (7-1-98)

n. The net tax due; (7-1-98)

02. Report Due and Payment Required. The report shall be due on or before the last day of the month following the month to which the report relates. Supporting detailed schedules required by the State Tax Commission must accompany the report, together with all documentation and the payment of any tax, transfer fee, penalty or interest due. See Motor Fuels Tax Administrative Rule, Subsection 010.04 relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-98)

03. Machine Tabulated Data. Machine tabulated data will be accepted in lieu of detailed schedules on State Tax Commission provided forms but only if the data is in the same format as shown on the required schedules. Before any other format may be used, the distributor must make a written request to the State Tax Commission with a copy of the format and must be granted written authorization to use that format. (7-1-98)

04. Supplemental Reports. In addition to the monthly report, a supplemental report may be filed in those cases involving additional shipments of motor fuels and other petroleum products to the distributor. The supplemental report may be filed only when the distributor is diligent in reporting shipments in the monthly report. Only shipments received within the last five (5) days of the month may be reported in a supplemental report. Shipments received before that date will be subject to penalty if reported in the supplemental report. If a supplemental report is filed, the State Tax Commission will impose interest, but the report will not be subject to penalty. The supplemental report must be postmarked on or before the tenth (10th) day of the month following the month in which a report from which shipments were omitted was due. (7-1-98)

05. Timely Reporting. Any petroleum product shipments that are: (7-1-98)

ba. Reported on a timely supplemental report shall be subject to interest but are not subject to penalty. (7-1-98)

ab. Not reported on a timely monthly or supplemental report shall be subject to interest and may be subject to penalty; and (7-1-98)()

06. Motor Fuels-Receipts. All gasoline, gasohol, aircraft engine fuel, and undyed diesel fuel received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other non-propulsion petroleum products are not subject to the special fuels tax but are subject to the transfer fee. The special fuels tax is not imposed on gaseous special fuels when the fuels are received. Refer to Subsections Rule 1405.06 and 140.07 of these rules for the taxation and reporting of gaseous special fuels used in motor vehicles. (7-1-98)()

131. -- 1394. (RESERVED).

1435. HELICOPTER COMPANIES ALTERNATE REPORTING FOR PERSONS WHO ONLY IMPORT AIRCRAFT ENGINE MOTOR FUELS INTO IDAHO FOR USE IN THEIR OWN AIRCRAFT, MOTOR VEHICLES, AND EQUIPMENT. (Rule 1435.)

01. In General. The state of Idaho imposes an excise tax and transfer fee on all ~~aircraft engine motor fuel and transfer fee on all non-motor fuel petroleum products~~, received in Idaho. ~~Aircraft engine Motor~~ fuel imported into Idaho is received at the time the fuel arrives in Idaho by the person who is the owner of the ~~aircraft engine motor~~ fuel when the fuel arrives in Idaho. The excise tax and transfer fee due on the ~~aircraft engine motor~~ fuel received in Idaho during a month are normally reported on an Idaho Motor Fuels Distributor ~~Return~~ Report on a monthly basis. (6-23-94)()

02. ~~Alternative to Monthly Reporting for Qualified Helicopter Companies Consumers.~~ As an ~~option~~ alternative to obtaining an Idaho motor fuel distributor's license and ~~the filing of monthly returns reports,~~ a qualified ~~helicopter company consumer~~ helicopter company consumer may file an annual report Form 75 together with its Idaho income tax return to remit ~~aircraft engine~~ the motor fuel tax and transfer fee due to the state of Idaho or to receive a refund of excess tax or transfer fee paid. (6-23-94)(____)

03. Qualifications. To be a qualified ~~helicopter company consumer~~ consumer under this rule, a person must: (6-23-94)(____)

a. Use the imported ~~aircraft engine~~ motor fuel only in its own aircraft, motor vehicles, or equipment;
and (6-23-94)(____)

b. Import less than 100,000 gallons of ~~aircraft engine~~ motor fuel into Idaho in a calendar for the company's taxable year; and, (6-23-94)(____)

e. ~~Have in place a reliable and systematic method of reporting the number of gallons of aircraft engine fuel purchased in Idaho, and the number of gallons of aircraft engine fuel imported and exported, other than in the fuel supply tank of a helicopter.~~ (6-23-94)

04. Documentation of Export. To claim an export of motor fuel or other petroleum products a qualified consumer must have tax reports or other evidence that will verify that the exported fuel was reported to and any tax due was paid to the state into which the fuel was claimed to have been exported. (____)

05. Limitations.

a. A qualified consumer may not claim an export from Idaho for fuel in the supply tank of a motor vehicle or aircraft. (____)

b. A licensed Idaho fuel distributor may not file this report. (____)

136. -- 139. (RESERVED).

140. DEDUCTIONS (Rule 140).

01. Motor Fuels and Petroleum Products Presumed to Be Distributed. Unless the contrary is established, it shall be presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and/or transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee will be allowed for accidental losses of motor fuels or other petroleum products. (7-1-98)

02. Distributor's and Retail Dealer's Allowances for Gasoline and/or Aircraft Engine Motor Fuels. (EFFECTIVE JULY 1, 1998) (Prior to July 1, 1998 this Subsection only applied to sales of gasoline and aircraft engine fuel.) The distributor shall certify on his report that the one percent (1%) credit allowance has been afforded the retail dealer to cover the dealer's shrinkage, evaporation, spillage or handling losses for ~~gasoline and aircraft engine~~ motor fuel. The State Tax Commission shall then allow the additional one percent (1%) deduction unless a retail dealer claims that he did not receive the credit allowance. If such claim is made, the State Tax Commission shall require the licensed distributor to provide documentary proof that the one percent (1%) credit allowance has been afforded the retail dealer, and unless the distributor establishes that the credit has been afforded to the retail dealer, the deduction will be disallowed. In the case of sales of ~~gasoline and/or aircraft engine~~ motor fuel to retail dealers, to establish that the allowance of one percent (1%) of the tax has been passed to the purchaser, the invoice must show either: (7-1-98)(____)

a. That the amount of the allowance has been passed on; or (7-1-98)

b. A statement that the allowance has been deducted in determining the price. (7-1-98)

03. Distributor's Allowance for Special Fuels. (EFFECTIVE UNTIL JULY 1, 1998) The distributor who reports and pays the special fuels tax retains all of the two percent (2%) allowance and is not required to pass down a portion of the allowance to the retail dealer. (7-1-98)()

04. Exported Fuel. Motor fuels or other petroleum products claimed as exported from Idaho must be supported by records. Records must include the following: (7-1-98)

a. Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and (7-1-98)

b. Common carrier shipping documents, bills of lading, manifests, and cost billings; or (7-1-98)

c. Invoices, manifests, bills of lading or other documentation, signed by the receiving party to acknowledge receipt of the product; or (7-1-98)

d. Accounts payable or receivable information for verifying payments to common carriers or payment by out-of-state parties to verify receipt of exported product. (7-1-98)

e. In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records must be retained to prove the transfer of product out of Idaho. (7-1-98)

05. Bad Debt Write-Off. A tax credit may be taken on the distributor's fuel tax report for fuel taxes paid on sales made after July 1, 1995. The credit is claimed when the debt has been written off for income tax purposes in the business records of the distributor. The credit may be claimed on distributor's fuel tax report each month or at the end of the distributor's tax year after a debt has been written off. (7-1-98)

a. First-in/first-out method for partial payments. When partial payments are received on a specific account that includes taxable fuel sales, non-taxable fuel sales, and/or other sales, the distributor must apply the payments to the unpaid sales on a first-in/first-out basis before claiming a bad debt credit. (7-1-98)

b. Proration of partial payments. When partial payments are received on a specific account, before and/or after a bad debt credit has been claimed on the distributor's fuel tax report, the distributor must prorate the taxable fuel sales, nontaxable fuel sales, and/or other sales which occurred on the same day or on the same invoice for each such account. (7-1-98)

~~06. Gaseous Special Fuels. Propane or natural gas will be presumed to be tax exempt unless delivered into the supply tank of a licensed, or required to be licensed, motor vehicle. (7-1-98)~~

~~07. Sales of Gaseous Special Fuels. Gaseous special fuels delivered into the fuel supply tank of a licensed, or required to be licensed, motor vehicle are taxable except for: (7-1-98)~~

~~a. Government. Gaseous special fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the special fuels tax on gaseous fuels. In this case, the licensed distributor must record on the document of sale, the name of the governmental entity, the license or identification number, and the type of vehicle. (7-1-98)~~

~~b. Gaseous special fuels permits. Special fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid Gaseous Special Fuels Decal are exempt from tax. For the exempt status to be valid, sales documentation must have the purchaser's name, address, vehicle license number, and the words "gaseous fuels decal." (7-1-98)~~

(BREAK IN CONTINUITY OF SECTIONS)

~~251. -- 259.~~ (RESERVED).

~~262~~251. -- 269. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

290. NONTAXABLE SPECIAL FUELS USED IN MOTOR VEHICLES (Rule 290).

01. ~~Required Reporting Refund Claims, Required Records. Reporting required for claims of nontaxable uses by special fuels motor vehicle users, except IFTA carriers. Refund claims for nontaxable uses of special fuels used in motor vehicles must be submitted on Form 75~~ Special fuel users, except IFTA carriers, must file a Form 75 with the relevant supplemental worksheet to claim a fuels tax refund. The records required to document a refund request are as follows: (7-1-98)(____)

a. Total miles. The total miles traveled should be included for motor vehicles which have nontaxable uses of special fuels. Special fuel ~~carriers users~~ users who qualify to use one of the "Standard MPGs" found in Subsection 290.02.g. of ~~these~~ this rules need only record and report Idaho taxable miles. (7-1-98)(____)

b. Total fuel. The total number of gallons of fuel delivered into the supply tanks of the motor vehicles should be included for motor vehicles which have nontaxable uses of special fuels. The total miles figure and the total fuel figure must be for the same vehicles. (7-1-98)

c. Miles per gallon. The miles per gallon shall be computed by dividing gallons reported according to Subsection 290.01.b. of this rule into the number of miles reported according to Subsection 290.01.a. of this rule. Round the miles per gallon to the nearest hundredth (0.00). The computation of fleet miles per gallon should be carried to three (3) decimal places and rounded to two (2) decimal places. Example: 4.514 = 4.51 and 4.515 = 4.52. In the event that the claimant fails to keep sufficiently detailed records showing the number of miles actually operated per gallon of special fuel consumed, it shall be presumed that not less than one (1) gallon of special fuel was consumed for every: (7-1-98)

i. Four (4) miles traveled by vehicles over forty thousand (40,000) pounds gross registered vehicle weight; or (7-1-98)

ii. Five and one-half (5 1/2) miles traveled by vehicles from twenty-six thousand and one (26,001) to forty thousand (40,000) pounds gross registered vehicle weight; or (7-1-98)

iii. Seven (7) miles traveled by vehicles from twelve thousand and one (12,001) to twenty-six thousand (26,000) pounds gross registered vehicle weight; or (7-1-98)

iv. Ten (10) miles traveled by vehicles from six thousand and one (6,001) to twelve thousand (12,000) pounds gross registered vehicle weight; or (7-1-98)

v. Sixteen (16) miles traveled by vehicles six thousand (6,000) pounds or less gross registered vehicle weight. (7-1-98)

d. The total taxable miles traveled in Idaho. Only taxable miles traveled in Idaho by the motor vehicles which have nontaxable uses of special fuels should be included. Taxable miles are miles driven on any road that is open to the use of the public and maintained by a governmental entity. Such roads may be constructed using concrete, asphalt, gravel, composition, dirt, or other surfaces. (7-1-98)

e. The number of gallons of special fuels consumed in Idaho. The gallons consumed in Idaho shall be computed by dividing the miles per gallon determined according to Subsection 290.01.c. of this rule into the total

taxable miles in Idaho according to Subsection 290.01.d. of this rule. (7-1-98)

02. Nontaxable Uses of Special Fuels in Motor Vehicles. Records must be kept to show the actual number of gallons of tax-paid special fuel placed into the supply tank of the motor vehicle to receive a refund of the special fuels tax for nontaxable uses of special fuels. Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power-take-off (PTO) equipment. (7-1-98)

a. Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 290.02.b. of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 130 of these rules regarding application of Idaho Sales and Use Taxes. (7-1-98)

b. Special fuels users may exclude from total taxable miles traveled in Idaho the miles traveled on roadways, as defined in Section 63-2401(10), Idaho Code and described in this subsection, when computing their special fuels tax liability or refund if: (7-1-98)

i. The cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them; and (7-1-98)

ii. They operate motor vehicles that weigh over twenty-six thousand (26,000) pounds maximum gross weight on that roadway. (7-1-98)

iii. If the special fuels user is not using the "standard MPG" for its industry found in Subsection 290.02.g. of this rule, the special fuels user must maintain records documenting nontaxable miles traveled that qualify for exclusion under this provision. The roadways referred to in this subsection are those constructed and maintained by: The United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. (7-1-98)

c. ~~Off-loading~~ Power-take-off (PTO) and auxiliary engine allowances. Total gallons of fuel may be reduced when special fuels are used for purposes other than to operate or propel a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for ~~off-loading PTO or auxiliary engine~~ allowances are turning a vehicle-mounted cement mixer or off-loading product. Total gallons of fuel may be reduced when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the motor vehicle. No reduction of total gallons of gasoline is allowed when gasoline is used by the motor vehicle's main engine even to operate the motor vehicle's PTO unit. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances: (7-1-98)()

i. Gasoline/fuel oil: one and one half (1.5) gallons per ten thousand (10,000) gallons pumped; (7-1-98)

ii. Bulk cement: four (4) gallons per twenty-two and one half (22.5) tons pumped; (7-1-98)

~~iii. Lime: Three and fourteen one hundredths (3.14) gallons per hour; (7-1-98)~~

~~iv. Calcium crystals: Four and thirteen one hundredths (4.13) gallons per hour; (7-1-98)~~

~~viii. Concrete: one (1) gallon per five (5) cubic yards; (7-1-98)~~

~~vi. Refrigeration Unit (Reefer): three-fourths (.75) gallon per hour; (7-1-98)~~

~~xv. Tree length ~~pulp~~ timber: five hundred and three ten-thousandths (.0503) gallon/ton; nineteen and eighty-eight hundredths (19.88) tons/gallon; three and forty-six hundredths (3.46) gallons/hour. (7-1-98)()~~

~~vii. Grain (dairy pellets): Thirteen one hundredths (.13) gallon per ton; (7-1-98)~~

viii. ~~Grain meal (mash): Two hundred twenty-five thousandths (.225) gallon per ton; (7-1-98)~~
ix. ~~Pulp: Fifty three hundredths (.53) gallon/cord; one and eighty nine hundredths (1.89) cords/gallon; four and seventy three hundredths (4.73) gallons/hour; (7-1-98)~~

vi. Garbage compaction: twenty-five percent (25%) of total fuel consumed. ()

vii. Carpet cleaning: three-fourths (.75) gallons/hour. ()

d. The gallons of fuel reported shall be the total number of gallons, as defined in Subsection 290.01.b. of this rule, consumed after deduction of the gallons allowed for the ~~off-loading PTO or auxiliary engine allowance.~~ (7-1-98)()

e. ~~An off-loading PTO or auxiliary engine allowance~~ which is not listed in Subsection 290.02.c. of this rule must be submitted by the taxpayer to the State Tax Commission for approval before being used. A request for a PTO or auxiliary engine allowance greater than those listed in Subsection 290.02.c of this rule must also be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed ~~off-loading PTO or auxiliary engine allowance~~ in writing with a copy of the supporting calculations used to compute the proposed allowance. Taxpayers must send requests for approval to:

FUELS TAX POLICY SPECIALIST
TAX POLICY SECTION
IDAHO TAX COMMISSION
P. O. BOX 36
BOISE, ID 83722
(208) 334-7530

(7-1-98)()

f. ~~Off-loading PTO or auxiliary engine allowances~~ listed in Subsection 290.02.c. of this rule may be granted for IFTA accounts by recomputing the total gallons of fuel consumed in all jurisdictions but must be applied for separately from the IFTA quarterly or annual reports. IFTA licensees claiming refunds of Idaho fuels tax resulting from the ~~off-loading PTO or auxiliary engine allowances~~ established in Subsections 290.02.c. and 290.02.e. of this rule, must file the claim on an Idaho Fuels Use Report, Form 75 with the relevant supplemental worksheet. (7-1-98)()

i. The IFTA licensee must recompute the total fuel consumed in all jurisdictions by deducting the gallons allowed for the ~~off-loading PTO or auxiliary engine allowance~~ from the total number of gallons of fuel consumed that was reported on the IFTA report. Using the new net gallons consumed, recompute the fleet miles per gallon. Apply the new fleet miles per gallon to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. (7-1-98)()

ii. Additionally, a copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how the ~~off-loading PTO or auxiliary engine allowance~~ was calculated must be included as an attachment to the Form 75. All refund claims are subject to audit, therefore, adequate documentation must be retained by the licensee. (7-1-98)()

g. A special rule may be applied for motor vehicles, except IFTA carriers, that use special fuels and accrue both taxable and nontaxable miles. These operators of motor vehicles that use special fuels, except those licensed under IFTA, may, instead of using the computations provided in Subsection 290.01.c.; of this rule, presume that when engaged in operations in the following industries and accruing taxable miles in Idaho, that such motor vehicles consume fuel at the following rates:

Logging	4.3 MPG
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Agricultural	4.5 MPG
Sand, gravel & rock hauling	4.0 MPG
Construction	4.4 MPG

(7-1-98)()

h. If an operator has reason to believe the standard on-road miles per gallon (MPG) in Subsection 290.02.g. is not an accurate reflection of his specific operation, the operator can calculate an actual MPG using the computations provided in Subsection 290.01.c. of this rule. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

410. ADOPTION OF INTERNATIONAL FUEL TAX AGREEMENT (Rule 410).

Under the authority of Sections 63-2434, 63-3039, 67-5203A, and 63-2442A, Idaho Code, the State Tax Commission and ~~special motor~~ fuels users licensed or required to be licensed pursuant to IFTA, are governed by the provisions of the International Fuel Tax Agreement, including the IFTA Procedures and Audit Manuals in effect on the effective date of this rule and as subsequently amended. ~~Special Motor~~ fuels users who operate under the International Fuel Tax Agreement also must comply with all applicable rules contained in these rules. (6-23-94)()

(BREAK IN CONTINUITY OF SECTIONS)

500. IDAHO CLEAN WATER TRUST FUND TRANSFER FEE (Rule 500).

~~01.~~ Petroleum Transfer Fee. The fee imposed by Section 41-4908, Idaho Code, is The Idaho Clean Water Trust Fund Transfer Fee. For simplicity, it shall be called the Petroleum Transfer Fee in these rules. (6-23-94)

~~02.~~ ~~Petroleum Transfer Fee Described. The Petroleum Transfer Fee is not a tax on motor fuels. It is a fee directly related to the costs of services provided by the Idaho Petroleum Clean Water Trust Fund. The inclusion of these rules relating to the Petroleum Transfer Fee with these Motor Fuels Tax Rules and the incorporation of other tax rules in these rules is for administrative convenience only. The Tax Commission intends no implication that the Petroleum Transfer Fee is in any way a tax on motor fuels and no such inference should be drawn from these rules.~~ (6-23-94)

IDAPA 35 - STATE TAX COMMISSION
35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES
DOCKET NO. 35-0201-9801
NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 rule-making:

Sections 67-2351 through 67-2357, Idaho Code, were added to the Idaho Income Tax Act during the 1998 legislative session. These sections allow the State of Idaho to accept electronically filed returns and requires that a state agency adopt rules regarding acceptance of an electronic signature.

RULE 150 - Requirements of a Valid Return. Rule 150 was amended to add "personal identification number" to the list of items that constitute a signature when transmitted as an electronically filed return by the taxpayer or at the taxpayer's direction. Amendments to Rule 150 were made to clarify the requirements of a valid return.

RULE 155 - Tax Returns and Other Documents Filed Electronically. New Rule 155 was added to provide taxpayers with information required in order to file returns electronically.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the proposed change is of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, (208) 334-7530.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 23, 1998.

DATED this 22nd day of July, 1998.

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

TEXT OF DOCKET NO. 35-0201-9801

150. REQUIREMENTS OF A VALID TAX RETURN (Rule 150).

01. In General. All tax returns filed with the Tax Commission shall be complete and copies of all pertinent schedules or computations shall be attached. (3-20-97)

02. Supporting Computations and Schedules. The results of supporting computations shall be carried forward to applicable lines on the tax forms. A statement referencing an attached schedule is not acceptable if the taxpayer does not enter the necessary information from the attachments on the tax form. For purposes of this subsection, a return shall be deemed valid if the Tax Commission does not reject the return by mailing it back to the taxpayer. (3-20-97)

~~03. Identification Number Required. All Idaho tax returns or other documents filed by a taxpayer shall include the taxpayer's social security number, federal employer identification number, or Internal Revenue Service processing number. (3-20-97)~~

~~043. Information to Compute Tax. A return that does not provide sufficient financial information to compute a tax liability is not a valid tax return. (3-20-97)~~

~~054. Accuracy and Required Information. A return need not be totally accurate to be a valid return. However, for the return to be valid it must: (3-20-97)~~

~~a. Be identified as a return; (3-20-97)~~

~~b. Be filed using the proper form prescribed by the Tax Commission; (3-20-97)~~

~~c. Include the taxpayer's social security number, federal employer identification number, or Internal Revenue Service processing number; ()~~

~~d. Include the taxpayer's name and address; ()~~

~~e. Include the taxpayer's Idaho permit or license number, if applicable; ()~~

~~f. Identify the reporting or tax period; ()~~

~~eg. Contain a computation of the tax liability and sufficient supporting information to show how the taxpayer reached that result; and (3-20-97)~~

~~eh. Reflect the taxpayer's honest and genuine effort to satisfy the requirements of the law. For purposes of determining if these requirements are met, documents that contain the following are clearly insufficient: (3-20-97)~~

~~i. Broad unspecified constitutional claims; (3-20-97)~~

~~ii. Unsupported statements that claim no Idaho activity or income exists; and (3-20-97)~~

~~iii. Language that demonstrates a protest against the tax law or its administration. (3-20-97)~~

~~065. Signing of Returns. (3-20-97)~~

a. Paper Returns. The taxpayer or an authorized officer or representative shall manually sign the tax return. Both spouses shall sign a joint return. If a taxpayer is deceased or cannot sign his name, a duly authorized person, such as a surviving spouse, executor, administrator or person holding power of attorney may sign the return, indicating his status or relationship. If a taxpayer signs with an X, a witness shall attest his mark. The signature of the taxpayer constitutes a written declaration of the return's accuracy. (3-20-97)

b. Electronically Filed Returns. The name of the taxpayer, the name of the taxpayer's authorized agent, ~~or the taxpayer's identification number, or personal identification number, will~~ shall constitute a signature when transmitted as part of ~~the return information on returns filed by electronic means~~ an electronically filed return by the taxpayer or at the taxpayer's direction. The tax preparer shall keep a copy of the tax return on file for the applicable statute of limitations as required by Section 48-603B, Idaho Code. (3-20-97)()

076. Reproduced and Substitute Forms. Any reproduced or substitute form or schedule must meet the requirements of the Tax Commission's original form. (3-20-97)

a. Specific instructions for substitute forms are available on request from the Tax Commission. The use of substitute forms requires prior approval of the Tax Commission. The Tax Commission may reject nonapproved forms. (3-20-97)

b. Reproduced forms and photocopies of official Tax Commission forms are acceptable if the weight and size of the paper are comparable to that used in the official forms. These forms and schedules must be sufficiently legible so they may be reproduced. (3-20-97)

151. -- 19954. (RESERVED).

155. TAX RETURNS AND OTHER DOCUMENTS FILED ELECTRONICALLY (Rule 155).
Sections 63-115, 63-3039, 9-328, 67-2351 through 67-2357, Idaho Code. ()

01. Tax Returns Filed Electronically. Pursuant to Section 63-115, Idaho Code, a taxpayer may file a tax return with the Tax Commission electronically only when the Tax Commission has established and implemented procedures permitting electronic filing of a specific tax return. A return may only be filed electronically by using the procedures and formats established by the Tax Commission for the particular return. ()

02. Signatures. See Rule 150 of these rules. ()

03. Return Received. A tax return is filed with the Tax Commission when it is accessible to the Tax Commission or to a third party service provider used by the Tax Commission to receive such transmissions. To be valid, the tax return must be in the required format and sufficiently free of errors to identify the taxpayer, the tax type, and to calculate any tax due. ()

04. Acknowledgment of Data Transmissions. Persons filing returns by electronic data stream may be sent an acknowledgment of receipt of a successfully transmitted return. An acknowledgment means only that the Tax Commission received the return. An acknowledgment is not a finding by the Tax Commission about the correctness of the return. If any transmission is received in an unintelligible or garbled form and the Tax Commission cannot identify the taxpayer, no acknowledgment will be sent. ()

156. -- 199. (RESERVED).

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.01 - RULES GOVERNING DEFINITIONS

DOCKET NO. 39-0301-9801

NOTICE OF TEMPORARY AND PROPOSED RULES

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and replace it with one incorporating a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.01 - RULES GOVERNING PERMITTED OVERLEGAL VEHICLES AND/OR LOADS
DOCKET NO. 39-0301-9802

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

This rule making is being promulgated to replace the current rules in the form of a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

TEXT OF DOCKET NO. 39-0301-9802

IDAPA 39
TITLE 03
Chapter 01

RULES GOVERNING PERMITTED OVERLEGAL VEHICLES AND/OR LOADS

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 40-312, Idaho Code. (2-1-98)T

001. TITLE AND SCOPE.

01. Title. This rule shall be known as Idaho Transportation Department Rule, IDAPA 39, Title 03, Chapter 01, "Rules Governing Permitted Overlegal Vehicles and/or Loads". (2-1-98)T

02. Scope. This rule will provide for the conditions under which overlegal vehicles and/or loads will be permitted, as outlined in the publication incorporated by reference. (2-1-98)T

002. WRITTEN INTERPRETATIONS.

This chapter does not provide for written interpretations. (2-1-98)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative appeals. (2-1-98)T

004. INCORPORATION BY REFERENCE.

The Permit Conditions Manual is published by the Idaho Transportation Department. The December, 1997 edition of the manual is hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. All previous rules regarding Overlegal Permits for vehicles and/or loads will henceforth be known as permit conditions, and will be in the Permit Conditions Manual. (2-1-98)T

005. AVAILABILITY OF REFERENCED MATERIAL.

The Permit Conditions Manual is available for review or purchase at the Idaho Transportation Department Headquarters Overlegal Permit Office in Boise, at a District Office of the Department in Boise, Coeur d'Alene, Lewiston, Pocatello, Rigby, or Shoshone, or at any Department Port of Entry. It is also accessible on the internet at: www2.state.id.us/itd/dmvstats.htm. (2-1-98)T

006. -- 999. (RESERVED).

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.05 - RULES GOVERNING VARIABLE LOAD SUSPENSION AXLES
DOCKET NO. 39-0305-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.06 - RULES GOVERNING ALLOWABLE VEHICLE SIZE
DOCKET NO. 39-0306-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.07 - RULES GOVERNING RESTRICTED ROUTES FOR SEMITRAILERS
DOCKET NO. 39-0307-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.03.08 – RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD
SUSPENSION AXLES AND OTHER AUXILIARY AXLES

DOCKET NO. 39-0308-9701

NOTICE OF RESCISSION OF TEMPORARY RULE-MAKING

EFFECTIVE DATE: This rule-making is effective February 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, 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(s) 49-1001, Idaho Code.

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

It was necessary at the time this temporary rule took effect to authorize Port of Entry inspectors to weigh prequalified variable load suspension axles if they had reason to believe that the axle was overweight or was not carrying sufficient weight for the group of axles. This rule is now one of twenty-two being repealed and replaced by a single rule in docket number 39-0301-9802. The single rule incorporates by reference a published manual of permit conditions which includes the contents of the twenty-two repealed rules.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Steven Parry, 208-334-8814.

DATED this 29th day of July, 1998.

Linda L. Emry, Administrative Secretary
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.08 - RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD
SUSPENSION AXLES AND OTHER AUXILIARY AXLES

DOCKET NO. 39-0308-9701

NOTICE OF VACATION OF RULE-MAKING

EFFECTIVE DATE: This rule-making is effective February 1, 1998.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, 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(s) 49-1001, Idaho Code.

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

It was necessary at the time this temporary rule took effect to authorize Port of Entry inspectors to weigh prequalified variable load suspension axles if they had reason to believe that the axle was overweight or was not carrying sufficient weight for the group of axles. This rule is now one of twenty-two being repealed and replaced by a single rule in docket number 39-0301-9802. The single rule incorporates by reference a published manual of permit conditions which includes the contents of the twenty-two repealed rules.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Steven Parry, 208-334-8814.

DATED this 29th day of July, 1998.

Linda L. Emry, Administrative Secretary
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
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IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.08 - RULES GOVERNING PREQUALIFICATIONS OF VARIABLE LOAD
SUSPENSION AXLES AND OTHER AUXILIARY AXLES

DOCKET NO. 39-0308-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
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Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.09 - RULES GOVERNING GENERAL CONDITIONS AND
REQUIREMENTS FOR SPECIAL PERMITS

DOCKET NO. 39-0309-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.10 - RULES GOVERNING WHEN SPECIAL PERMIT IS REQUIRED
DOCKET NO. 39-0310-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.11 - RULES GOVERNING SPECIAL PERMITTEE RESPONSIBILITY
AND TRAVEL RESTRICTIONS FOR OVERLEGAL LOADS

DOCKET NO. 39-0311-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF SPECIAL PERMIT
DOCKET NO. 39-0312-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.13 - RULES GOVERNING OVERWEIGHT PERMITS
DOCKET NO. 39-0313-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
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Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.14 - RULES GOVERNING POLICY DURING SPRING BREAKUP SEASON
DOCKET NO. 39-0314-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
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Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.15 - RULES GOVERNING INTERSTATE EXCESS WEIGHT PERMITS
DOCKET NO. 39-0315-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
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Phone: (208) 334-8810
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE LOADS
DOCKET NO. 39-0316-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.17 - RULES GOVERNING OVERSIZE PERMITS FOR MANUFACTURED HOMES,
MODULAR BUILDINGS AND OFFICE TRAILERS

DOCKET NO. 39-0317-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.18 - RULES GOVERNING SPECIAL PERMITS FOR RELOCATION
OF BUILDINGS OR HOUSES

DOCKET NO. 39-0318-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.19 - RULES GOVERNING ANNUAL SPECIAL PERMITS
DOCKET NO. 39-0319-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.20 - RULES GOVERNING APPLICATION FOR SPECIAL PERMITS
DOCKET NO. 39-0320-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
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Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.21 - RULES GOVERNING SPECIAL PERMIT FEES
DOCKET NO. 39-0321-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.22 - RULES GOVERNING SPECIAL PERMITS FOR
EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
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Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.23 - RULES GOVERNING REVOCATION OF SPECIAL PERMITS
DOCKET NO. 39-0323-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
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Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.24 - RULES GOVERNING SELF-PROPELLED SNOWPLOWS
DOCKET NO. 39-0324-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.25 - RULES GOVERNING LIGHTS ON SNOW REMOVAL EQUIPMENT
DOCKET NO. 39-0325-9801

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is February 1, 1998.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

These rules are being repealed in their entirety and being replaced by a new rule under Docket No. 39-0301-9802.

This rule making is being promulgated to repeal this rule and incorporate it into a permit conditions manual. This will allow the department to make required or requested changes in a more timely and cost effective manner. It will also allow the department to provide a higher and more responsive level of customer service to the industry.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to the trucking industry and to anyone needing to purchase a special permit for over legal vehicles or loads.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Frew at (208) 334-8694.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY
DOCKET NO. 39-0343-9801
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 40-312(3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 1998.

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 non-technical explanation of the substance and purpose of the proposed rulemaking:

This rule is being amended to correct a code reference as amended and redesignated, effective July 1, 1993, and to correct or eliminate references to position titles where appropriate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Robert Linkhart at (208) 334-8492.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered on or before September 23, 1998.

DATED this 21st day of July, 1998

Linda L. Emry
Administrative Secretary
Idaho Transportation Department
P O Box 7129
Boise ID 83707-1129
Phone: (208) 334-8810
Fax: (208) 334-8195

TEXT OF DOCKET NO. 39-0343-9801

000. LEGAL AUTHORITY.

Under authority of Sections 40-312(3) and 67-5203A-29, Idaho Code, the Idaho Transportation Board incorporates by reference its 1990 publication titled, "A Policy for the Accommodation of Utilities within the Right-of-Way of the State Highway System in the state of Idaho." (6-4-90)()

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL.

01. Policy. "A Policy for the Accommodation of Utilities within the Right-of-Way of the State

Highway System in the State of Idaho" as adopted by the Idaho Transportation Board on January 19, 1990, is hereby adopted and incorporated by reference as ~~its~~ the official policy for governing the occupancy of state highway right-of-way by utility facilities. Copies of the policy may be obtained from the Department's ~~Utilities Engineer~~ at the Headquarters Office in Boise or from a District Office in Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello or Rigby. (6-4-90)(____)

02. Application of Policy. The policy applies to new utility installations, to existing utility installations to be retained, relocated, maintained or adjusted because of highway construction or reconstruction, and to the relocation of utility facilities which are found to constitute a definite hazard to the traveling public. (6-4-90)

03. Hearing Requirements. The Idaho Transportation Board is authorized to order relocation of utilities after notice and opportunity for a hearing. When required, the Department's ~~Utilities Engineer~~ will: (6-4-90)(____)

a. Request ~~the Executive Assistant to the Board to call~~ utility hearings; (6-4-90)(____)

b. ~~Represent~~ Present the Department's viewpoint at such hearings; and (6-4-90)(____)

c. Request ~~the Executive Assistant to the Board to i~~ssue orders to proceed with utility relocations. (6-4-90)

04. Relocation Cost. Relocation costs will be determined as follows: (6-4-90)

a. Where the utility company has a right of occupancy for its facilities by reason of holding the fee, an easement or other property interest, the cost of relocation will normally be borne by the Department. (6-4-90)

b. Where the utility facility occupies a public highway right-of-way, or land acquired for highway right-of-way, through sufferance or by actual encroachment, the cost of relocation will normally be borne by the utility company. (6-4-90)

c. Where there is a combination of the above conditions, the cost of relocation will be pro-rated between the Department and the utility company. (6-4-90)

d. In computing the cost of relocation at Department expense, credits shall be allowed for betterments, salvaged materials and expired service life. (6-4-90)

05. Agreements. An agreement shall be entered into between the Department and the utility company when the cost of utility adjustments and relocations are at Department expense. (6-4-90)

06. Permit Requirements. New utility installations which are to occupy existing highway right-of-way shall require a written permit from the Department. All utility facilities, whether new, relocated or existing, which are located within the right-of-way of a highway construction project shall require a written permit from the Department. (6-4-90)

IDAPA 48 - DEPARTMENT OF COMMERCE
48.01.03 - RULES GOVERNING IDAHO REGIONAL TRAVEL
AND CONVENTION GRANT PROGRAM

DOCKET NO. 48-0103-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 1999 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the 1999 Idaho State Legislature, 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 67-4703(7), 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.

Regional Travel and Convention Program grantees must utilize a bid process for purchases or services over \$2,500. Informal bids are required for projects between \$1,500 and \$2,500 by contacting three registered vendors. When procuring equipment the same policies and procedures for the Bid process will be followed. Rental costs exceeding \$2,500 will not be exempt from the travel grant program's bid process.

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the May 6, 1998, Idaho Administrative Bulletin, Volume 98-5, pages 207 through 211.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact ReNea Nelson (208) 334-2470.

DATED this 8th day of July, 1998.

ReNea Nelson, Grant Analyst
Department of Commerce
700 W. State St.
PO Box 83720, Boise ID 83720-0093
(208) 334-2470; FAX / (208) 334-2631

IDAPA 48
TITLE 01
Chapter 03

RULES GOVERNING IDAHO REGIONAL TRAVEL
AND CONVENTION GRANT PROGRAM

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 98-5, May 6, 1998, pages 207 through 211.

This rule has been adopted as Final by the Agency and is now pending
review by the 1999 Idaho State Legislature for final adoption.

Subject Index

- A**
- ACCESS TO INFORMATION ON VALUATION 162
 - ADDITIONAL HOUSEHOLD DEDUCTION OR CREDIT FOR ELDERLY OR DEVELOPMENTALLY DISABLED DEPENDENTS 116
 - ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (Rule 105) 109
 - ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF CORPORATIONS 110
 - ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS 113
 - ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE TO ALL TAXPAYERS (Rule 120) 112
 - ADMINISTRATION 74, 79
 - ADMINISTRATIVE AND FINANCIAL OPERATIONAL STANDARDS 46
 - ADMINISTRATIVE APPEALS 51, 55, 196
 - ADOPTION OF INTERNATIONAL FUEL TAX AGREEMENT 190
 - ALIENS 107
 - ALTERNATE REPORTING FOR PERSONS WHO IMPORT MOTOR FUELS INTO IDAHO FOR USE IN THEIR OWN AIRCRAFT, MOTOR VEHICLES AND EQUIPMENT 184
 - APPEAL OF OPERATING PROPERTY ASSESSMENTS 169
 - APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE 176
 - ASSESSMENT OF OPERATING PROPERTY 168
 - AVAILABILITY OF REFERENCED MATERIAL 196
 - Abstracts of Value by School District 144
 - Accrued Leave 46
 - Accuracy and Required Information 192
 - Acknowledgment of Data Transmissions 193
 - Act Defined 127
 - Active Duty in the Armed Forces 53
 - Active Participation 51
 - Active Participation in Technical or Professional Organizations 52
 - Activity 51
 - Additional Fees and Reinspection Fees 28
 - Adjustments in Carryback and Carryover Years 119
 - Adjustments to Net Operating Losses 119
 - Adoption Expenses 114, 122
 - Adoption of MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions 125
 - Adoption of MTC Special Industry Regulation 125
 - Advertising Costs 47
 - Agreements 221
 - Air Carrier Employees Covered By Title 49, Section 40116(f), United States Code 108
 - Allocation 168, 172
 - Alternative Energy Devices 114
 - Alternative Method 124
 - Alternative to Monthly Reporting for Qualified Consumers 185
 - Annexation Values for Operating Properties 152
 - Annual Gaseous Fuels Permits 181
 - Annual Ratio Study 139
 - Appearances and Practice 169
 - Application 176
 - Application of Policy 221
 - Application of Rule 124
 - Appraisal Approaches 168
 - Appraisal Procedures 168
 - Assessor to Identify School Districts 144
 - Attendance Verification 53
 - Attending Qualifying Seminars 52
 - Authoring Published Papers, Articles, or Books 52
 - Availability of Referenced Material 60, 63
 - Bad Debt Write-off 186
 - Board 51
 - Budget Requested Documents 151
 - Bureau 55
- C**
- CALCULATION OF TAX ON GASEOUS FUELS 181
 - COMITY-OUT-OF-JURISDICTION RESIDENTS 53
 - CONFIDENTIALITY OF RECORDS 68
 - COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR 144
 - CREDIT FOR TAXES PAID ANOTHER STATE OR TERRITORY 127
 - Capital Gain Deduction 122
 - Capital Gains 114
 - Capital Loss Carryover Deduction 109
 - Car Classification 172
 - Casualty Loss and Shrinkage Not Deductible 177
 - Central Registry 55
 - Central Registry Established 55
 - Certification Fees 76
 - Certification Standards for Vocational-Technical Educators 34
 - Change in Exemption Status 152
 - Change of Address Notification 57
 - Claims for Benefits, Delayed Filing 40
 - Classification of Forest Lands 153
 - Classification of Land Use Change 151
 - College Semester or Quarter Credit Hour 51
 - Common Distribution System 115
 - Communication 169
 - Complaint 171
 - Computation 132
 - Computation of Idaho Taxable Income 107
 - Conclusion of Investigation 138
 - Construction 75, 80
 - Consultant Specialist 34
 - Continuing Education Unit (CEU) 51
 - Conversion of C Corporation to S Corporation 120
 - Converted Rental Unit 115
 - Corporations Included in a Group Return 129

Corrected Annexation Values for Operating Properties 152
Corrected New Construction Roll 151
Correction of Central Registry Information 57
Council Costs 47
County Auditor to Notify Taxing Districts or Units 152
Covenant Not to Compete 124
Credit Calculated on a State-by-State Basis 128

D

DEDUCTION FOR ALTERNATIVE ENERGY DEVICES 115
DEDUCTIONS 185
DEFINITIONS 51, 55
DETERMINATION OF CREDIT 53
DISTRIBUTOR'S FUEL TAX REPORTS 183
Date Plan is Submitted 145
Deduction for Dependents Sixty-five(65) or Older or With Developmental Disabilities 122
Deficient Areas 154
Defined "Appropriate County Auditor" 152
Definition of Financial Institution 126
Definitions 110, 134, 137, 145, 148, 172
Definitions For Purposes of Net Operating Loss Carrybacks and Carryovers 119
Department 55
Designation of Information as Confidential 163
Destruction of Wood Burning Stove 115
Determination of Average Tax Rate -- Private Railcar Fleets Under Five Hundred Thousand Dollars (\$500,000) Assessed Value 173
Developmentally Disabled Defined 116
Director 55
Discharge Not Treated as Discharged Indebtedness 121
Distributor's Allowance for Special fuels 186
Distributor's and Retail Dealer's Allowances for Motor Fuels 185
Dividends Received Deduction 110
Documentation Required When Claim-

ing a Net Operating Loss Deduction 120
Documentation of Export 185
Documentation of Untaxed Sales of Gaseous Fuels into Motor Vehicles 181
Documents Incorporated by Reference 60
Domestic Water Pumps 27
Donated Technological Equipment 113
Dual Residency Couples 146, 150
Dual Residency Couples -- General Principles 146

E

EXEMPTIONS 53
EXPENDITURES FROM HAZARDOUS WASTE EMERGENCY ACCOUNT 68
EXTENSIONS OF TIME (Rule 815) 128
Effective Date -- New Claims 40
Effective Date of Mail Claims/Itinerant Claims 40
Electric Signs and Outline Lighting 28
Electrically-Driven Irrigation Machine 28
Elevator Machine Room/Mechanical Spaces 81
Emergency Evacuation of Passengers from Elevators 80
Employee's Wage and Tax Statements 131
Employer's Annual Reconciliation 131
Employers Other Than Farmers 129
Entities Presumed to Be Financial Institutions 126
Equivalent BTU's 181
Example -- Both Residences Are Community Property 147
Example -- Both Residences Are Separate Property 147
Example -- One Residence Is Community Property, the Other Is Separate Property 147
Examples 117, 118
Exception to Basis Reduction 121
Exceptions 63
Exceptions to Withholding Requirements 130

Excluded Wastes 63
Exclusion from Rule 127
Exemption to Application of the Transfer Fee 177
Exemptions 76, 80
Expiration of Permits 29
Expired License 53
Exported Fuel 186
Expungement of Central Registry Information 57
Extension of Time to File Returns 131
Extenuating Circumstances 53

F

FEES FOR ELECTRICAL INSPECTIONS 25
Failure to Collect and Remit Tax and Permit Fees 181
Farmer-Employers 130
Fee for Accessing Information 58
Fee for Photographs 58
Fees and Profits 47
Fees for Temporary Amusement/Industry Electrical Inspections 28
Filing Date for Operator's Statement 166
Filing Status 108
Filing of Returns 130
Financial Institutions Described in Section 63-3023(b), Idaho Code 127
First Renewal Period 53
Follow Up Ratio Study 139
Forest Valuation Zones 153
Forms 56
Fractions of Years 116

G

GENERAL 220
Gaseous Fuels 181
Gasoline Tax Rate Increase Conversion Factors 182
General 60
General Principles 150
Generator Emergency Notification 66
Geographic Lists 58
Grandfathering 34
Grantor Agency 46

H

HAZARDOUS WASTE MANAGEMENT SYSTEM 63
HAZARDOUS WASTE PERMIT PROGRAM 67

- Hearing Requirements 221
Hearings 170
Homesite Assessment 148
Household Deduction for Elderly or Developmentally Disabled Dependents 114
Household and Dependent Care Expenses 122
Household and Dependent Care Services 114
- I**
- IDAHO CAPITAL GAINS DEDUCTION -- IN GENERAL (Rule 170) 117
IDAHO CAPITAL GAINS DEDUCTION -- PASS-THROUGH ENTITIES 118
IDAHO CLEAN WATER TRUST FUND TRANSFER FEE 190
IDAHO EDUCATOR CREDENTIAL 30
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE 63
INCOME FROM IDAHO SOURCES (Rule 260) 123
INCOME FROM INTANGIBLE PROPERTY 124
INCORPORATION BY REFERENCE 196
INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS 63
INCORPORATIONS BY REFERENCE 60
INTEREST EXPENSE OFFSET RELATED TO TAX-EXEMPT INTEREST INCOME 110
INTEREST ON REFUNDS (Rule 885) 132
INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES 66
INVESTIGATION OF WRITTEN COMPLAINTS 137
Idaho Medical Savings Account 115, 123
Idaho Net Operating Loss 112
Idaho Residency Status 107
Identifying the Unit to be Appraised 168
- Improvements 148
In General 110, 118, 120, 124, 129, 132, 181, 184, 192
Inactive or Nameholder Corporations 129
Income Not Taxable by Idaho 112, 113, 121
Income Tax Payable to Another State 128
Incorporation by Reference 66, 67, 74, 79
Incorporation of Other Relevant Rules 178
Individuals in Combat Zone 128
Information Released 58
Information Required at Initial Registration 56
Information to Compute Tax 192
Information to be Provided by the State Tax Commission 171
Initials 172
Inspection 75
Insulation and Alternative Energy Device Expenses 122
Insulation of an Idaho Residence 114
Insurance Costs 47
Interest 129
Interest Expense Attributable to Non-business Activities 110
Interest Expense Attributable to Tax-Exempt Interest Income 110
Interest Expenses 47
Interest Income Earned on a Bank Account 124
Interest and Dividend Income Exempt from Federal Taxation 109
Investigation Procedure 138
Itinerant Claims 41
- L**
- LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED 148
LAND DISPOSAL RESTRICTIONS 67
LANDFILL DISPOSAL SITE FIRES 61
LEGAL AUTHORITY 51, 55, 196, 220
LICENSED GASEOUS FUELS DISTRIBUTOR'S REPORTS 180
LIMITATION ON BUDGET REQUESTS, SECTIONS 63-802 AND 63-221, IDAHO CODE 151
Landowner's Report 155
Letters of Authorization 34
Liberal Construction 169
Licensed Distributors and Limited Licenses 177
Licensee 51
Limitation of Interest in Pass-Through Entity 118
Limitations 185
Log 53
Losses From Nonqualified Property 117
Losses From Qualified Property 117
- M**
- MEASUREMENT OF GALLONS 182
Machine Tabulated Data 184
Manufactured Housing 145, 151
Market Value 145
Matching Funds 47
Meeting to Examine Valuation and Allocation 171
Membership in Technical or Professional Organizations 52
Method of Access 57
Miles Traveled 172
Miles to Miles Method of Allocation 173
Military Compensation for Service Performed Outside Idaho 113
Military Pay 122
Mobile/Manufactured Homes 27
Monthly Reports 180, 183
Motor Carrier Employees Covered By Title 49, Section 14503, United States Code 108
Motor Fuels and Petroleum Products Presumed to be Distributed 185
Motor Fuels-Receipts 184
Multiple Ownerships Including Community Interests as Partial Owners 147, 150
Multistate Entities 118
- N**
- NET OPERATING LOSS CARRY-BACKS AND CARRYOVERS 119
NEW CLAIMS/ADDITIONAL CLAIMS 40

NONRESIDENT 108
NONRESIDENT AND PART-YEAR
RESIDENT INDIVIDUALS --
SUBTRACTIONS ALLOWED IN
COMPUTING IDAHO ADJUST-
ED INCOME (Rule 254) 121
NONTAXABLE SPECIAL FUELS
USED IN MOTOR VEHICLES
187
Name of Private Railcar Fleet 172
Name of Reporting Railroad Compa-
ny 172
Net Capital Gain Limitation 117
Net Operating Loss Carrybacks 119
Net Operating Loss Carryover 121
Net Operating Loss Deduction 109
New Construction Roll Listing 151
Nonexpendable Property Purchases
47
Nonresidential Structure 152
Nontaxable Uses of Special Fuels in
Motor Vehicles 188
Notice to County Assessors 169
Notification 75, 80
Notification to Local Law Enforcement
57
Notification to Other States 57

O

OCCUPANCY TAX ON NEWLY
CONSTRUCTED IMPROVE-
MENTS ON REAL PROPER-
TY 145
OPERATING STATEMENT--CON-
TENTS 163
Obligation to Communicate Discovery
of Discrepancy 49
Obligation to Comply with Rules of
Continuing Professional Develop-
ment 49
One (1) Year Following Adoption of
These Rules 53
Operating Property Election, Reporting
and Methods 135
Operator's Statement and Operating
Statement 163
Order in Which Losses Are Applied in a
Year 120
Order of Reduction 120
Ordinary Income Limitation 118
Other Installations Including Industrial
and Commercial 27

P

PENALTY FOR FAILURE TO MAKE
STATEMENT 174
PERMANENT BUILDING FUND
TAX (Rule 855) 129
PRIVATE CAR REPORTING BY
RAILROAD COMPANIES 171
PROCEDURES FOR DECISION-
MAKING (STATE PROCE-
DURES FOR RCRA OR HWMA
PERMIT APPLICATIONS) 67
PROPERTY EXEMPT FROM TAXA-
TION - CERTAIN INTANGIBLE
PERSONAL PROPERTY 134
PROPERTY EXEMPT FROM TAXA-
TION-- RESIDENTIAL IM-
PROVEMENTS-- SPECIAL
SITUATIONS 146
PROPERTY TAX RELIEF ("CIRCUIT
BREAKER") PROGRAM -- SPE-
CIAL SITUATIONS 150
Partial New Construction Values 151
Parties 169
Pass-through Entities 129
Patents 52
Payment 178
Payment of State Income Tax Withheld
131
Permit Requirements 221
Petroleum and Petroleum Products
177
Photographs 58
Photographs and Fingerprints 56
Plan Check Fee 28
Plan for Continuing Program of Valua-
tion 145
Policy 220
Posting Certificates of Inspection 76
Postsecondary Specialist 34
Pre-Hearing Conferences 169
Pre-agreement Costs 47
Presentations to Technical, Professional
or Civic Organizations 52
Primary Obligation 48
Private Railcar Fleet Apportionment
173
Private Railcar Fleet's Address 172
Procedure Governed 169
Procedures for Completing the Certifi-
cate of Inspection 76
Procedures for School District Ratio
Studies 142

Procurement Guide 47
Productivity Formula 152
Professional Development Hour (PDH)
51
Professional Judgement 49
Public Official's Response to Final Re-
port 138
Public Records and Qualifying Disclo-
sure Exemption 162
Pumps (Water, Domestic Water, Irriga-
tion, Sewage) Each Motor 27
Purchase of a Residence 115

Q

Qualifications 185
Qualifying Individual 116
Qualifying Residence 115

R

RATIO STUDIES - SCHOOL DIS-
TRICTS 142
RECORD KEEPING 53
REDUCTION OF IDAHO TAX AT-
TRIBUTES AND BASIS WHEN
INCOME FROM INDEBTED-
NESS DISCHARGE IN BANK-
RUPTCY IS EXCLUDED FROM
GROSS INCOME 120
RE-EXAMINATION OF VALUE--
COMPLAINT BY ASSESSOR
171
RELEASE OF INFORMATION TO
THE PUBLIC 57
REPORTING AND PAYING STATE
INCOME TAX WITHHOLDING
(RULE 872) 130
REQUIREMENTS 51
REQUIREMENTS OF A VALID TAX
RETURN 192
RESPONSIBILITY TO THE PUB-
LIC 48
RULES FOR CONTROL OF OPEN
BURNING 61
Rail Carrier Employees Covered by Ti-
tle 49, Section 11502, United
States Code 109
Railcar Valuation, Allocation and Ap-
portionment 172
Receipt of Gaseous Fuels 181
Receipt of Petroleum Products 177
Recommended Mean Annual Growth
Increments 154
Reconciliation 168

Record of Property Ownership 165
Records 53
References 125
Refund Claims, Required Records 187
Registration Fees 75, 80
Registration for Work 41
Registration/Reporting Requirements - Interstate Claimants 41
Relocation Cost 221
Reparations to Displaced Japanese Americans 114
Report Due and Payment Required 181, 183, 184
Reporting Requirements 177
Reporting of Mileage 164
Reports 76
Reproduced and Substitute Forms 193
Request for Reexamination of Value 171
Requested Inspections 28
Requirement to Provide Information 41
Residential Electric Space Heating and/or Air Conditioning 26
Retention of Request Forms 58
Retired and Receiving No Remuneration 53
Retirement Benefits 114
Return Received 193
Right to Claim Benefits 41

S

SEX OFFENDER CENTRAL REGISTRY - ADMINISTRATION 55
SOLE PROPRIETORSHIPS OPERATING WITHIN AND WITHOUT IDAHO (Rule 265) 124
SPECIAL PROVISIONS FOR PRIVATE RAILCAR FLEETS 172
SPECIAL RULES -- SPECIAL INDUSTRIES (Rule 580) 125
SPECIAL RULES-- FINANCIAL INSTITUTIONS (Rule 582) 125
STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE 66
STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE 66
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STOR-

AGE AND DISPOSAL FACILITIES 66
STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES 67
STANDARDS FOR THE MANAGEMENT OF USED OIL 67
STANDARDS FOR UNIVERSAL WASTE MANAGEMENT 67
STATE INCOME TAX WITHHOLDING REQUIRED (RULE 871) 129
Scope 51, 146, 150, 196
Self Study 52
Self-Employed Worker's Compensation Insurance Premiums 114
Self-Study 51
Separate Analyzations 139
Separation Information 41
Separation Notice 41
Service by State Tax Commission 169
Services Performed Within and Without Idaho 130
Signatures 193
Signing of Returns 192
Situs Property 165
Social Security and Railroad Retirement Benefits 114, 122
Standard of Care 49
Standard or Itemized Deduction 113
State Income Tax Refund 112, 121
State Taxes 109
Statewide Lists 58
Submission of Additional Information 140
Successful Completion of College Credits 52
Successful Completion of Continuing Education Units 52
Successful Completion of Other Courses 52
Supplemental Reports 184
Supporting Computations and Schedules 192

T

TAX RETURNS AND OTHER DOCUMENTS FILED ELECTRONICALLY 193
TAXATION OF LARGE SIZE FOREST TRACTS 152

TITLE AND SCOPE 51, 55, 196
Taking an Additional Claim or Reopening a Claim 42
Tangible Property Value Not Affected by Intangible Personal Property Value 134
Tax Code Maps 163
Tax Returns Filed Electronically 193
Taxes Not Eligible for the Credit 128
Taxpayers Abroad 128
Teaching or Instructing 52
Technological Equipment Donation 123
Temporary Construction Services 25
Tested for Equalization 139
Testing for Current Market Value 145
The Apportionment Percentage 127
The Cost Approach 168
The Income Approach 168
The Market Approach 168
The Unit Method 168
Timely Reporting 184
Title 51, 196
To Qualify for Exemption 148
Total Income 111
Traveling Salesmen 108
Treatment of Designated Information 163

U

UNITS 52
USE OF RATIO STUDY IN EQUALIZATION 139
Unitary Taxpayers 112
Urban Renewal Increment and Exemption to Be Subtracted 144
Use of Alternate Ratio Study 140
Use of Property Designations 144
Use of Ratio Study Results 140
Use of Wage Credits 43
Used Oil as a Dust Suppressant 67

V

VALUE OF RESIDENTIAL PROPERTY IN CERTAIN ZONED AREAS 148
Valid Claim 43
Valid Returns 132
Value Prorated Monthly 145
Valuing Land, Excluding the Homestead 149
Vendor Payments 47

W

WHEN THE GASOLINE TAX RATE
INCREASES, USE CONVER-
SION FACTOR TO ADJUST AN-
NUAL GASEOUS FUELS
PERMIT FEES 182

WRITTEN INTERPRETATIONS
51, 55, 196

Water Carrier Employees 108

Worker's Compensation Insurance
123

Working Days 55

Y

YIELD TAX ON APPLICABLE FOR-
EST PRODUCTS 154