

IDAHO ADMINISTRATIVE BULLETIN

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October 6, 1999

Volume 99-10

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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 rulemaking documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of a rulemaking 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 rulemaking activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 98-1 refers to the first Bulletin issued in calendar year 1998, Bulletin 99-1 refers to the first Bulletin issued in calendar year 1999, 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 1999 is cited as Volume 99-1. The December 1998 Bulletin is cited as Volume 98-12.

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 Rulemaking**, printed in each Bulletin.*

TYPES OF RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rulemaking. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULE

Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the content of the rule. Agencies are encouraged to proceed through this informal rulemaking whenever it is feasible to do so. Publication of the text in the Administrative Bulletin by the agency is optional. This process should lead the rulemaking to the temporary and/or proposed rule stage.

PROPOSED RULE

A proposed rulemaking is an action by an agency in which the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a notice of proposed rulemaking in the Bulletin. The notice of proposed rulemaking must include:

- a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule docket. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

TEMPORARY RULE

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) the protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit.*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule.

A temporary rule expires at the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

In cases where the text of the temporary rule is the same as that of the proposed rule, the rulemaking can be done concurrently as a temporary/proposed rule. State law requires that the text of a proposed or temporary rule be published in the Administrative Bulletin. Combining the rulemaking allows for a single publication of the text.

An agency may rescind a temporary rule that has been adopted and is in effect if the rule is being replaced by a new temporary rule or has been published concurrently with a proposed rulemaking that is being vacated.

PENDING RULE

A pending rule is a rule that has been adopted by an agency under the regular rulemaking process and

remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the Notice of Pending Rule. This includes:

- a) the reasons for adopting the rule;
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;
- c) the date the pending rule will become final and effective; and
- d) an identification of any portion of the rule imposing or increasing a fee or charge.

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the Notice of Pending Rule is published.

FINAL RULE

A final rule is a rule that has been adopted by an agency under the regular rulemaking process and is in effect.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that the agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution will be adopted rejecting, amending, or modifying the rule or any part thereof. A Notice of Final Rule must be published in the Idaho Administrative Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended, or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule which is final and effective may be applied retroactively, as provided in the rule.

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 83720-0306, telephone

(208) 332-1820.

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 Rulemaking 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 the Administrative Rules link.

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) 332-1820.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking 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 38.05.01.060.02.c.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 38." refers to the Idaho Department of Administration.

"05." refers to Title 05 which is the Department of Administration's Division of Purchasing.

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing".

"060." refers to Major Section 060, "Content of the Invitation to Bid".

"02." refers to Subsection 060.02.

"c." refers to Subsection 060.02.c.

"ii." refers to Subsection 060.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-9901). 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. 38-0501-9901"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), "Rules of the Division of Purchasing" (Chapter 01).

"9901" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 1999.

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)"

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

It may also be cited to include the IDAPA, Title, and Chapter number also, as follows:

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the agency rule.

"01" denotes the Chapter number of the agency rule.

"201" references the main Section number of the rule that is being cited.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, 'Rules Governing Capitol Mall Parking.'"

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

BULLETIN PUBLICATION SCHEDULE FOR 2000

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
00-1	January, 2000	November 17, 1999	January 5, 2000
00-2	February, 2000	December 22, 1999	February 2, 2000
00-3	March, 2000	January 19, 2000	March 1, 2000
00-4	April, 2000	February 23, 2000	April 5, 2000
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00-10	October, 2000	August 22, 2000	October 4, 2000
00-11	November, 2000	September 20, 2000	November 1, 2000
00-12	December, 2000	October 25, 2000	December 6, 2000

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IDAPA 17 - INDUSTRIAL COMMISSION
17.04.05 - ACCREDITATION OF ASBESTOS WORKERS
DOCKET NO. 17-0405-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 72-508, 72-720, and 72-721, Idaho Code. and the Asbestos Hazard Emergency Response Act of 1986 (15 USC Subchapter II), which mandates state accreditation of asbestos professionals who work on asbestos projects in schools (15 USC 2646).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

This rule is being amended to clarify the scope of the rule by changing the title; to delete the course content requirements for asbestos accreditation because the training course requirements are now mandated by federal law and regulation; and to correct ministerial errors caused by APA reformatting of the original version of the rule.

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

No changes are proposed in the annual accreditation fees.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed amendments to remove the course content for training requirements for accreditation are mandated by updates in federal law (15 USC 2646) and regulations pertaining to asbestos projects in schools (40 CFR 763). Also, many of the amendments are ministerial corrections to errors created by reformatting the original rules under the Administrative Procedure Act in 1992.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 20th day of August 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0405-9901

IDAPA 17
TITLE 04
Chapter 05

**17.04.05 - ACCREDITATION OF ASBESTOS ~~WORKERS~~ PROFESSIONALS
EMPLOYED IN SCHOOL PROJECTS**

000. LEGAL AUTHORITY.

Pursuant to the provisions of Sections 72-508, 72-720, and 72-721, Idaho Code, the Industrial Commission has the authority to promulgate and adopt reasonable rules for effecting the purposes of the Workers' Compensation Act and to adopt reasonable minimum safety standards for the protection and safety of employees. (7-1-93)(____)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 17.04.05, "Accreditation of Asbestos ~~Workers~~ Professionals Employed in School Projects", ~~and~~. (7-1-93)(____)

02. Scope. These rules shall be applicable to asbestos ~~workers~~ professionals employed in projects involving ~~public~~ schools. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

There are no provisions for administrative appeal of these rules. The procedure for appeals in safety matters is prescribed by Idaho Code, Sections 72-722 and 72-714 through 72-718. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Abatement. ~~Means a~~ Any act which is intended to reduce, eliminate, encapsulate, or enclose asbestos or asbestos-containing materials. (5-18-92)(____)

02. Accreditation. ~~Means~~ Recognition given by the ~~Department~~ Division of Building Safety in the form of ~~a certificate~~ an accreditation card permitting a person to work in a specified asbestos occupation. (5-18-92)(____)

03. Accessible. When referring to ACM, "accessible" means that the material is subject to disturbance by school or building occupants or custodial or maintenance personnel in the course of their normal activities. (5-18-92)(____)

04. ACM. Asbestos Containing Materials. (____)

05. AHERA. Asbestos Hazardous Emergency Response Act. (____)

046. Air Plenum. ~~Is a~~ An air compartment or chamber to which one (1) or more ducts are connected and which forms part of either the supply-air, return-air, or exhaust-air system, other than the occupied space being conditioned. The movement within the plenum may erode any ACM that may exist. (5-18-92)(____)

057. Asbestos. ~~Means a~~ Asbestiform varieties of chrysotile (serpentine); crocidolite (riebeckite); amosite

(cummingtoni-grunerite); anthophyllite; tremolite; and actinolite. (5-18-92)()

068. Asbestos Abatement Contractor. Includes any partnership, firm, association, public entity, corporation, or sole proprietorship that contracts to perform the enclosure, encapsulation, or removal of asbestos. (5-18-92)

079. Asbestos Abatement Contractor/Supervisor. ~~Means a~~ person who has been accredited by the ~~Department~~ Division of Building Safety to serve as the contractor's agent and includes those persons who provide supervision and direction to workers engaged in asbestos abatement. Supervisors may include those individuals with the position title of foreman, working foreman, or leadman pursuant to collective bargaining agreements. At least one (1) supervisor or the contractor is required to be at the worksite at all times while work is in progress. Asbestos workers must have access to accredited supervisors throughout the duration of asbestos abatement projects. (5-18-92)()

0810. Asbestos Abatement Project. ~~Means a~~ Any activity involving the removal, enclosure, or encapsulation of friable asbestos materials that involves more than three (3) linear feet of ACM located on pipes or more than three (3) square feet of ACM from any surfaces. (5-18-92)()

0911. Asbestos Abatement Project Designer. ~~Means a~~ An individual who is accredited by the ~~Department~~ Division of Building Safety as an Asbestos Abatement Project Designer specifically accredited to formulate plans and write specifications for conducting asbestos abatement projects. (5-18-92)()

102. Asbestos Abatement Worker. ~~Means a~~ An individual who is accredited by the ~~Department~~ Division of Building Safety as a certified asbestos worker, in a non-supervisory capacity to clean, handle, repair, remove, encapsulate, enclose, haul, dispose of, or otherwise work with asbestos containing materials. (5-18-92)()

113. Asbestos Containing Materials Or ACM. ~~Means a~~ Any material containing more than one (1) percent asbestos by weight. (5-18-92)()

124. Asbestos Inspector. ~~Means a~~ Any individual who is accredited by the ~~Department~~ Division of Building Safety as an asbestos inspector specifically accredited to identify and assess the condition of ACM. (5-18-92)()

135. Asbestos Management Planner. ~~Means a~~ Any individual who is accredited by the ~~Department~~ Division of Building Safety as a certified asbestos management planner specifically accredited to assess the hazards of ACM, recommend appropriate response actions and develop management plans. (5-18-92)()

146. Asbestos Occupation Professional. ~~Means a~~ An Inspector, Management Planner, Asbestos Abatement Project Designer, Asbestos Abatement Contractor/Supervisor, or Asbestos Abatement Worker for an asbestos project. (5-18-92)()

157. Asbestos Project. ~~Means a~~ A project involving encapsulation, enclosure, removal, repair, renovation, or demolition of friable ACM except the term does not include Small-Scale/Short Duration or Operations and Maintenance projects as determined by the ~~Department~~ Division of Building Safety. (5-18-92)()

168. Assessment. When used in reference to ACM in a building, "assessment" means any evaluation of ACM or suspected ACM, which determines the need for a response action or Operations and Maintenance. (5-18-92)()

179. Certificate. ~~Means the certificate~~ A document formerly issued by the ~~Department~~ Division of Building Safety which specifies the asbestos occupation for which a person has d been accredited to work within. (5-18-92)()

1820. CFR. ~~Means the~~ Code of Federal Regulations. (5-18-92)()

1921. Demolition. ~~Means t~~ The wrecking or removal of any load-supporting structural member and any related razing, removing, or stripping of asbestos products. (5-18-92)()

~~202.~~ **Department Division.** Means ~~the Department of Labor and Industrial Services~~ The Division of Building Safety. (5-18-92)(____)

~~213.~~ **Emergency Project.** Means ~~a~~ An asbestos abatement project involving the removal, encapsulation, or enclosure of friable ACM in response to an unexpected fiber release episode. (5-18-92)(____)

~~224.~~ **Encapsulation.** Means ~~the~~ The application of a liquid material to asbestos containing material in order to control the possible release of asbestos fibers either by creating a membrane over the material surface (bridging encapsulant) or by penetrating into the material and binding its components together (penetrating encapsulant). (5-18-92)(____)

~~235.~~ **Enclosure.** Means ~~a~~ An airtight, impermeable, permanent barrier around ACM to prevent the release of asbestos fibers into the air. (5-18-92)(____)

~~246.~~ **EPA.** Means ~~the~~ the Environmental Protection Agency. (5-18-92)(____)

~~257.~~ **EPA Approved Training.** Means ~~Training courses previously approved by the EPA as listed in the February 28, 1990, Federal Register~~ May 29, 1998 Edition of the National Directory of AHERA Accredited Courses pursuant to the Model Accreditation Plan of the AHERA regulations in Appendix C, Subpart E, 40 CFR, Part 763. (5-18-92)(____)

~~268.~~ **Employer.** Means ~~The~~ The public department, agency, firm, or individual which hires an employee. (5-18-92)(____)

~~279.~~ **Friable Asbestos Containing Material.** Means ~~a~~ Any ACM that may be crumbled, pulverized, or reduced to powder by hand pressure when dry and includes any ACM that will become or may reasonably be expected to become friable as a result of recent damage or due to cutting, crushing, grinding, or other activities that may occur during an asbestos abatement project. (5-18-92)(____)

~~2830.~~ **Glove Bag.** Means ~~a~~ A manufactured or fabricated containment device typically constructed of at least six (6) mil transparent polyethylene or polyvinylchloride plastic consisting of two (2) inward projecting long sleeves with gloves attached, an internal tool pouch, and an attached, labeled receptacle for asbestos waste. (5-18-92)(____)

~~2931.~~ **HEPA.** High-efficiency particulate air means a filtering system capable of trapping and retaining at least ninety-nine and ninety-seven hundredths percent (99.97%) of all monodispersed particles of three-tenths (0.3) micrometer in diameter or larger. (5-18-92)

~~302.~~ **Miscellaneous Material.** Means ~~Interior~~ Interior building material on structural components, structural members or fixtures, such as floor and ceiling tiles, and does not include surfacing material or thermal system insulation. (5-18-92)(____)

~~313.~~ **NESHAPS.** Means ~~the~~ the National Emission Standard for Hazardous Air Pollutants (40 CFR Part 61, Subpart M). (5-18-92)(____)

~~324.~~ **Nonfriable.** Means ~~m~~ Material which, when dry, may not be crumbled, pulverized, or reduced to powder by hand pressure. (5-18-92)(____)

~~335.~~ **Notification.** A report which ~~Employers~~ Employers subject to this rule must ~~report~~ provide to the ~~Department~~ Division of Building Safety, pursuant to Section 016. (5-18-92)(____)

a. ~~At least (10) days before they begin any asbestos abatement project, except one that involves less than either three (3) linear feet or three (3) square feet of friable ACM or an emergency project, or a project that can be classified as one that is of Small Scale/Short Duration as is defined in these rules and 40 CFR Part 763, Appendix B to Subpart E.~~ (5-18-92)

~~b. If a report is mailed to the Department, the report must be postmarked at least ten (10) days before the asbestos abatement project begins unless the report is for an emergency project. In such a case, the report must be postmarked as soon as possible but in no case more than forty-eight (48) hours after the project begins. (5-18-92)~~

~~e. Required notifications are to be submitted using forms provided by the Department and must include:- (5-18-92)~~

~~i. Name and address of the building owner or manager. (5-18-92)~~

~~ii. Description and location of the building. (5-18-92)~~

~~iii. Scheduled starting and completion dates of ACM removal. (5-18-92)~~

~~iv. Description of the planned removal methods. (5-18-92)~~

~~v. Name, address, and location of disposal site. (5-18-92)~~

36. O&M. Operations and Maintenance. ()

347. Operations And Maintenance Program. Means a program of work practices to maintain friable ACM in good condition, ensure cleanup of asbestos fibers previously released and prevent further release by minimizing and controlling friable ACM disturbance or damage. ~~(5-18-92)()~~

358. OSHA. Means the Occupational Safety and Health Administration. ~~(5-18-92)()~~

369. PCM. Means Phase Contrast Microscopy, an analytical technique used for the counting of fibers no smaller than five (5.0) micrometers in length and fifteen hundredths (0.15) micrometers in width. ~~(5-18-92)()~~

3740. Person. Means a An individual, partnership, corporation, sole proprietorship, firm, enterprise, franchise, association, state or municipal agency, political subdivision of the state, or any other entity. ~~(5-18-92)()~~

41. PVC. Polyvinyl Chloride. ()

3842. Reciprocity. For the purposes of these rules, "reciprocity" means ~~the act of recognizing/~~ ~~reciprocating with~~ accreditation requirements of another state in order to satisfy requirements for accreditation purposes under Idaho laws. ~~(5-18-92)()~~

3943. Removal. Means the Taking out or stripping of asbestos or materials containing asbestos. ~~(5-18-92)()~~

404. Renovation. Means The modification of any existing structure, or portion thereof, where exposure to airborne asbestos may result. ~~(5-18-92)()~~

415. Repair. Means overhauling, rebuilding, reconstructing, or reconditioning of structures or substrates where asbestos is present. (5-18-92)

426. Response Actions. Means a method, including removal, encapsulation, enclosure, repair, or operations and maintenance, that protects human health and the environment from friable ACM. ~~(5-18-92)()~~

437. Sampling Area. Means a Any area, whether contiguous or not, within a building which contains friable material that is homogeneous in texture and appearance. ~~(5-18-92)()~~

448. Small-Scale/Short Duration Projects. Means a Activities that do not ~~to~~ exceed three (3) linear feet or three (3) square feet, that are involving: ~~(5-18-92)()~~

a. Removal of asbestos-containing insulation on pipes. (5-18-92)

- b. Removal of small quantities of asbestos-containing insulation on beams or above ceilings. (5-18-92)
- c. Replacement of an asbestos-containing gasket on a valve. (5-18-92)
- d. Installation or removal of a small section of drywall. (5-18-92)
- e. Installation of electrical conduits through or proximate to asbestos-containing materials. (5-18-92)
- f. Removal of small quantities of ACM only if required in the performance of another maintenance activity not intended as asbestos abatement. (5-18-92)
- g. Removal of asbestos-containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag. (5-18-92)
- h. Minor repairs to damaged thermal system insulation which do not require removal. (5-18-92)
- i. Repairs to a piece of asbestos-containing wallboard. (5-18-92)
- j. Repairs, involving encapsulation, enclosure, or removal, of small amounts of friable ACM only if required in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated mini-enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area in order to perform its intended containment function. (5-18-92)

459. Surfacing Material. ~~Means m~~Material in a building that is sprayed on, troweled on, or otherwise applied to surfaces, such as acoustical plaster on ceilings and fire-proofing materials on structural members, or other materials on surfaces for acoustical, fire-proofing, or other purposes. (5-18-92)(____)

4650. TEM (Transmission Electron Microscopy). ~~Means a~~An analytical technique used for the definitive identification of asbestos. (5-18-92)(____)

4751. TSCA. ~~Means the~~ Toxic Substances Control Act. (5-18-92)(____)

4852. TSCA TITLE II, Section 206. ~~Refers to~~†The requirements contained in 15 U.S.C. Section 2646, requiring the EPA to develop a Model Contractor Accreditation Plan. (5-18-92)(____)

4953. Vibration. ~~Means~~†The periodic motion of friable ACM which may result in the release of asbestos fibers. (5-18-92)(____)

011. PURPOSE AND SCOPE.

This rule establishes minimum training standards for asbestos professionals, ~~course content standards for trainer providers,~~ annual refresher course and accreditation renewal regulations, and notification regulations for asbestos contractors. This accreditation requirement shall apply only to those persons engaged in occupations involving asbestos projects in elementary or secondary schools (except private for-profit schools). (5-18-92)(____)

01. General Requirements. It shall be unlawful for a person to: (5-18-92)

a. Engage in an asbestos occupation without accreditation for the applicable occupation from the ~~Department~~ Division of Building Safety; or (5-18-92)(____)

b. Contract or employ in an asbestos occupation a person not accredited for that occupation by the ~~Department~~ Division of Building Safety. (5-18-92)(____)

02. Operations And Maintenance And Short Duration Projects. Accredited personnel are not required for performing or conducting operations and maintenance activities or Small Scale/Short Duration Projects

as defined in these rules. (5-18-92)

03. Accreditation Requirements. Accreditation shall be required for the following five (5) asbestos disciplines or occupations: (5-18-92)

- a. Asbestos abatement workers. (5-18-92)
- b. Asbestos abatement contractors or supervisors. (5-18-92)
- c. Asbestos inspectors; (5-18-92)
- d. Asbestos management planners; (5-18-92)
- e. Asbestos abatement project designers. (5-18-92)

(BREAK IN CONTINUITY OF SECTIONS)

013. TRAINING AND EXAMINATIONS.

Training and examinations shall be required for: (5-18-92)

01. Asbestos Abatement Workers. Each asbestos abatement contractor shall ensure that each asbestos abatement worker assigned to perform work on an asbestos abatement project for the contractor has had initial and annual refresher training at a course approved by the EPA or ~~Department~~ Division of Building Safety. Asbestos abatement workers on projects subject to AHERA must have the appropriate AHERA accreditation. (5-18-92)(____)

a. Minimum requirements for accreditation. Minimum requirements to obtain accreditation from the ~~Department~~ Division of Building Safety to act as an asbestos abatement worker are: (5-18-92)(____)

- i. At least eighteen (18) years of age; (5-18-92)
- ii. Provide evidence of successful completion of a ~~three~~ four (34) day, EPA or ~~Department~~ Division approved initial training course for Asbestos Abatement Workers; (5-18-92)(____)
- iii. Provide evidence of passing the examination for the above course, which shall consist of at least fifty (50) multiple choice questions, with a passing score of seventy percent (70%); (5-18-92)

b. If the initial training course was completed more than twelve (12) months before the application date, then the applicant shall provide evidence of participation in an EPA or ~~Department~~ Division approved refresher training course for workers during the past twelve (12) months; (5-18-92)(____)

c. Applicants seeking accreditation in any of the asbestos occupations or disciplines governed by this rule shall make application to the ~~Department~~ Division using ~~Department~~ Division provided forms including all required accreditation documentation and the required accreditation fee, for review and approval. Applications will be reviewed within thirty (30) days and a determination made regarding approval or denial of same. Upon application acceptance and/or approval, applicants will be awarded a ~~certificate~~ an accreditation card from the ~~Department~~ with a photo ID card Division for the applied for discipline/occupation. (5-18-92)(____)

d. Asbestos Abatement Workers shall submit an initial accreditation fee of twenty five dollars (\$25). The annual renewal fee for an asbestos abatement worker shall be twenty-five dollars (\$25). (5-18-92)

~~e. Initial Training. The initial training course for persons seeking accreditation as an Asbestos Abatement Worker shall provide a minimum three (3) days of training as outlined below. The worker training course shall include lectures, demonstrations, at least six (6) hours of hands-on training, individual respirator fit testing,~~

course review, and an examination. The training course shall adequately address the following topics: (5-18-92)

i. Physical characteristics of asbestos: Identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, and a summary of abatement control options. (5-18-92)

ii. Potential health effects related to asbestos exposure: The nature of asbestos-related diseases, routes of exposure, dose response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for disease. (5-18-92)

iii. Employee personal protective equipment: Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit test procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposable clothing; and regulations covering personal protective equipment. (5-18-92)

iv. State-of-the-art work practices. Proper asbestos abatement activities including descriptions of proper construction, and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of glove bags; use of (HEPA) vacuums; proper cleanup and disposal procedures; work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures; and recommended and prohibited work practices. (5-18-92)

v. Personal hygiene. Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and potential exposures, such as family exposure. (5-18-92)

vi. Additional safety hazards. Hazards encountered during abatement activities and how to deal with them, including electrical hazards; heat stress; air contaminants other than asbestos; fire and explosion hazards; scaffold and ladder hazards, slips, trips and falls; and confined spaces. (5-18-92)

vii. Medical monitoring. OSHA requirements for a pulmonary function test, chest x rays, and a medical history for each employee. (5-18-92)

viii. Air monitoring. Procedures to determine airborne concentrations of asbestos fibers focusing on how personal air sampling is performed and the reasons for it. (5-18-92)

ix. Relevant federal, state, and local regulatory requirements, procedures, and standards: With particular attention directed at relevant EPA, OSHA, and state rules concerning asbestos abatement workers. (5-18-92)

x. Establishment of respiratory protection programs. (5-18-92)

xi. Course review. A review of key aspects of the training course. (5-18-92)

fg. Asbestos Abatement Workers shall have available their current accreditation certificate card at the work site when they are performing asbestos abatement activities. (5-18-92)(____)

02. Asbestos Abatement Contractor/Supervisor. (5-18-92)

a. Minimum requirements to obtain accreditation from the ~~Department~~ Division of Building Safety to act as a Contractor/ Supervisor are: (5-18-92)(____)

i. Be at least eighteen (18) years of age; (5-18-92)

ii. Provide evidence of successful completion of a ~~four~~ five (45) day EPA or ~~Department~~ Division approved, initial training course for Asbestos Contractor/Supervisors; (5-18-92)()

iii. Provide evidence of passing the examination for the training course, which shall consist of at least one hundred (100) multiple choice questions, with a passing score of seventy percent (70%). (5-18-92)

~~db.~~ If the initial training course was completed more than twelve (12) months before the application date, then the applicant shall provide evidence of participation in an EPA or ~~Department~~ Division approved refresher training course for contractors/supervisors during the past twelve (12) months. (5-18-92)()

ec. Applicants seeking accreditation in any of the asbestos occupations or disciplines governed by this rule shall make application to the ~~Department~~ Division of Building Safety using ~~Department~~ Division provided forms including all required accreditation documentation and the required accreditation fee for review and approval. Applications will be reviewed within thirty (30) days and a determination made regarding approval or denial of same. Upon application acceptance and/or approval, applicants will be awarded ~~a certificate~~ an accreditation card from the ~~Department with a photo ID card~~ Division for the applied for discipline/occupation. (5-18-92)()

~~fd.~~ Asbestos Abatement Contractor/Supervisors shall submit an initial accreditation fee of seventy five dollars (\$75). The annual renewal fee for Contractor/Supervisors shall be seventy five dollars (\$75). (5-18-92)

~~ge.~~ The contractor may designate a supervisor to serve as his agent for the purposes of the accreditation requirement. For purposes of TSCA Title II accreditation, asbestos abatement supervisors include those persons who provide supervision and direction to workers engaged in asbestos removal, encapsulation, enclosure, and repair. Supervisors may include those individuals with the position title of foreman, working foreman, or leadman pursuant to collective bargaining agreements. The contractor or his designated supervisor is required to be at the work site at all times while work is in progress. Asbestos workers must have access to the contractor or his designated supervisor throughout the duration of each asbestos abatement project. (5-18-92)

~~h. Initial Training. The initial training course for persons seeking accreditation as an Asbestos Abatement Contractor/Supervisor shall include lectures, demonstrations, at least six (6) hours of hands on training, individual respirator fit testing, course review, and a written examination. The training course shall adequately address the following topics: (5-18-92)~~

~~i. The physical characteristics of asbestos and asbestos containing materials: Identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, a review of hazard assessment considerations, and a summary of abatement control options: (5-18-92)~~

~~ii. Potential health effects related to asbestos exposure: The nature of asbestos-related diseases, routes of exposure, dose response relationships and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure, and latency period for disease. (5-18-92)~~

~~ii. Employee personal protective equipment: Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece to face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposable clothing; and regulations covering personal protective equipment. (5-18-92)~~

~~ii. State-of-the-art work practices. Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; and proper clean up and disposal procedures. Work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures, and recommended work practices. Discussion of new abatement-related techniques and methodologies may be included. (5-18-92)~~

v. ~~Personal hygiene. Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area. Potential exposures, such as family exposure, shall also be included.~~ (5-18-92)

vi. ~~Additional safety hazards. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress; air contaminants other than asbestos; fire and explosion hazards; scaffold and ladder hazards, slips, trips and falls; and confined spaces.~~ (5-18-92)

vii. ~~Medical monitoring. OSHA requirements for a pulmonary function test, chest x rays, and a medical history for each employee.~~ (5-18-92)

viii. ~~Air monitoring. Procedures to determine airborne concentrations of asbestos fibers, including a description of aggressive sampling; sampling equipment and methods; reasons for air monitoring; and types of samples and interpretation of results, specifically from analysis performed by polarized light, phase contrast, and electron microscopy analyses.~~ (5-18-92)

i. ~~Relevant federal, state, and local regulatory requirements. Procedures and Standards, including:~~ (5-18-92)

i. ~~Requirements of TSCA Title II.~~ (5-18-92)

ii. ~~40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart A (General Provisions) and Subpart M (National Emission Standard for Asbestos).~~ (5-18-92)

iii. ~~OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).~~ (5-18-92)

iv. ~~OSHA Asbestos Construction Standard (29 CFR 1926.58).~~ (5-18-92)

v. ~~EPA Worker Protection Rule, 40 CFR Part 763 Subpart G.~~ (5-18-92)

j. ~~Respiratory protection programs and medical surveillance programs.~~ (5-18-92)

k. ~~Insurance and liability issues: Contractors issues; worker's compensation coverage and exclusions; third-party liabilities and defenses; insurance coverage and exclusions.~~ (5-18-92)

l. ~~Record keeping for asbestos abatement projects: Records required by federal, state, and local regulations and records recommended for legal and insurance purposes.~~ (5-18-92)

m. ~~Supervisory techniques for asbestos abatement activities: Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.~~ (5-18-92)

n. ~~Contract specifications: Discussion of key elements that are included in contract specifications.~~ (5-18-92)

o. ~~Course review: A review of key aspects of the training course.~~ (5-18-92)

pf. ~~Asbestos Abatement Contractor/Supervisors shall have their current accreditation certificate card at the work site when they are performing asbestos abatement activities.~~ (5-18-92)(____)

03. Asbestos Inspectors. All persons seeking accreditation as Inspectors shall complete a three (3) day training course as outlined below: (5-18-92)

a. Minimum requirements to obtain accreditation from the ~~Department~~ Division of Building Safety to act as an asbestos inspector are: (5-18-92)(____)

- i. At least eighteen (18) years of age. (5-18-92)
- ii. Provide evidence of successful completion of a three (3) day EPA or ~~Department~~ Division approved initial training course for Asbestos Inspectors. (5-18-92)()
- iii. Provide evidence of passing the examination for the training course, which will consist of at least fifty (50) multiple choice questions, with a passing score of seventy percent (70%). (5-18-92)
- b. If the initial training course was completed more than twelve (12) months before the application date, then the applicant shall provide evidence of participation in an EPA or ~~Department~~ Division approved refresher training course for inspectors during the past twelve (12) months. (5-18-92)()
- c. Applicants seeking accreditation in any of the asbestos occupations or disciplines governed by this rule shall make application to the ~~Department~~ Division of Building Safety using ~~Department~~ Division provided forms including all required accreditation documentation and a accreditation fee for review and approval. Applications will be reviewed within thirty (30) days and a determination made regarding approval or denial of same. Upon application acceptance and/or approval, applicants will be awarded a ~~certificate~~ an accreditation card from the ~~Department with a photo ID card~~ Division for the applied for discipline. (5-18-92)()
- d. Asbestos Inspectors shall submit an initial accreditation fee of twenty five dollars (\$25). The annual renewal fee for an Asbestos Inspector shall be twenty-five dollars (\$25). (5-18-92)
- e. ~~Initial Training. The initial training course for persons seeking accreditation as an Asbestos Inspector shall be a minimum three (3) days of training as outlined below. The three (3) day training course shall include lectures, demonstrations, at least four (4) hours of hands on training, individual respirator fit testing, a field trip, course review, and a written examination. The training course shall adequately address the following topics:~~
(5-18-92)
 - i. ~~Background information on asbestos: Identification of asbestos, examples and discussion on the uses and locations of asbestos in buildings, and physical appearance of asbestos.~~ (5-18-92)
 - ii. ~~Potential health effects related to asbestos exposure: The nature of asbestos-related diseases; routes of exposure; dose response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period for asbestos related diseases; a discussion of the relationship of asbestos exposure to asbestos, lung cancer, mesothelioma, and cancer of other organs.~~ (5-18-92)
 - iii. ~~Functions/qualifications and role of Inspectors: Discussions of prior experience and qualifications for Inspectors and Management Planners; discussions of the functions of an accredited Inspector as compared to those of an accredited Management Planner; discussion of inspection process including inventory of ACM and physical assessment.~~ (5-18-92)
 - iv. ~~Legal liabilities and defenses: Responsibilities of the Inspector and Management Planner; a discussion of comprehensive general liability policies, claims made and occurrence policies, environmental and pollution liability policy clauses, state liability insurance requirements, bonding and the relationship of insurance availability to bond availability.~~ (5-18-92)
 - v. ~~Understanding building systems: The interrelationship between building systems including; an overview of common building physical plan layout; heat, ventilation, and air conditioning (HVAC) system types; physical organization and where asbestos is found on (HVAC) components; building mechanical systems, their types and organization, and where to look for asbestos on such systems; inspecting electrical systems, including appropriate safety precautions; reading blueprints and as-built drawings.~~ (5-18-92)
 - vi. ~~Public/employee/building occupant relations: Notifying employee organizations about the inspection, signs to warn building occupants, tact in dealing with occupants and the press, scheduling of inspections to minimize disruptions, and education of building occupants about actions being taken.~~ (5-18-92)
 - vii. ~~Pre-inspection planning and review of previous inspection records: Scheduling the inspection and~~

~~obtaining access; building record review; identification of probable homogeneous areas from blueprints or as built drawings; consultation with maintenance or building personnel; review of previous inspection, sampling, and abatement records of a building; the role of the inspector in exclusions for previously performed inspections.~~

~~(5-18-92)~~

~~viii. Inspecting for friable and nonfriable asbestos-containing material (ACM) and assessing the condition of friable ACM: Procedures to follow on conducting visual inspections for friable and nonfriable ACM; types of building materials that may contain asbestos; touching materials to determine friability; open return-air plenums and their importance in HVAC systems; assessing damage, significant damage, potential damage, and potential significant damage; amount of suspected ACM both in total quantity and as a percentage of the total area; type of damage; accessibility; material's potential for disturbance; known or suspected causes of damage or significant damage; and deterioration as assessment factors.~~

~~(5-18-92)~~

~~ix. Bulk sampling/documentation of asbestos in schools: Detailed discussion of the Simplified Sampling Scheme for Friable Surfacing Materials (EPA 560/585-030a, October 1985); techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials, sampling of nonfriable materials, techniques for bulk sampling, sampling equipment the Inspector should use, patching or repair of damage done in sampling, an inspectors repair kit, discussion of polarized light microscopy, choosing an accredited laboratory to analyze bulk samples, and quality control and quality assurance procedures.~~

~~(5-18-92)~~

~~x. Inspector respiratory protection and personal protective equipment: Classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance, and storage procedures for respirators; methods for field testing of the facepiece to mouth seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing, use, storage, and handling of non-disposable clothing.~~

~~(5-18-92)~~

~~xi. Record keeping and writing the inspection report: Labeling of samples and keying sample identification to sampling location, recommendations on sample labeling; detailing of ACM inventory, photographs of selected sampling areas and examples of ACM condition, information required for inclusion in the management plan by TSCA Title II section 203 (i) (1).~~

~~(5-18-92)~~

~~xii. Regulatory review: EPA Worker Protection Rule found at 40 CFR Part 763 Subpart G; TSCA Title II; OSHA Asbestos Construction Standard 29 CFR 1926.58; OSHA Respiratory Requirements found at 29 CFR 1910.134; the Friable ACM in Schools Rule found at 40 CFR Part 763, Subpart F; applicable state and local regulations; and differences in Federal/State requirements where they apply and the effects, if any, on public and nonpublic schools.~~

~~(5-18-92)~~

~~xiii. Field trip: To include a field exercise, including a walk through inspection; on-site discussion on information gathering and determination of sampling locations; on-site practice in physical assessment; and classroom discussion of field exercise.~~

~~(5-18-92)~~

~~xiv. Course review: A review of key aspects of the training course.~~

~~(5-18-92)~~

~~xv. Asbestos Inspectors shall have their current accreditation certificate card at the work site when they are performing asbestos inspection related activities.~~

~~(5-18-92)(____)~~

04. Management Planners. All persons seeking accreditation as Management Planners shall complete an inspector training course and a two (2) day management planner training course. ~~The two (2) day training program shall include lectures, demonstrations, course review, and a written examination. The use of audiovisual materials to complement lectures where appropriate is recommended.~~

~~(5-18-92)(____)~~

a. Minimum requirements to obtain accreditation from the ~~Department~~ Division to act as a Management Planner are as follows:

~~(5-18-92)(____)~~

i. Be at least eighteen (18) years of age.

(5-18-92)

ii. Provide evidence of successful completion of a two (2) day EPA or ~~Department~~ Division approved initial training course for Asbestos Management Planner, in addition to evidence of completion of a three (3) day EPA or ~~Department~~ Division approved inspector's course. (5-18-92)(____)

iii. Provide evidence of passing the examination for the above Management Planner and Inspector's course, each which will consist of at least fifty (50) multiple choice questions, with a passing score of seventy percent (70%). (5-18-92)

b. If the initial training course was completed more than twelve (12) months before the application date, then the applicant shall provide evidence of participation in an EPA or ~~Department~~ Division approved refresher training course for inspectors/management planners during the past twelve (12) months. (5-18-92)(____)

c. Applicants seeking accreditation in any of the asbestos occupations or disciplines governed by this rule shall make application to the ~~Department~~ Division of Building Safety using ~~Department~~ Division provided forms including all required accreditation documentation and the required accreditation fee for review and approval. Applications will be reviewed within thirty (30) days and a determination made regarding approval or denial of same. Upon application acceptance and/or approval, applicants will be awarded a certificate from the ~~Department~~ Division of Building Safety with a photo ID card for the applied for discipline/occupation. (5-18-92)(____)

d. Asbestos Management Planners shall submit an initial accreditation fee of fifty dollars (\$50). The annual renewal fee for an asbestos management planner shall be fifty dollars (\$50). (5-18-92)

~~e. Initial Training: The initial training course for persons seeking accreditation as an Asbestos Management Planner, in addition to the inspector training course, shall provide a minimum two (2) days of training as outlined below. The management planner training course shall include lectures, demonstrations, training, course review, and an examination. The training course shall adequately address the following topics: (5-18-92)~~

~~i. Course overview: The role of the management planner, operations and maintenance programs, setting work priorities, and protection of building occupants. (5-18-92)~~

~~ii. Evaluation/interpretation of survey results: Review of TSCA Title II requirements for inspection and management plans as given in Section 203 (i) (1) of TSCA Title II and summarized field data and laboratory results comparison between field inspector's data sheet with laboratory results and site survey. (5-18-92)~~

~~iii. Hazard assessment: Amplification of the difference between physical assessment and hazard assessment; the role of the management planner in hazard assessment; explanation of significant damage, damage, potential damage, and potential significant damage; use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM; relationship of accessibility, vibration sources, use of adjoining space; and air plenums and other factors to hazard assessment. (5-18-92)~~

~~iv. Legal implications: Liability insurance issues specific to planners; liabilities associated with interim control measures; in-house maintenance, repair, and removal; and use of results from previously performed inspections. (5-18-92)~~

~~v. Evaluation and selection of control options: Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method; response actions described via a decision tree or other appropriate method; work practices for each response action; staging and prioritizing of work in both vacant and occupied buildings; and the need for containment barriers and decontamination in response actions. (5-18-92)~~

~~vi. Role of other professionals: Use of industrial hygienists, engineers, and architects in developing technical specifications for response actions; any requirements that may exist for architect sign off of plans; team approach to design of high-quality job specifications. (5-18-92)~~

~~vii. Developing an operations and maintenance (O&M) plan: Purpose of the plan; discussion of applicable EPA guidance documents; what actions should be taken by custodial staff; proper cleaning procedures; steam cleaning and high efficiency particulate air (HEPA) vacuuming; reducing disturbance of ACM; scheduling~~

~~O&M for off hours; rescheduling or canceling renovation in areas with ACM; boiler room maintenance; disposal of ACM; in-house procedures for ACM bridging and penetrating encapsulants; pipe fittings; metal sleeves; polyvinyl chloride (PVC); canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool and insulating cement; discussion of employee protection programs and staff training; and case study in developing an O&M plan (development, implementation process, and problems that have been experienced). (5-18-92)~~

~~viii. Regulatory review: Focusing on the OSHA Asbestos Construction Standard found at 29 CFR 1926.58; the National Emission Standard for Hazardous Air Pollutants (NESHAPS) found at 40 CFR Part 61, Subpart A (General Provisions) and Subpart M (National Emission Standard for Asbestos); EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G; TSCA Title II; applicable State rules. (5-18-92)~~

~~ix. Record keeping for the management planner: Use of field inspector's data sheet along with laboratory results, on going recordkeeping as a means to track asbestos disturbance, and procedures for record keeping. (5-18-92)~~

~~x. Assembling and submitting the management plan: Plan requirements in TSCA Title II Section 203(i)(1); the management plan as a planning tool. (5-18-92)~~

~~xi. Financing abatement actions: Economic analysis and cost estimates, development of cost estimates, and present costs of abatement versus future operations and maintenance costs. (5-18-92)~~

~~xii. Course review: A review of key aspects of the training course. (5-18-92)~~

~~fg. Asbestos Management Planners shall have available their current accreditation certificate card available when they are performing asbestos abatement related activities governed by these rules. (5-18-92)()~~

05. Asbestos Abatement Project Designer. All persons seeking accreditation as Asbestos Abatement Project Designers complete ~~either a three (3) day abatement project designer training course as outlined below in Subsections 013.05.a. through 013.05.d. or a four (4) day asbestos abatement contractor/supervisor's training course that is outlined in the above, under Contractor/ Supervisors training course. The three (3) day asbestos abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The use of audiovisual materials to complement lectures where appropriate is recommended. (5-18-92)()~~

a. Minimum requirements to obtain accreditation from the ~~Department~~ Division to act as an abatement project designer are: (5-18-92)()

i. Be at least eighteen (18) years of age. (5-18-92)

ii. Provide evidence of successful completion of a three (3) day, ~~or four (4) day~~ EPA or ~~Department~~ Division approved initial training course as required for Asbestos Abatement Project Designers ~~or Contractor/ Supervisors respectively. (5-18-92)()~~

iii. Provide evidence of passing the examination for either of the above courses, which will consist of at least one hundred (100) multiple choice questions, with a passing score of seventy percent (70%). (5-18-92)

b. If the initial training course was completed more than twelve (12) months before the application date, then the applicant shall provide evidence of participation in an EPA or ~~Department~~ Division approved refresher training course for Project Designers during the past twelve (12) months. (5-18-92)()

c. Applicants seeking accreditation in any of the asbestos occupations or disciplines governed by this rule shall make application to the ~~Department~~ Division of Building Safety using ~~Department~~ Division provided forms including all required accreditation documentation and a accreditation fee for review and approval. Applications will be reviewed within thirty (30) days and a determination made regarding approval or denial of same. Upon application acceptance and/or approval applicants will be awarded a certificate an accreditation card from the ~~Department with a photo ID card~~ Division of Building Safety for the applied for discipline/ occupation. (5-18-92)()

d. Asbestos Project Designers shall submit an initial accreditation fee of twenty five dollars (\$25). The annual renewal fee for an Asbestos Abatement Project Designer shall be twenty-five dollars (\$25). (5-18-92)

~~e. Initial Training. The initial training course for persons seeking accreditation as an Asbestos Abatement Project Designer shall provide a minimum three (3) days of training as outlined below. The training course shall include lectures, demonstrations, a field trip, course review, and a written examination. The training course shall adequately address the following topics: Asbestos Project Designers shall have available their current accreditation card when they are performing asbestos related activities governed by these rules. (5-18-92)()~~

~~f. Background information on asbestos: Identification of asbestos, examples and discussion of the uses and locations of asbestos in buildings, physical appearance of asbestos. (5-18-92)~~

~~g. Potential health effects related to asbestos exposure: Nature of asbestos related diseases; routes of exposure; dose response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period of asbestos related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs. (5-18-92)~~

~~h. Overview of abatement construction projects: Abatement as a portion of a renovation project and OSHA requirements for notification of other contractors on a multi employer site (29 CFR 1926.58). (5-18-92)~~

~~i. Safety system design specifications: Construction and maintenance of containment barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lock out; proper working techniques for minimizing fiber release; entry and exit procedures for the work area; use of wet methods; use of negative pressure exhaust ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean up and disposal of asbestos; work practices as they apply to encapsulation, enclosure, and repair; and use of glove bags and a demonstration of glove bag use. (5-18-92)~~

~~j. Field trip: Visit an abatement site or other suitable building site, including on site discussions of abatement design, building walk through inspection, and discussion following the walk through. (5-18-92)~~

~~k. Employee personal protective equipment: To include the classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece to face seal (positive and negative pressure fit tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposable clothing; and regulations covering personal protective equipment. (5-18-92)~~

~~l. Additional safety hazards: Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, and fire and explosion hazards. (5-18-92)~~

~~m. Fiber aerodynamics and control: Aerodynamic characteristics of asbestos fibers, importance of proper containment barriers, settling time for asbestos fibers, wet methods in abatement, aggressive air monitoring following abatement, and aggressive air movement and negative pressure exhaust ventilation as a clean up method. (5-18-92)~~

~~n. Designing abatement solutions: Discussions of removal, enclosure, encapsulation methods, and asbestos waste disposal. (5-18-92)~~

~~o. Budgeting/cost estimation: Development of cost estimates, present costs of abatement versus future operations and maintenance costs, and setting priorities for abatement jobs to reduce cost. (5-18-92)~~

~~p. Writing abatement specifications: Means and methods specifications versus performance specifications, design of abatement in occupied buildings, modification of guide specifications to a particular building, worker and building occupant health/medical considerations, replacement of ACM with non-asbestos substitutes, clearance of work area after abatement, and air monitoring for clearance. (5-18-92)~~

- q. ~~Preparing abatement drawings: Use of as-built drawings, use of inspection photographs and on-site reports, and particular problems in abatement drawings.~~ (5-18-92)
- r. ~~Contract preparation and administration.~~ (5-18-92)
- s. ~~Legal/liabilities/defenses: Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance, and claims-made versus occurrence policies.~~ (5-18-92)
- t. ~~Replacement: Replacement of asbestos with asbestos free substitutes.~~ (5-18-92)
- u. ~~Role of other consultants: Development of technical specification sections by industrial hygienists or engineers and the multidisciplinary team approach to abatement design.~~ (5-18-92)
- v. ~~Occupied buildings: Special design procedures required in occupied buildings, education of occupants, extra monitoring recommendations, staging of work to minimize occupant exposure, and scheduling of renovation to minimize exposure.~~ (5-18-92)
- w. ~~Relevant Federal or, State, and local regulatory requirements: Procedures and standards including:~~ (5-18-92)
 - i. ~~Requirements of TSCA Title II.~~ (5-18-92)
 - ii. ~~40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart A (General Provisions), and Subpart M (National Emission Standard for Asbestos).~~ (5-18-92)
 - iii. ~~OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).~~ (5-18-92)
 - iv. ~~EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.~~ (5-18-92)
 - v. ~~OSHA Asbestos Construction Standard found at 29 CFR 1926.58.~~ (5-18-92)
 - x. ~~Course Review: A review of key aspects of the training course.~~ (5-18-92)

¶ 014. RECIPROCITY.

01. Recognition Of Accreditation By Other States. The ~~Department~~ Division may recognize accreditation issued by another state for asbestos professionals provided that: (5-18-92)(____)

- i.a. The applicant is in possession of a currently valid accreditation certificate from the other state; and (5-18-92)
- ii.b. The ~~Department~~ Division evaluates the other state's qualification procedures and determines the accreditation to be equivalent to the minimum requirements of this chapter; and (5-18-92)(____)
- iii.c. When the ~~Department's~~ Division's evaluation of another state's qualification procedures identifies that equivalent requirements are met, the ~~Department~~ Division is authorized to issue Idaho accreditation upon receipt and approval of a completed application and evidence of successful completion of an approved initial or refresher course for the discipline applied for. (5-18-92)(____)

02. Expiration Date. The Idaho accreditation will expire the same date specified by the other state's accreditation or twelve (12) months from the date of issuance, whichever is earlier; and (5-18-92)(____)

~~iv~~**03. Requirement When Other State's Procedures Deficient.** When the ~~Department's~~ Division's evaluation of another state's qualification procedures identifies deficiencies, the ~~Department~~ Division may require specific supplemental training and/or examination before issuing an Idaho accreditation. (5-18-92)(____)

015. REEXAMINATION AND REFRESHER TRAINING.

Each person accredited as an Abatement Worker, Contractor/ Supervisor, Management Planner, or Project Designer shall take a one (1) day annual refresher training course. Refresher courses for Inspectors shall be a half (1/2) day in length. Management Planners shall attend the Inspector refresher course plus an additional half (1/2) day on Management Planning. The refresher course shall be specific to each discipline. For each discipline, the refresher course shall review and discuss changes in Federal and State regulations, developments in state-of-the-art procedures, and a review of key aspects of the initial training course as determined by the Department Division of Building Safety. After completing the annual refresher course, persons may have their accreditation extended an additional year.

(5-18-92)()

06. Training Course Content Approval. (5-18-92)

a. Any person wishing to sponsor courses in disciplines for which training or accreditation is required shall apply to the Department for approval. In order for a course to be approved it must meet the requirements for courses as outlined above. An applicant will be informed by the Department within sixty (60) days after receipt of his complete application as to whether the course has been approved for recognition in Idaho. (5-18-92)

b. Applicants seeking approval for initial training or refresher training courses shall send the information requested below to the Department's Asbestos Coordinator. (5-18-92)

i. The course sponsor's name, address, phone number, and contact person; (5-18-92)

ii. A list of any states that currently approve the training course; (5-18-92)

iii. The course curriculum; (5-18-92)

iv. A signed statement which certifies that the course meets the minimum length (in days), the hands-on training requirements, and that the course covers all the topics required by regulation; (5-18-92)

v. Amount and type of hands on training; (5-18-92)

vi. A copy of all course materials (student manuals, instructor notebooks, handouts, etc.); (5-18-92)

vii. Names and qualification of course instructors. Instructors must have academic credentials and/or field experience in asbestos abatement. (5-18-92)

viii. Description and an example of numbered certificates issued to students who attend the course and pass the examination. (5-18-92)

e. For refresher courses in any of the disciplines, information required is as follows: (5-18-92)

i. A signed statement which certifies that the course meets the minimum length (in days), the hands-on training requirements, and that the course covers all the topics required by regulation; length of training; (5-18-92)

ii. Topics covered in the course; (5-18-92)

iii. A copy of all course materials; (5-18-92)

iv. Names and qualifications of course instructors; (5-18-92)

v. Description and an example of certificates issued to students who completed the refresher course; (5-18-92)

d. As noted above, the training course administrator must issue numbered certificates to students who successfully pass the training course's examination. The numbered certificate would indicate the name of the student and the course completed, the dates of the course and examination, and a statement indicating that the student passed

~~the examination. The certificate also would include an expiration for accreditation that is one (1) year after the date on which the student completed the course and examination. Training course administrators who offer refresher training courses must also provide certificates with all of the above information (except testing information). Accredited persons must have their initial and current accreditation certificates at the locations where they are conducting work. Failure to have accreditation certificates at the job site could result in decertification.~~ (5-18-92)

~~e. The Department may audit any training course to verify consistency with requirements contained within the EPA model plan. Any significant omissions or deficiencies may result in decertification of the course. There will be no charge to the Department for auditing a training course.~~ (5-18-92)

07016. NOTIFICATION REQUIREMENTS.

Employers subject to this rule must report to the ~~Department~~ Division of Building Safety: (5-18-92)(____)

a01. Notice Prior To Beginning Abatement Project. At least ten (10) days before they begin any asbestos abatement project, except one that involves less than either three (3) linear feet or three (3) square feet of friable ACM or an emergency project, or a project that can be classified as one that is of Small Scale/Short Duration as is defined in these rules and 40 CFR Part 763, Appendix B to Subpart E, employers subject to this rule must report to the Division. (5-18-92)(____)

b02. Postmark. If a report is mailed to the ~~Department~~ Division of Building Safety, the report must be postmarked at least ten (10) days before the asbestos abatement project begins unless the report is for an emergency project. In such a case, the report must be postmarked as soon as possible but in no case more than forty-eight (48) hours after the project begins. (5-18-92)(____)

e03. Form. Required notifications are is to be submitted using forms provided by the ~~Department~~ Division of Building Safety and must include the following: (5-18-92)(____)

- i a.** Names and address of the building owner or manager. (5-18-92)
- i i b.** Description and location of the building. (5-18-92)
- i i i c.** Scheduled starting and completion dates of ACM removal, encapsulation, and/or enclosure. (5-18-92)
- i i d.** Description of the planned removal, encapsulation, and/or enclosure methods. (5-18-92)
- i e.** Name, address, and location of disposal site. (5-18-92)

08017. ENFORCEMENT AND PENALTIES.

a01. Annual Job Site Inspection. At least once a year, during an actual asbestos project, the ~~Department~~ Division of Building Safety shall conduct an on-site job inspection for each asbestos contractor. The ~~Department~~ Division may make similar job inspections for other asbestos occupations. The ~~Department~~ Division shall have the power and authority to enter, at reasonable times, upon any property subject to these rules for this purpose. (5-18-92)(____)

b02. Recordkeeping Requirements. An asbestos contractor shall keep a record of each asbestos project that it performs under these rules and shall make the record available to the ~~Department~~ Division of Building Safety upon request. Records required by this section shall be kept for at least thirty (30) years unless otherwise specified by the ~~Department~~ Division. The records shall include the following information: (5-18-92)(____)

i a. The name, address, and accreditation number of the individual who supervised the asbestos project and each employee or agent of the contractor who worked on the project. (5-18-92)

i i b. The location and a description, as required by the ~~Department~~ Division of Building Safety, of the project and the amount of asbestos material that was removed. (5-18-92)(____)

~~iii~~c. The starting and completion dates of each project and a summary of the procedures that were used to comply with all federal and state standards for asbestos projects. (5-18-92)

~~iv~~d. The name and address of each asbestos disposal site where waste containing asbestos was deposited and the disposal site receipts. (5-18-92)

~~e03~~. **Transfer Of Records.** Whenever the employer ceases to operate and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the ~~Department~~ **Division of Building Safety** at least ninety (90) days prior to discontinuance of operation of business and, upon request, transmit them to the ~~Department~~ **Division**. (5-18-92)()

~~e04~~. **Penalties.** The ~~Department~~ **Division of Building Safety** may reprimand, suspend, deny, or revoke the accreditation of any person who: (5-18-92)()

~~ia~~. Fraudulently or deceptively obtains or attempts to obtain accreditation. (5-18-92)

~~ii~~b. Fails at any time to meet the qualifications for accreditation or to comply with the requirements of this chapter or any regulation adopted by the ~~Department~~ **Industrial Commission**. (5-18-92)()

~~iii~~c. Fails to meet any applicable federal or state standard for asbestos projects. (5-18-92)

~~e05~~. **Violation A Misdemeanor.** Notwithstanding any other provision of law, any person who willfully violates any provision of this chapter or any regulation related to accreditation and training adopted pursuant to this chapter shall be guilty of a misdemeanor for the first two (2) violations and felony for a third and each subsequent violation within a three (3) year period. The ~~Department~~ **Division**, upon determination that there is a violation of this chapter, or any rule promulgated pursuant to this chapter, may issue an order to cease and desist, to abate hazards, for building closure or evacuation. Any person to whom any order is directed shall immediately comply with the order. (5-18-92)()

~~f06~~. **Civil Penalty For Subsequent Violation.** In addition, accredited persons may be assessed a civil penalty by the ~~Director~~ **Administrator** of not more than one thousand dollars (\$1,000) per day for an initial violation and five thousand dollars (\$5,000) per day for each subsequent violation within a three (3) year period arising from willful violation of Federal or State standards for asbestos projects. (5-18-92)()

~~g07~~. **Civil Penalty For Working Without Valid Accreditation.** A person who engages in an asbestos project without valid accreditation shall be assessed a civil penalty by the ~~Department~~ **Division of Building Safety** of not more than twenty five thousand dollars (\$25,000) per day and, in the case of continuing violation, every day such violation continues shall be deemed a separate violation. (5-18-92)()

~~0148~~-- 999. (RESERVED).

IDAPA 17 - INDUSTRIAL COMMISSION
17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES – ADMINISTRATION
DOCKET NO. 17-0602-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 72-508, 72-720 and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

The rule is amended to incorporate by reference the 1997 amendments to the American Society of Mechanical Engineers (ASME) Controls and Safety Devices for Automatically Fired Boilers (CSD-1). The rule is renumbered to save on future costs of revision.

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

Not applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the amendments are primarily ministerial in nature and the adoption of the 1997 version of ASME CSD-1 brings the state rules into compliance with industry standards.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 23rd day of August 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0602-9901

011. ~~ADMINISTRATION~~ INCORPORATION BY REFERENCE.

~~01.~~ Incorporation By Reference: (7-1-97)

~~a01.~~ National Board Inspection Code. The National Board Inspection Code 1998; 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. (7-1-99)(____)

~~b02.~~ ASME Boiler And Pressure Vessel Code. The ASME Boiler and Pressure Vessel Code 1998; 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. (7-1-99)(____)

~~c03.~~ ASME CSD -1. The ASME CSD-1 1995~~7~~, Controls and Safety Devices for Automatically Fired Boilers. (7-1-97)(____)

~~d04.~~ ASME B31.1. The ASME B31.1 1997, Power Piping Standard (As it applies directly to boilers). (7-1-99)(____)

~~012. - 999.~~ (RESERVED):

~~02012.~~ CONSTRUCTION.

~~a01.~~ New Installations. 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)(____)

~~b02.~~ Manufacturer's NB Number. 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)(____)

~~c03.~~ Idaho Registration Number. 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)

013. (RESERVED).

~~04014.~~ NOTIFICATION.

~~a01.~~ Prior To Installation. 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)(____)

~~b02.~~ Upon Change In Status Of Insurance Coverage. 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)(____)

~~c03.~~ Upon Occurrence Of Accident. 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)(____)

05015. INSPECTION.

a- All boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components installed or operated in the state of Idaho shall have an inspection conducted by a person holding a certificate of competency and an Idaho Commission, in accordance with 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)(____)

06016. EXEMPTIONS.

a01. Boilers Or Pressure Vessel With Nominal Capacity. 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)(____)

b02. Certain Pressure Vessels Containing Compressed Gas. 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)(____)

e03. Air Tanks On Railroad Right-Of-Way. Air tanks installed on the right of way of railroads and used directly in the operation of trains. (7-1-97)(____)

e04. Small Capacity Vessels. 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)(____)

e05. Low Pressure Vessels. Pressure vessels operating at a working pressure not exceeding fifteen (15) psig. (7-1-97)(____)

e06. Vessels With Nominal Water Capacity. 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)(____)

e07. Vessels Owned And Operated By U.S. Government. Boilers, pressure vessels, and nuclear components owned and operated by the Federal Government. (7-1-97)(____)

e08. Boilers, Hot Water Heaters, And Other Pressure Vessels In Private Residences And Certain Apartment Houses. 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)(____)

e09. Pressure Vessels Containing Water Or Air For Private Residences And Certain Apartment Houses. 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)()

~~j10.~~ **Low Pressure Chillers.** Chillers operating at pressures of fifteen (15) psig or less. (7-1-97)()

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

018. (RESERVED).

~~08~~**018. 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~~**019. 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~~**020. PROCEDURES FOR COMPLETING THE CERTIFICATE OF INSPECTION.**

~~a~~**01. 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~~**02. 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)()

~~e~~**03. Type Of Inspection.** - Indicate whether this was an external or internal inspection. (7-1-97)()

~~d~~**04. Date of Inspection.** - Enter the date the inspection was actually conducted. (7-1-97)()

~~e~~**05. 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~~**06. 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~~**07. 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~~**08. Inspected By.** - Enter the name of the insurance carrier that insures the object certified. (7-1-97)()

~~i~~**09. 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~~**10. 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~~**11. Address Of Owner.** - Enter the mailing address of the object owner/user. (7-1-97)()

~~l~~**12. Location Of Object.** - Enter the physical location of the object which includes street location, city/

- town/municipality, county, and zip code. (7-1-97)(____)
- m13. Type₂** - Indicate the type of object, e.g., fire tube, cast iron, etc. (7-1-97)(____)
- n14. Date Built₂** - Enter the date the object was built or manufactured if known, otherwise, leave blank. (7-1-97)(____)
- o15. Manufacturer₂** - Enter the name of the company that built or manufactured the certified object. (7-1-97)(____)
- p16. Use₂** - Enter the primary use of the object. (7-1-97)(____)
- q17. Fuel₂** - 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)(____)
- r18. Method Of Firing₂** - 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)(____)
- s19. Pressure Not To Exceed₂** - Enter the maximum pressure that the object may be operated at in pounds per square inch. (7-1-97)(____)
- t20. Safety Relief Valve Set At₂** - Enter the pressure that the safety valve will function for the object. (7-1-97)(____)
- u21. Number Of Valves Installed₂** - Enter the number of safety valves installed for the object. (7-1-97)(____)
- v22. Capacity (Boiler)₂** - Enter the capacity of the object. If not applicable, enter "NA". (7-1-97)(____)
- w23. Capacity (BTU/LBS HR Safety Valve)₂** - Enter the capacity of the safety valve(s). If not applicable, enter "NA". (7-1-97)(____)
- x24. Hydro Test Date₂** - Enter the date that the last hydrostatic test was performed. (7-1-97)(____)
- y25. PSI₂** - Enter the pounds per square inch that the hydrostatic test was performed at. (7-1-97)(____)
- z26. Is Condition Of Object Such That A Certificate May Be Issued₂** - 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)(____)
- aa27. Comments And/Or Requirements₂** - 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)(____)
- bb28. Inspector₂** - 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)(____)
- ee29. Idaho Identification Card #₂** - 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~~**30. White Copy Of Certificate.** 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~~**31. Yellow Copy Of Certificate.** The yellow copy of the Certificate of Inspection shall, in all cases, be sent to the Division of Building Safety. (7-1-97)(____)

~~ff~~**32. Pink Copy Of Certificate.** The pink copy is the inspector's file copy. (7-1-97)(____)

021. -- 999. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

IC-7001



STATE OF IDAHO
INDUSTRIAL COMMISSION
and
DIVISION OF BUILDING SAFETY
Statehouse Mail
Boise, ID 83720-0049

CERTIFICATE SERIAL No.
000000

CERTIFICATE OF INSPECTION

(BOILER/PRESSURE VESSEL/WATER HEATER/HOT WATER STORAGE TANKS/NUCLEAR COMPONENT)

PREVIOUS CERTIFICATE/STATE ID # 4 01 DATE OF INSPECTION: 4 04 19
TYPE OF OBJECT: 2 02 OBJECT #: 5 05
TYPE OF INSPECTION: 3 03 EXTERNAL, NEXT DUE DATE: 6 06
INTERNAL, NEXT DUE DATE: 7 07

THIS IS TO CERTIFY THAT THE DESCRIBED OBJECT WAS INSPECTED BY:

8 08
Name of Insurance Company
Name of Policy Holder: 9 09
Name of Owner/User: 10
Address of Owner: 11
Street City Zip
Location of Object: 12
Street Address City County Zip
Type: 13 Date Built: 14
Manufacturer: 15
Use: 16 Fuel: 17 Method of Firing: 18
May be Operated at a Pressure Not to Exceed 19 Pounds Per Square Inch.
Safety Relief Valve Set at: 20 No. of Valves Installed: 21
CAPACITY: Boiler: 22 BTU/LBS HR Safety Valve: 23
Hydro Test Date: 24 PSI: 25
Is condition of object such that a certificate may be issued: 26

COMMENTS AND/OR REQUIREMENTS:

27

INSPECTOR: 28 IDAHO IDENTIFICATION CARD #: 29

POST THIS IN A CONSPICUOUS PLACE IN THE ROOM CONTAINING BOILER OR VESSEL
(Certificate must be posted under glass or similarly protected.)

WHITE - Posted at location

YELLOW - Division of Building Safety

PINK - Inspector

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.27 - SELF-FUNDED EMPLOYEE HEALTH CARE PLANS RULE
DOCKET NO. 18-0127-9901
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. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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 address below.

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

The rule is being amended to remove a reference to an exemption from registration for plans with less than 500 members, bringing the rule into compliance with the relevant Idaho Code section. In addition, obsolete language is being deleted and sections and relating to agency interpretations, administrative appeals and plan qualification are being added.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Robert Murphy at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 19th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0127-9901

000. LEGAL AUTHORITY.

Title 41, Section 41-211, Idaho Code, Title 67, Chapter 52, Idaho Code, and Section 20 of Chapter 248, Idaho Session Laws, 1974, the Idaho Self-Funded Employee Health Care Plan Act, hereinafter referred to as the Act. This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapter 2, Idaho Code.

(7-1-93)()

001. TITLE AND ~~PURPOSE~~ SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule, IDAPA 18.01.27, "Self-Funded Employee Health Care Plans Rule". ()

02. Scope. The purpose of this rule is to supplement the provisions of ~~the Act~~; Title 41, Chapter 40, Idaho Code, Self-Funded Health Care Plans by providing: ()

a. ~~to clarify~~ Dates of application for registration; ()

b. ~~to implement~~ Requirements for application of for registration; ()

c. ~~to provide~~ Rules regarding investigation of applications; ()

d. ~~to define~~ Definition of required liabilities; to and establishment of reserve bases; and ()

e. ~~To provide an effective date. In order for a Plan to qualify under the Act, the Plan's trust must be established by agreement between the employer or employers and the trustee of the trust, for the purpose of providing health care benefits to employees of the employer or employers.~~ (7-1-93)()

002. --003. (RESERVED) WRITTEN INTERPRETATIONS.

This agency may have 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 will be available for public inspection and copying at cost in the main office of this agency. ()

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ()

004. DEFINITIONS.

01. The Act. All terms defined in ~~the Act~~ Title 41, Chapter 40, Idaho Code, which are used in this rule shall have the same meaning as used in ~~the Act~~ that Chapter. (7-1-93)()

02. Director. The term Director, as used in this rule, shall mean ~~the Director of the Department of Insurance, state of Idaho~~. (7-1-93)

005. -- 0409. (RESERVED).

010. QUALIFICATION OF PLAN.

In order for a Plan to qualify under Title 41, Chapter 40, Idaho Code, the Plan's trust must be established by agreement between the employer or employers and the trustee of the trust, for the purpose of providing health care benefits to employees of the employer or employers. ()

011. REGISTRATION.

01. Registration Required. No self-funded plan, unless exempted from registration by Section ~~3(2) of the Act~~ 41-4003(2), Idaho Code, shall be organized and permitted to operate in the state of Idaho ~~subsequent to the effective date of the Act~~ without securing a Certificate of Registration from the Director of Insurance. (7-1-93)()

02. Specific Plans. Any plans covering the employees of a common employer shall be deemed to be a single plan in respect to the exemption for registration allowed in Section ~~3(2)(a) of the Act~~ 41-4003(2)(a), Idaho Code. Any combinations of Plans under the effective control of a single administrator, trustee, and/or employer, or group of administrators, trustees and/or employers utilizing or attempting to utilize the exempt dollar amounts permitted under Section ~~3(2)(a) of the Act~~ 41-4003(2)(a), Idaho Code in order to avoid registration of any such Plans is deemed to be contrary to the intent of ~~the Act~~ Chapter 40, Title 41, Idaho Code, and is expressly prohibited by this

rule. (7-1-93)()

~~03. **Plans In Operation On Effective Date.** Plans already in operation on the effective date of the Act, unless exempt from registration by Section 3(2) of the Act, shall register with the Director of Insurance prior to October 1, 1974. (7-1-93)~~

~~043. **Beneficiary Within State.** Registration is required of Plans that cover any beneficiary working or residing within this state, unless the Plan is otherwise exempted by the Act Section 41-4003(2), Idaho Code. (7-1-93)()~~

~~05. **Minimum Five Hundred Individuals.** The qualification for registration provided in 4(1) of the Act applies to plans covering not less than five hundred (500) individuals, no matter where those individuals reside, as long as the Plan covers any beneficiary working or residing within this state. (7-1-93)~~

012. APPLICATION OF FOR REGISTRATION.

~~01. **Certified Financial Statement Required.** If a Plan is in existence and operating on the effective date of the Act, the application for registration must be accompanied by a financial statement certified by an independent accountant, who holds a valid certificate as a public accountant or a certified public accountant. This financial statement must be as of a date not more than forty five (45) days prior to the date of filing of the application for registration, as provided in Section 5(2)(e) of the Act. (7-1-93)~~

~~02. **Certified Statement Of Income And Disbursement Required.** In addition to the requirements set out in Section 41-4005, Idaho Code, Aa written statement of projected income and disbursements of the Fund for the twelve (12) month period commencing with the date of application must be filed with the application for registration. This statement must show the amount reserved as of the beginning and end of such period for claims incurred and not paid and incurred and not reported. The statement must be certified by an actuary who is a member of the American Academy of Actuaries. The certification must be accompanied by a description of assumptions used in projecting income and disbursements together with bases used to estimate amounts reserved for claims. (7-1-93)()~~

013. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.

The Director may make an investigation of matters accompanying the application for registration as deemed necessary including an examination specified in Section 13 of the Act 41-4013, Idaho Code. Costs of any investigation and/or examination shall be borne by the Trust Fund of the Plan. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

015. TRUST FUND RESERVES.

01. Reserve Requirements. The Trust Fund of the Plan must continuously maintain reserves sufficient to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-93)

02. Reserves For Disability Income Benefits. Reserves established for disability income benefits shall be in an amount not less than reserves determined by application of factors in the 1964 Commissioner's Disability Table with interest at four percent (4%), unless it can be proved to the satisfaction of the Director that a lower reserve can be justified. (7-1-93)

03. Certification By Actuary. Reserves must be certified by an actuary who is a member of the American Academy of Actuaries, and such certification must be accompanied by a statement describing bases used in reserve determination. (7-1-93)

~~**04. Reserve For Unearned Contributions.** A reserve for unearned contributions must be computed pro-rata on the basis of the number of months or days of the unexpired period for which the contribution has been paid. (7-1-93)~~

054. Insolvent Condition. If determination of reserves reveals an insolvent condition, the Director may, in his discretion, allow the Plan a period of time deemed adequate and reasonable to accumulate required reserves. The Plan shall be deemed to be insolvent when the assets are not sufficient to meet all liabilities, including required reserves. (7-1-93)

016. BONDING.

01. Certified Copy Of Bond. A certified copy of the fidelity bond, as required under Section 14 of the Act ~~41-4014(3), Idaho Code~~, shall be furnished to the Director by the Plan. (7-1-93)()

02. Cancellation Of Bond Requirements. Section ~~14(3) of the Act 41-4014(3), Idaho Code~~, requires thirty (30) days advance notice, in writing, of the effective date of cancellation of a surety bond. A copy of any notice cancelling a bond required under the Act is to be forwarded to the Director by the surety at the same time it is forwarded to the trustee. (7-1-93)()

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES
DOCKET NO. 18-0144-9901
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. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2 and Chapter 4, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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 address below.

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

The rule is being repealed in its entirety and will be replaced with a new rule providing for a simplified single fee schedule for insurers.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Robert Murphy at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 23rd day of August, 1999.

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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES
DOCKET NO. 18-0144-9902
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. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2 and Chapter 4, Idaho Code.

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

Date: October 26, 1999
Time: 10:00 a.m.
Location: Idaho Department of Insurance, J.R. Williams Building
700 W. State Street, 3rd Floor, Boise, Idaho 83720-0043

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 rulemaking: The proposed rule changes the fee structure for insurers doing business in Idaho by eliminating the multiple fees currently charged and imposing a single, annual fee. The single fee will reduce administrative burdens for insurers and the Department.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Rather than charging multiple fees related to licensing, filings and agent appointments, the rule will impose a single fee structure on insurers and other non-producer entities as follows:

- * For insurers with policyholder surplus of less than \$10 million, the annual fee will be \$1,000;
- * For insurers with policyholder surplus of at least \$10 million but less than \$100 million, the annual fee will be \$2,000;
- * For insurers with policyholder surplus of at least \$100 million, the annual fee will be \$4,000;
- * For other non-producer entities as identified in the rule, the annual fee will be \$500.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Robert Murphy at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 23rd day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0144-9902

IDAPA 18
TITLE 01
Chapter 44

18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapter 2, Idaho Code, and Title 41, Chapter 4, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule, IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges". ()

02. Scope. The purpose of this rule is to provide for the amounts that the director shall collect for fees, licenses and miscellaneous charges. ()

002. WRITTEN INTERPRETATIONS.

This agency may have 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 will be available for public inspection and copying at cost in the main office of this agency. ()

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". ()

004. -- 010. (RESERVED).

011. FEES PAYABLE IN ADVANCE.

The director shall collect in advance, and persons so served, shall pay to him in advance, fees, licenses, and miscellaneous charges as outlined in this rule. ()

012. -- 019. (RESERVED).

020. INSURER FEES.

01. Annual Continuation Fee. All insurers and other entities (set forth in Section 020) licensed, listed, or otherwise approved to do business in the state of Idaho shall pay an annual continuation fee. ()

a. The annual continuation fee shall be due on March 1st each year and shall provide for payment of the insurer's fees due through the last day of February next proceeding. ()

b. The annual continuation fee shall be charged at the time the insurer applies for admission to do business in the state of Idaho. If the application is approved, the fee paid shall cover the insurer's fees through the last day of February next proceeding. ()

02. Fee For Insurers. For all insurance companies receiving a certificate of authority pursuant to Chapter 3, Title 41, Idaho Code, the amount of the annual continuation fee shall be as follows: ()

a. If insurer's surplus as regards policyholders at the preceding December 31 is less than ten million dollars (\$10,000,000) - One thousand dollars (\$1,000). ()

b. If insurer's surplus as regards policyholders at the preceding December 31 is ten million dollars (\$10,000,000) or more, but less than one hundred million dollars (\$100,000,000) - Two thousand dollars (\$2,000). ()

c. If insurer's surplus as regards policyholders at the preceding December 31 is one hundred million dollars (\$100,000,000) or greater - Four thousand dollars (\$4,000). ()

03. Fees Of Other Entities. For the following entities, the amount of the annual continuation fee shall be the amount as shown: ()

a. Accredited reinsurers, listed pursuant to Section 41-514(1)(b), Idaho Code - Five hundred dollars (\$500). ()

b. Trusteed reinsurers, listed pursuant to Section 41-514(1)(d), Idaho Code - Five hundred dollars (\$500). ()

c. Authorized surplus line insurers - Five hundred dollars (\$500). ()

d. County mutual insurers - Five hundred dollars (\$500). ()

e. Fraternal benefit societies - Five hundred dollars (\$500). ()

f. Hospital and/or professional service corporations - Five hundred dollars (\$500). ()

g. Hospital liability trusts - Five hundred dollars (\$500). ()

h. Self funded employee health care plans - Five hundred dollars (\$500). ()

i. Risk retention groups - Five hundred dollars (\$500). ()

j. Purchasing groups - Five hundred dollars (\$500). ()

k. Petroleum clean water trusts - Five hundred dollars (\$500). ()

l. Rating organizations - Five hundred dollars (\$500). ()

m. Advisory organizations - Five hundred dollars (\$500). ()

04. What Payment Of Fee Shall Cover. Payment of the annual continuation fee shall be deemed to be payment of all fees that would ordinarily be paid to the Department by the insurer or entity during the relevant year, including, but not limited to, the following: ()

a. Certificate of Authority renewal. ()

b. Arson, Fire and Fraud. ()

c. Annual statement filing. ()

d. Filing of policy rates and forms. ()

e. Agent appointment and renewal of appointment. ()

f. Filings under Chapter 38, Title 41, Idaho Code, Acquisition of control and insurance holding company systems. ()

g. Filing of amendments to Articles of Incorporation. ()

- h. Filing of amendments to Bylaws. ()
- i. Amendments to Certificate of Authority. ()
- j. Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code. ()
- k. Quarterly statement filing. ()
- l. Examination expenses. ()

05. Fees Not Included. Payment of the annual continuation fee will not exempt the insurer or entity from the following: ()

- a. Fees for application for producer license. ()
- b. Costs incurred by the Department for investigation of an applicant for producer license. ()
- c. Attorney's fees incurred by the Department when allowed pursuant to Idaho Code. ()
- d. Costs incurred for experts and consultants when allowed by Idaho Code. ()
- e. Penalties or fines levied by or payable to the Department of Insurance. ()

06. Failure To Pay Fee. Failure to pay the annual continuation fee on or before March 1st each year shall be treated as failure to pay the continuation fee and will result in expiration of the insurer's or entity's authority to do business in the state of Idaho pursuant to Section 41-324, Idaho Code. ()

07. Reinstatement Fee. The reinstatement fee referenced in Section 41-324(3), Idaho Code, shall be the amount referenced above for the insurer or entity continuation fee. ()

021. -- 029. (RESERVED).

030. PRODUCER FEES.

01. Original License Application. Filing application for original license, and including issuance of license, if issued: ()

- a. Administrators - Three hundred dollars (\$300). ()
- b. Agents: ()
 - i. Life and/or disability insurance - Ninety dollars (\$90). ()
 - ii. Property and/or casualty (general lines) insurance - Ninety dollars (\$90). ()
 - iii. Motor vehicle physical damage insurance (only) - Ninety dollars (\$90). ()
 - iv. Transportation ticket-selling insurance (only) - Ninety dollars (\$90). ()
 - v. Credit life and credit disability insurance (only) - Ninety dollars (\$90). ()
 - vi. Credit property insurance (only) - Ninety dollars (\$90). ()
 - vii. Involuntary unemployment insurance (only) - Ninety dollars (\$90). ()
 - viii. Surety insurance (only) - Ninety dollars (\$90). ()

- ix. Title insurance (only) - Fifty dollars (\$50). ()
- x. Designation as a managing general agent - One hundred ninety dollars (\$190). ()
- xi. Variable annuity fee - Sixty dollars (\$60). ()
- c. Adjusters - Ninety dollars (\$90). ()
- d. Brokers: ()
 - i. Life insurance - Three hundred seventy dollars (\$370). ()
 - ii. General lines insurance - Three hundred seventy dollars (\$370). ()
- e. Reinsurance intermediary - Three hundred dollars (\$300). ()
- f. Surplus line brokers - Ninety dollars (\$90). ()
- 02. Examination Fees.** Application and/or Examination Fees: ()
 - a. Agents, adjusters, brokers, solicitors - application for examination and each time taken, other than as to variable contracts - Sixty dollars (\$60). ()
 - b. Consultants: ()
 - i. Life and Disability - application and each time taken - Ninety dollars (\$90). ()
 - ii. Property and Casualty - application and each time taken - Ninety dollars (\$90). ()
- 03. Temporary License.** Temporary license - Ninety dollars (\$90). ()
- 04. Vending Machines.** Vending machines - each machine annually - Eighty dollars (\$80). ()
- 05. Fingerprint Processing.** Processing fingerprints, where required - Sixty dollars (\$60). ()
- 06. License Renewal.** Renewal or continuation of license, per license: ()
 - a. Adjusters, agents (biennial) - Forty dollars (\$40). ()
 - b. Redesignation as managing general agent (annual) - One hundred forty dollars (\$140). ()
 - c. Administrators (annual) - One hundred forty dollars (\$140). ()
 - d. Brokers, consultants (biennial) - Seventy dollars (\$70). ()
 - e. Surplus line brokers (biennial) - Seventy dollars (\$70). ()
 - f. Title agents (annual) - Fifty dollars (\$50). ()
- 07. Duplicate License.** Duplicate license - administrators, adjusters, agents, brokers, consultants - Fifty dollars (\$50). ()
- 031. -- 039. (RESERVED).**
- 040. MISCELLANEOUS FEES.**
Fees shall be as follows, unless the payer/requestor is an insurer subject to and has paid the annual continuation fee pursuant to Section 020 of this rule. ()

- 01. Certified Copy.** Certified copy of certificate of authority, license or registration - Fifty dollars (\$50). ()
- 02. Solicitation Permit.** Organization and financing of insurer: ()
- a. Filing application for solicitation permit - Nine hundred dollars (\$900). ()
- b. Issuance of solicitation permit - One hundred eighty dollars (\$180). ()
- 03. Certificate Under Seal.** Director's certificate under seal (except for those under Subsection 040.01 of this rule) - Twenty dollars (\$20). ()
- 04. Documents Filed.** For each copy of document filed in his office, a reasonable cost as fixed by the director. ()
- 05. Life Insurance Valuation.** For valuing life insurance, actual cost of valuation but not to exceed one cent (\$.01) for each one thousand dollars (\$1,000) of insurance. ()
- 06. Insurer Summons.** For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer - Thirty dollars (\$30). ()
- 07. Agent Summons.** For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident agent, broker or consultant - Ten dollars (\$10). ()
- 08. Letter Of Verification.** For letters of license verification for agents, brokers, and consultants - Ten dollars (\$10). ()
- 09. Publications:** ()
- a. Newsletter - One dollar (\$1). ()
- b. Annual Report - Five dollars (\$5). ()
- 10. Continuing Education.** Filing continuing education applications for approval and certification of subjects of courses (each application) - Twenty-five dollars (\$25). ()
- 11. Small Employer Health Program.** Administrative expenses incurred in implementing and approving Idaho small employer health reinsurance program and plan of operation: ()
- a. Initial deposit for program setup, approval and processing - One thousand dollars (\$1,000). ()
- b. Any additional reasonable expenses incurred in establishing and maintaining the program. ()
- c. Annual filings of Board, pursuant to Section 41-4711(12), Idaho Code - Three hundred dollars (\$300). ()
- 041. -- 049. (RESERVED).**
- 050. REFUNDS.**
All fees, licenses, and miscellaneous charges are non-refundable except as noted. ()
- 051. OVERPAYMENTS.**
Overpayments of published fees will be returned only when such overpayments exceed twenty dollars (\$20), or upon request of the payor. ()
- 052. -- 999. (RESERVED).**

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.53 - CONTINUING EDUCATION

DOCKET NO. 18-0153-9901

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. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2 and Chapter 10, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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 address below.

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

The proposed rule reduces continuing education requirements for experienced, licensed insurance agents who are licensed in less than four lines of insurance and who have been in the business of insurance for more than six years. It also allows the use of carryover continuing education credits to meet one-half of the continuing education requirement, clarifies that the Director can approve exceptions and extensions for continuing education requirements, and removes the requirement that continuing education programs relate to the areas of expertise covered by the licensee's license.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary rule, contact Jim Genetti, Bureau Chief, at the Department of Insurance, at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 20th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0153-9901

012. BASIC REQUIREMENTS.

01. Proof Of Completion. As a condition for the continuation of a license, a licensee must furnish the Director of the Department of Insurance ("Director"), on or before the licensing renewal date, proof of satisfactory completion of approved subjects or courses ~~having at least forty (40) hours of continuing education credit during each~~

~~two (2) year licensing period, meeting the following requirements:~~ (7-1-93)()

~~a. Forty (40) hours of continuing education credit during each of the first three (3) licensing periods, which licensing period is for two (2) years. ()~~

~~b. After the third license renewal period at least twelve (12) hours of continuing education credits must be earned for each line of licensure during each successive renewal period, with a maximum of forty (40) hours for all lines held. ()~~

02. Relicensing Procedures After Voluntary Termination Of License. An insurance agent who voluntarily terminates his/her license can apply to be relicensed without testing if the application is received by the Department within twelve (12) months after the termination and if the continuing education requirements were completed during the licensing period prior to voluntary termination. Non-resident insurance agents who were former resident agents and who wish to obtain a resident license once again, will be subject to the continuing education requirements on a pro-rata basis. ~~For example: If an agent resided in Idaho for nine (9) months, that agent's continuing education requirement would be fifteen (15) credit hours should the agent return to Idaho and request to be relicensed.~~ (7-1-93)()

03. Carry Over Of Credits. ~~Upon renewal of a license, up to but no more than twenty (20) continuing education credit hours, in excess of the credit hours required to renew the license, may be credited to the next consecutive licensing period. A licensee may carry-over credit hours that have been earned in excess of the hours needed to fulfill the continuing education requirement. However, a licensee may only use carry over credits to fulfill one-half (1/2) of the continuing education requirement. However, †The licensee should submit only the required number of hours and indicate dates of completion. It is the responsibility of the licensee to keep track of earned credit hours and documentation to verify proof of completion.~~ (7-1-98)()

04. Completion Within Two Years. Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two (2) year period immediately preceding renewal of the license, except carryover credits as defined in Subsection 012.03 or as allowed in Idaho Code, Section 41-1077(h). Courses may not have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam. (7-1-98)

013. EXCEPTIONS/EXTENSION.

01. Excepting And Extension. The following exceptions and extensions may be made to the continuing education Rules: (7-1-93)

a. Licensees on extended active duty with the Armed Forces of the United States for the period of such duty. (7-1-93)

b. Persons which hold a temporary license as provided in Section 41-1051, Idaho Code. (7-1-93)

c. Other exceptions and extensions, where good cause exists, as approved by the Continuing Education Advisory Committee or the Director. (7-1-93)()

02. Age Exception Or Extension. No exception or extension shall be made solely because of age. (7-1-93)

03. Application For Exception Or Extension Required. Licensees requesting exceptions and extensions pursuant to this Rule must apply prior to the renewal date to the Director, in writing, and set forth the basis for the exception or extension. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

016. PROGRAMS WHICH QUALIFY.

01. Requirements Of Acceptable Program. A specific program will qualify as an acceptable continuing education program if it is a formal program of learning which contributes directly to the professional competence of a licensee. It will be left to each individual licensee to determine the course of study to be pursued. All programs must meet the standards outlined in Section 018. (7-1-93)

02. Subjects Which Qualify. (7-1-93)

a. The following general subjects are acceptable as long as they contribute to the knowledge and professional competence of an individual licensee as an agent, broker, or consultant, and demonstrate a direct and specific application to insurance and relate to the area or areas of expertise covered by the license or licenses held by the licensee. (7-1-93)()

i. Insurance, annuities, and risk management. (7-1-93)

ii. Insurance laws and rules. (7-1-93)

iii. Mathematics, statistics, and probability. (7-1-93)

iv. Economics. (7-1-93)

v. Business law. (7-1-93)

vi. Finance. (7-1-93)

vii. Taxes, Trusts, Estate Planning. (7-1-93)()

viii. Business environment, management, or organization. (7-1-93)

ix. Securities. (7-1-98)

eb. Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to professional competence and otherwise meet the standards set forth in this rule. The responsibility for substantiating that a particular program meets the requirements of this rule rests solely upon the licensee. (7-1-93)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS
DOCKET NO. 18-0160-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective January 1, 1999.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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 address below.

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

The rule is being repealed in its entirety and will be replaced with a new rule that will incorporate provisions relating to qualified long-term care insurance.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4250.

Anyone may submit written comments regarding the proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 24th day of August, 1999.

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

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS
DOCKET NO. 18-0160-9902
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective January 1, 1999.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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 address below.

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

The passage of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), created a new category of long-term care insurance called Qualified Long Term Care Insurance. In 1999, Idaho law was amended to take into account the Federal requirements. This rule is intended to provide requirements for all long term care insurance contracts. The rule does not require, nor does it prohibit, the continued sales of long term care insurance policies and certificates that are not considered qualified long-term care insurance contracts.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 24th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0160-9902

IDAPA 18
TITLE 01
Chapter 60

18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS

000. LEGAL AUTHORITY.

This rule is issued pursuant to the authority vested in the director under Chapters 2 and 46, Title 41, Idaho Code and Chapter 52, Title 67, Idaho Code. (1-1-99)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule, IDAPA 18.01.60, rule to implement the "Long-Term Care Insurance Minimum Standards". (1-1-99)T

02. Purpose. The purpose of this rule is to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance. (1-1-99)T

03. Scope And Applicability. Except as otherwise specifically provided, this rule applies to all long-term care insurance policies including qualified long-term care insurance contracts and life insurance policies that accelerate benefits for long-term care delivered or issued for delivery in this state on or after the effective date by Insurers, Fraternal Benefit Societies, Managed Care Organizations and all similar organizations; certain provisions of this rule apply only to qualified long-term care insurance. (1-1-99)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. (1-1-99)T

003. ADMINISTRATIVE APPEALS.

There is no appeal to the Attorney General from application of this Rule. All such appeals must be instituted by written demand for a hearing before the Director of Insurance, Section 41-232, Idaho Code. Further appeal from the Director's decision can be taken to district court, pursuant to Section 67-5270, Idaho Code. (1-1-99)T

004. DEFINITIONS.

For the purpose of this rule, no long-term care insurance policy delivered or issued for delivery in this state shall use the terms set forth below, unless the terms are defined in the policy. In relation to the Qualified Long-Term Care plans, such definitions must satisfy definitions as amended by the U.S. Treasury Department and the following requirements: (1-1-99)T

01. Activities Of Daily Living. At least bathing, continence, dressing, eating, toileting, and transferring. (1-1-99)T

02. Acute Condition. The individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his health status. (1-1-99)T

03. Adult Day Care. A program for six (6) or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home. (1-1-99)T

04. Bathing. Washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower. (1-1-99)T

05. Cognitive Impairment. A deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness. (1-1-99)T

06. Continence. The ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag). (1-1-99)T

07. Dressing. Putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs. (1-1-99)T

08. Eating. Feeding oneself by getting food into the body from a receptacle (such as a plate, cup, or table) or by a feeding tube or intravenously. (1-1-99)T

09. Hands-On Assistance. Physical assistance (minimal, moderate, or maximal) without which the individual would not be able to perform the activity of daily living. (1-1-99)T

10. Home Health Care Services. Medical and non-medical services, provided to ill, disabled, or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living, and respite care services. (1-1-99)T

11. Medicare. "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import. (1-1-99)T

12. Mental Or Nervous Disorder. Shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder. (1-1-99)T

13. Personal Care. The provision of hands-on services to assist an individual with activities of daily living. (1-1-99)T

14. Skilled Nursing Care, Intermediate Care, Personal Care, Home Care, And Other Services. Defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered. (1-1-99)T

15. Toileting. Getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene. (1-1-99)T

16. Transferring. Moving into or out of a bed, chair, or wheelchair. (1-1-99)T

17. All Providers Of Services. Including but not limited to Skilled Nursing Facility, Extended Care Facility, Intermediate Care Facility, Convalescent Nursing Home, Personal Care Facility, and Home Care Agency. Such services shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified. (1-1-99)T

005. POLICY PRACTICES AND PROVISIONS.

01. Renewability. The terms "guaranteed renewable" and "noncancellable" shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure

requirements of Section 009 of this rule. (1-1-99)T

a. A policy issued to an individual shall not contain renewal provisions other than "guaranteed renewable" or "noncancellable". (1-1-99)T

b. The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis. (1-1-99)T

c. The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate. (1-1-99)T

d. In addition to the other requirements of Subsection 005.01, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986 as amended. (1-1-99)T

02. Limitations And Exclusions. A policy may not be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows: (1-1-99)T

a. Preexisting conditions or diseases; (1-1-99)T

b. Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease; (1-1-99)T

c. Alcoholism and drug addiction; (1-1-99)T

d. Illness, treatment, or medical condition arising out of: (1-1-99)T

i. War or act of war (whether declared or undeclared); (1-1-99)T

ii. Participation in a felony, riot, or insurrection; (1-1-99)T

iii. Service in the armed forces or units auxiliary thereto; (1-1-99)T

iv. Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; or (1-1-99)T

v. Aviation (this exclusion applies only to non-fare-paying passengers). (1-1-99)T

e. Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family, and services for which no charge is normally made in the absence of insurance; (1-1-99)T

f. Expenses for services or items available or paid under another long-term care insurance or health insurance policy; or (1-1-99)T

g. In the case of a qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount. (1-1-99)T

h. Subsection 005.02 is not intended to prohibit exclusions and limitations by type of provider or territorial limitations. (1-1-99)T

03. Extension Of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy. (1-1-99)T

04. Continuation Or Conversion. (1-1-99)T

a. Group long-term care insurance issued in this state on or after the effective date of Section 005 shall provide covered individuals with a basis for continuation or conversion of coverage. (1-1-99)T

b. For the purposes of Section 005, "a basis for continuation of coverage" means a policy provision that maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies that restrict provision of benefits and services to, or contain incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The director shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. (1-1-99)T

c. For the purposes of Section 005, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced) for at least six (6) months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability. (1-1-99)T

d. For the purposes of Section 005, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the director, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. (1-1-99)T

e. Written application for the converted policy shall be made and the first premium due, if any, shall be paid as directed by the insurer not later than thirty-one (31) days after termination of coverage under the group policy. The converted policy shall be issued effective on the day following the termination of coverage under the group policy and shall be renewable annually. (1-1-99)T

f. Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced. (1-1-99)T

g. Continuation of coverage or issuance of a converted policy shall be mandatory, except where: (1-1-99)T

i. Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or (1-1-99)T

ii. The terminating coverage is replaced not later than thirty-one (31) days after termination, by group coverage effective on the day following the termination of coverage: (1-1-99)T

(1) Providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided by the terminating coverage; and (1-1-99)T

(2) The premium for which is calculated in a manner consistent with the requirements of Subsection 005.06. (1-1-99)T

h. Notwithstanding any other provision of Section 005, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy that provides benefits on the basis of incurred expenses, may contain a provision that results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than one hundred percent (100%) of incurred expenses. The provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable. (1-1-99)T

i. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect. (1-1-99)T

j. Notwithstanding any other provision of Section 005, an insured individual whose eligibility for group long-term care coverage is based upon his relationship to another person shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage. (1-1-99)T

k. For the purposes of Section 005 a "managed-care plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks. (1-1-99)T

05. Discontinuance And Replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy: (1-1-99)T

a. Shall not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced; and (1-1-99)T

b. Shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services. (1-1-99)T

06. Premium Changes. (1-1-99)T

a. The premium charged to an insured shall not increase due to either: (1-1-99)T

i. The increasing age of the insured at ages beyond sixty-five (65); or (1-1-99)T

ii. The duration the insured has been covered under the policy. (1-1-99)T

b. The purchase of additional coverage shall not be considered a premium rate increase, but for purposes of the calculation required under Section 024, the portion of the premium attributable to the additional coverage shall be added to and considered part of the initial annual premium. (1-1-99)T

c. A reduction in benefits shall not be considered a premium change, but for purpose of the calculation required under Section 024, the initial annual premium shall be based on the reduced benefits. (1-1-99)T

07. Electronic Enrollment For Group Policies. (1-1-99)T

a. In the case of a group defined in Section 41-4603(4)(a), Idaho Code, any requirement that a signature of an insured be obtained by an agent or insurer shall be deemed satisfied if: (1-1-99)T

i. The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer.

A verification of enrollment information shall be provided to the enrollee; (1-1-99)T

ii. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention, and prompt retrieval of records; and (1-1-99)T

iii. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually identifiable information, "privileged information," is maintained. (1-1-99)T

b. The insurer shall make available, upon request of the director, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts. (1-1-99)T

006. -- 007. (RESERVED).

008. UNINTENTIONAL LAPSE.

01. Notice Before Lapse Or Termination. Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following: (1-1-99)T

a. No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant either a written designation of at least one (1) person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one (1) person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one (1) person. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least one (1) person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice". The insurer shall notify the insured of the right to change this written designation, no less often than once every two (2) years. (1-1-99)T

b. When the policyholder or certificate holder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in Subsection 008.01.a. need not be met until sixty (60) days after the policyholder or certificate holder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant. (1-1-99)T

c. Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least thirty (30) days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to Subsection 008.01.a., at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until thirty (30) days after a premium is due and unpaid. Notice shall be deemed to have been given as of five (5) days after the date of mailing. (1-1-99)T

02. Reinstatement. In addition to the requirement in Subsection 008.01, a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder or certificate holder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within five (5) months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate. (1-1-99)T

009. REQUIRED DISCLOSURE PROVISIONS.

01. Renewability. Individual long-term care insurance policies shall contain a renewability provision. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. This provision shall not apply to policies that do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder. (1-1-99)T

02. Riders And Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider or endorsement. (1-1-99)T

03. Payment Of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import shall include a definition of these terms and an explanation of the terms in its accompanying outline of coverage. (1-1-99)T

04. Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations". (1-1-99)T

05. Other Limitations Or Conditions On Eligibility For Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in this rule shall set forth a description of the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits". (1-1-99)T

06. Disclosure Of Tax Consequences. With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. Subsection 009.06 shall not apply to qualified long-term care insurance contracts. (1-1-99)T

07. Benefit Triggers. Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits". Any additional benefit triggers shall also be explained. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified. (1-1-99)T

08. Qualified Contracts. A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Section 027 that the policy is intended to be a qualified long-term care insurance contract. (1-1-99)T

09. Non-Qualified Contracts. A non-qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Section 027 that the policy is not intended to be a qualified long-term care insurance contract. (1-1-99)T

010. PROHIBITION AGAINST POST-CLAIMS UNDERWRITING.

01. Health Conditions. All applications for long-term care insurance policies or certificates except those that are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant. (1-1-99)T

02. Medication. If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed. If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate shall not be rescinded for that condition. (1-1-99)T

03. Non-Guaranteed Issue. Except for policies or certificates which are guaranteed issue: (1-1-99)T

a. The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate: Caution: If your answers on this application are incorrect or untrue, (company) has the right to deny benefits or rescind your policy. (1-1-99)T

b. The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery: Caution: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address) (1-1-99)T

c. Prior to issuance of a long-term care policy or certificate to an applicant age eighty (80) or older, the insurer shall obtain one (1) of the following: (1-1-99)T

i. A report of a physical examination; (1-1-99)T

ii. An assessment of functional capacity; (1-1-99)T

iii. An attending physician's statement; or (1-1-99)T

iv. Copies of medical records. (1-1-99)T

04. Delivery Of Application Or Enrollment And Form. A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application. (1-1-99)T

05. Record Of Rescissions. Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those that the insured voluntarily effectuated and shall annually furnish this information to the insurance director in the format prescribed by the National Association of Insurance Commissioners in Appendix A. The notice required in Subsection 010.05 shall be provided in substantially the following format based on the NAIC Model Regulation which includes Appendixes A, B, C, and D, and all other outlines of coverage and specific plan designs. For Website, go to Idaho Department of Insurance Home page, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. To obtain a copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250. (1-1-99)T

011. MINIMUM STANDARDS FOR HOME HEALTH AND COMMUNITY CARE BENEFITS IN LONG-TERM CARE INSURANCE POLICIES.

01. Limitations Or Exclusions. A long-term care insurance policy or certificate shall not, if it provides benefits for home health care or community care services, limit or exclude benefits: (1-1-99)T

a. By requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided; (1-1-99)T

b. By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic

services, or both, in a home, community, or institutional setting before home health care services are covered; (1-1-99)T

- c. By limiting eligible services to services provided by registered nurses or licensed practical nurses; (1-1-99)T
- d. By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification; (1-1-99)T
- e. By excluding coverage for personal care services provided by a home health aide; (1-1-99)T
- f. By requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service; (1-1-99)T
- g. By requiring that the insured or claimant have an acute condition before home health care services are covered; (1-1-99)T
- h. By limiting benefits to services provided by Medicare-certified agencies or providers; or (1-1-99)T
- i. By excluding coverage for adult day care services. (1-1-99)T

02. Coverage Equivalency. A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half (1/2) of one (1) year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement shall not apply to policies or certificates issued to residents of continuing care retirement communities. (1-1-99)T

03. Maximum Coverage. Home health care coverage may be applied to the non-home health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate. (1-1-99)T

012. REQUIREMENT TO OFFER INFLATION PROTECTION.

01. Inflation Protection Offer. No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one (1) of the following: (1-1-99)T

- a. Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent (5%); (1-1-99)T
- b. Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status as long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or (1-1-99)T
- c. Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit. (1-1-99)T

02. Group Offer. Where the policy is issued to a group, the required offer in Subsection 012.01 shall be made to the group policyholder; except, if the policy is issued to a group defined in Section 41-4603(4)(d), Idaho Code, other than to a continuing care retirement community, the offering shall be made to each proposed certificate holder. (1-1-99)T

03. Requirements For Life Insurance Policies. The offer in Subsection 012.01 above shall not be required of life insurance policies or riders containing accelerated long-term care benefits. (1-1-99)T

04. Outline Of Coverage. Insurers shall include the following information in or with the outline of coverage: (1-1-99)T

a. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a twenty (20) year period. (1-1-99)T

b. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. (1-1-99)T

c. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure. (1-1-99)T

05. Continuation Of Inflation Protection. Inflation protection benefit increases under a policy which contains these benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy. (1-1-99)T

06. Premium Disclosures. An offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant. (1-1-99)T

07. Rejection Of Offer. Inflation protection as provided in Subsection 012.01 shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in Subsection 012.07. The rejection may be either in the application or on a separate form. The rejection shall be considered a part of the application and shall state: I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection (signature line: _____). (1-1-99)T

013. REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE.

01. Application Forms. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing the questions may be used. With regard to a replacement policy issued to a group defined by Section 41-4603(a), Idaho Code, the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificate holder has been notified of the replacement. (1-1-99)T

a. Do you have another long-term care insurance policy or certificate in force (including insurance, Fraternal Benefit Societies, Managed Care Organization) or other similar organizations? (1-1-99)T

b. Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months? (1-1-99)T

i. If so, with which company? (1-1-99)T

ii. If that policy lapsed, when did it lapse? (1-1-99)T

c. Are you covered by Medicaid? (1-1-99)T

d. Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)? (1-1-99)T

02. Other Policy Disclosures. Agents shall list any other health insurance policies they have sold to the applicant. (1-1-99)T

a. List policies sold that are still in force. (1-1-99)T

b. List policies sold in the past five (5) years that are no longer in force. (1-1-99)T

03. Solicitations Other Than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its agent shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One (1) copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be in a form based on the NAIC Model Regulation, which form can be obtained from the Idaho Department of Insurance Home page, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. To obtain a copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250. (1-1-99)T

04. Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be in a form based on the NAIC Model Regulation, which form can be obtained from the Idaho Department of Insurance Home page, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. To obtain a copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250. (1-1-99)T

05. Notice Of Replacement. Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. Notice shall be made within five (5) working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner. (1-1-99)T

06. Life Insurance Policy Replacement. Life insurance policies that accelerate benefits for long-term care shall be deemed to require compliance with Section 013 if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of IDAPA 18.01.41, "Replacement of Life Insurance and Annuities". If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements. (1-1-99)T

014. REPORTING REQUIREMENTS.

01. Maintenance Of Agent Records. Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales. (1-1-99)T

02. Agents Experiencing Lapses And Replacements. Every insurer shall report annually by June 30 the ten percent (10%) of its agents with the greatest percentages of lapses and replacements as measured by Subsection 014.01. (1-1-99)T

03. Purpose Of Reports. Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance. (1-1-99)T

04. Lapsed Policies. Every insurer shall report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding

calendar year. (1-1-99)T

05. Replacement Policies. Every insurer shall report annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year. (1-1-99)T

06. Claims Denied. Every insurer shall report annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of an applicable preexisting condition. (1-1-99)T

07. Policies And Reports. For purposes of Section 014, "policy" shall mean only long-term care insurance and "report" means on a statewide basis. (1-1-99)T

a. Policy means only long-term care insurance; (1-1-99)T

b. Claim means any request for payment of benefits under a policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met; (1-1-99)T

c. Denied means the insurer refused to pay a claim for any reason; and (1-1-99)T

d. Report means on a statewide basis. (1-1-99)T

08. Filing. Reports required under Section 014 shall be filed with the Director. (1-1-99)T

015. LICENSING.

No agent is authorized to market, sell, solicit, or otherwise contact a person for the purpose of marketing long-term care insurance unless the agent has demonstrated his knowledge of long-term care insurance and the appropriateness of such insurance by passing a test required by this state and maintaining appropriate licenses. (1-1-99)T

016. DISCRETIONARY POWERS OF DIRECTOR.

The director may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this rule with respect to a specific long-term care insurance policy or certificate upon a written finding that: (1-1-99)T

01. General Requirement. The modification or suspension would be in the best interest of the insureds; the purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or (1-1-99)T

02. Residential Care Community. The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or (1-1-99)T

03. Other Insurance Products. The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product. (1-1-99)T

017. RESERVE STANDARDS.

01. Acceleration Of Benefits Under Life Policies. When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits shall be determined in accordance with Section 41-612, Idaho Code, Standard Valuation Law – Life Insurance. Claim reserves shall also be established in the case when the policy or rider is in claim status. (1-1-99)T

02. Decrement Models. Reserves for policies and riders subject to Subsection 017.01 should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is

clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event shall the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit. (1-1-99)T

03. Considerations Impacting Projected Claim Costs. Any applicable valuation morbidity table shall be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries. In the development and calculation of reserves for policies and riders subject to Subsection 017.01, due regard shall be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following: (1-1-99)T

- a. Definition of insured events; (1-1-99)T
- b. Covered long-term care facilities; (1-1-99)T
- c. Existence of home convalescence care coverage; (1-1-99)T
- d. Definition of facilities; (1-1-99)T
- e. Existence or absence of barriers to eligibility; (1-1-99)T
- f. Premium waiver provision; (1-1-99)T
- g. Renewability; (1-1-99)T
- h. Ability to raise premiums; (1-1-99)T
- i. Marketing method; (1-1-99)T
- j. Underwriting procedures; (1-1-99)T
- k. Claims adjustment procedures; (1-1-99)T
- l. Waiting period; (1-1-99)T
- m. Maximum benefit; (1-1-99)T
- n. Availability of eligible facilities; (1-1-99)T
- o. Margins in claim costs; (1-1-99)T
- p. Optional nature of benefit; (1-1-99)T
- q. Delay in eligibility for benefit; (1-1-99)T
- r. Inflation protection provisions; and (1-1-99)T
- s. Guaranteed insurability option. (1-1-99)T

04. Benefits Not Covered In Subsection 017.01. When long-term care benefits are provided other than as in Subsection 017.01 above, reserves shall be determined in accordance with Section 41-608, Idaho Code, "Reserve for Disability Insurance". (1-1-99)T

018. LOSS RATIO.

01. Expected Loss Ratios. Benefits under long-term care insurance policies shall be deemed reasonable in relation to premiums provided the expected loss ratio is at least sixty percent (60%), calculated in a

manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including: (1-1-99)T

- a. Statistical credibility of incurred claims experience and earned premiums; (1-1-99)T
- b. The period for which rates are computed to provide coverage; (1-1-99)T
- c. Experienced and projected trends; (1-1-99)T
- d. Concentration of experience within early policy duration; (1-1-99)T
- e. Expected claim fluctuation; (1-1-99)T
- f. Experience refunds, adjustments or dividends; (1-1-99)T
- g. Renewability features; (1-1-99)T
- h. All appropriate expense factors; (1-1-99)T
- i. Interest; (1-1-99)T
- j. Experimental nature of the coverage; (1-1-99)T
- k. Policy reserves; (1-1-99)T
- l. Mix of business by risk classification; and (1-1-99)T
- m. Product features such as long elimination periods, high deductibles and high maximum limits. (1-1-99)T

02. Policies That Accelerate Benefits. Subsection 018.01 shall not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions: (1-1-99)T

- a. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy; (1-1-99)T
- b. The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of Section 41-1927, Idaho Code, Standard Nonforfeiture Law – Life Insurance. (1-1-99)T
- c. The policy meets the disclosure requirements of Sections 41-4605(9), 41-4605(10), and 41-4605(11), Idaho Code. (1-1-99)T
- d. An actuarial memorandum is filed with the insurance department that includes: (1-1-99)T
 - i. A description of the basis on which the long-term care rates were determined; (1-1-99)T
 - ii. A description of the basis for the reserves; (1-1-99)T
 - iii. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance; (1-1-99)T
 - iv. A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any; (1-1-99)T

v. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives; (1-1-99)T

vi. The estimated average annual premium per policy and the average issue age; (1-1-99)T

vii. A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and (1-1-99)T

viii. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status. (1-1-99)T

019. FILING REQUIREMENT.

Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to Section 41-4604, Idaho Code, Extraterritorial Jurisdiction – Group Long-Term Care Insurance, it shall file with the director evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state. (1-1-99)T

020. FILING REQUIREMENTS FOR ADVERTISING.

01. Filing And Retention. Every Insurer, Fraternal Benefit Society, Managed Care Organization, or other similar organization providing long-term care insurance or benefits in this state shall provide a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio, or television medium to the Director of Insurance of this state for review and approval by the Director. In addition, all advertisements shall be retained by the insurer or other entity for at least five (5) years from the date the advertisement was first used; or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. (1-1-99)T

02. Exemptions. The director may exempt from these requirements any advertising form or material when, in the director's opinion, this requirement may not be reasonably applied. (1-1-99)T

021. STANDARDS FOR MARKETING.

01. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance coverage in this state, directly or through its agents, shall: (1-1-99)T

a. Establish marketing procedures to assure that any comparison of policies by its agents will be fair and accurate. (1-1-99)T

b. Establish marketing procedures to assure excessive insurance is not sold or issued. (1-1-99)T

c. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: "Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations". (1-1-99)T

d. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required. (1-1-99)T

e. Every insurer or entity marketing long-term care insurance shall establish auditable procedures for

verifying compliance with Subsection 021.01. (1-1-99)T

f. If the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counseling program approved by the director, the insurer shall, at solicitation, provide written notice to the prospective policyholder and certificate holder that the program is available and the name, address and telephone number of the program. (1-1-99)T

g. For long-term care insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsection 005.01.c. of this rule. (1-1-99)T

02. Prohibited Practices. In addition to the practices prohibited in Chapter 13, Idaho Code, Trade Practices and Frauds, the following acts and practices are prohibited: (1-1-99)T

a. **Twisting.** Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy, or to take out a policy of insurance with another insurer. (1-1-99)T

b. **High pressure tactics.** Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance. (1-1-99)T

c. **Cold lead advertising.** Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company. (1-1-99)T

d. **Misrepresentation.** Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy. (1-1-99)T

03. Associations. With respect to the obligations set forth in Subsection 021.03, the primary responsibility of an association, as defined in Section 41-4603(4)(b), Idaho Code, when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold. Subsection 021.03 shall not apply to qualified long-term care insurance contracts. (1-1-99)T

a. The insurer shall file with the insurance department the following material: (1-1-99)T

i. The policy and certificate; (1-1-99)T

ii. A corresponding outline of coverage; and (1-1-99)T

iii. All advertisements to be utilized. (1-1-99)T

b. The association shall disclose in any long-term care insurance solicitation: (1-1-99)T

i. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and (1-1-99)T

ii. A brief description of the process under which the policies and the insurer issuing the policies were selected. (1-1-99)T

c. If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members. (1-1-99)T

- d. The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer. (1-1-99)T
- e. The association shall also: (1-1-99)T
- i. At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates, and update the examination thereafter in the event of material change; (1-1-99)T
- ii. Actively monitor the marketing efforts of the insurer and its agents; and (1-1-99)T
- iii. Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates. (1-1-99)T
- iv. Subsections 021.03.e.i. and 021.03.e.iii. shall not apply to qualified long-term care insurance contracts. (1-1-99)T
- f. No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information required in Subsection 021.03. (1-1-99)T
- g. The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in Section 021. (1-1-99)T
- h. Failure to comply with the filing and certification requirements of Section 021 constitutes an unfair trade practice in violation of Chapter 13, Idaho Code, Trade Practices and Frauds. (1-1-99)T

022. SUITABILITY.

01. Life Insurance Policies That Accelerate Benefits. Section 022 shall not apply to life insurance policies that accelerate benefits for long-term care. (1-1-99)T

02. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance (the "issuer") shall: (1-1-99)T

- a. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant; (1-1-99)T
- b. Train its agents in the use of its suitability standards; and (1-1-99)T
- c. Maintain a copy of its suitability standards and make them available for inspection upon request by the director. (1-1-99)T

03. Determination Of Standards. To determine whether the applicant meets the standards developed by the issuer; (1-1-99)T

- a. The agent and issuer shall develop procedures that take the following into consideration: (1-1-99)T
- i. The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage; (1-1-99)T
- ii. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and (1-1-99)T
- iii. The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement. (1-1-99)T

b. The issuer and an agent, if involved, shall make reasonable efforts to obtain the information set out in Subsection 022.03.a. The efforts shall include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet". The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in the NAIC Model Regulations in Appendix B, in not less than twelve (12) point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the director. (1-1-99)T

i. Copies of NAIC Model Regulations for Long-Term Care Insurance Minimum Standards Appendixes B, C, and D can be found at the Idaho Department of Insurance Home page, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. To obtain a copy of the required illustrations based on the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance (208) 334-4250. (1-1-99)T

c. A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses. (1-1-99)T

d. The sale or dissemination outside the company or agency by the issuer or agent of information obtained through the personal worksheet in the NAIC Model Regulations, Appendix B is prohibited. (1-1-99)T

04. Appropriateness. The issuer shall use the suitability standards it has developed pursuant to Section 022 in determining whether issuing long-term care insurance coverage to an applicant is appropriate. (1-1-99)T

05. Use Of Standards. Agents shall use the suitability standards developed by the issuer in marketing long-term care insurance. (1-1-99)T

06. Disclosure Form. At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in the NAIC Model Regulations, Appendix C, in not less than twelve (12) point type. (1-1-99)T

07. Rejection And Alternatives. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to the NAIC Model Regulations, Appendix D. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file. (1-1-99)T

08. Reporting. The issuer shall report annually to the director the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter. (1-1-99)T

023. PROHIBITION AGAINST PREEXISTING CONDITIONS AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES.

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy. (1-1-99)T

024. NONFORFEITURE BENEFIT REQUIREMENT.

01. Life Insurance Policies That Accelerate Benefits. Section 024 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (1-1-99)T

02. Nonforfeiture Benefits. To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of Section 41-4607, Idaho Code, every Insurer, Fraternal Benefit Society, Managed Care Organization, or other similar organization marketing long-term care insurance coverage in this state shall satisfy the following: (1-1-99)T

a. A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in Subsection 024.04.d. (1-1-99)T

b. The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder. (1-1-99)T

03. Contingent Benefit. If the offer required to be made under Section 41-4607, Idaho Code, is rejected, the insurer shall provide the contingent benefit upon lapse described in Section 024. (1-1-99)T

04. Rejection Of Offer. After rejection of the offer required under Section 41-4607, Idaho Code, as it pertains to nonforfeiture benefits, for individual and group policies without nonforfeiture benefits issued after the effective date of Section 024, the insurer shall provide a contingent benefit upon lapse. (1-1-99)T

a. In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificate holder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse. (1-1-99)T

b. The contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth within Subsection 024.04 based on the insured's issue age, and the policy or certificate lapses within one hundred twenty (120) days of the due date of the premium so increased. Unless otherwise required, policyholders shall be notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase. (1-1-99)T

Table: Issue Age - Percent Increase Over Initial Premium

Issue Age	Percent Increase Over Initial Premium	Issue Age	Percent Increase Over Initial Premium
29 and under	200%	72	36%
30-34	190%	73	34%
35-39	170%	74	32%
40-44	150%	75	30%
45-49	130%	76	28%
50-54	110%	77	26%
55-59	90%	78	24%
60	70%	79	22%
61	66%	80	20%
62	62%	81	19%
63	58%	82	18%
64	54%	83	17%
65	50%	84	16%
66	48%	85	15%
67	46%	86	14%
68	44%	87	13%
69	42%	88	12%
70	40%	89	11%
71	38%	90 and over	10%

(1-1-99)T

c. On or before the effective date of a substantial premium increase as defined in Subsection 024.04.b., the insurer shall: (1-1-99)T

i. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased; (1-1-99)T

ii. Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of Subsection 024.04.d. This option may be elected at any time during the one hundred twenty (120) day period referenced in Subsection 024.04.b.; and (1-1-99)T

iii. Notify the policyholder or certificate holder that a default or lapse at any time during the one hundred twenty (120) day period referenced in Subsection 024.04.b. shall be deemed to be the election of the offer to convert in Subsection 024.04.c.ii. (1-1-99)T

d. Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, are described in Subsection 024.04.d.: (1-1-99)T

i. For purposes of this Subsection 024.04.d., attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least one percent (1%) per year prior to age fifty (50), and at least three percent (3%) per year beyond age fifty (50); (1-1-99)T

ii. For purposes of Subsection 024.04.d., the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in Subsection 024.04.d.iii.; (1-1-99)T

iii. The standard nonforfeiture credit will be equal to one hundred percent (100%) of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than thirty (30) times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of Subsection 024.04.e.; (1-1-99)T

iv. The nonforfeiture benefit and the contingent benefit upon lapse shall begin not later than the end of the third year following the policy or certificate issue date; (1-1-99)T

v. Notwithstanding Subsection 024.04.d.iv. except that for a policy or certificate with a contingent benefit upon lapse or a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of: (1-1-99)T

(1) The end of the tenth year following the policy or certificate issue date; or (1-1-99)T

(2) The end of the second year following the date the policy or certificate is no longer subject to attained age rating. (1-1-99)T

vi. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate. (1-1-99)T

e. All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid-up status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status. (1-1-99)T

f. There shall be no difference in the minimum nonforfeiture benefits as required under Section 024 for group and individual policies. (1-1-99)T

g. The requirements set forth in Section 024 shall become effective twelve (12) months after adoption of this provision and shall apply as follows: (1-1-99)T

i. Except as provided in Subsection 024.04.g.ii., the provisions of Section 024 apply to any long-term care policy issued in this state on or after the effective date of this rule. (1-1-99)T

ii. For certificates issued on or after the effective date of this Section 024, under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which policy was in force at the time this rule became effective, the provisions of Section 024 shall not apply. (1-1-99)T

h. Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of Section 018 treating the policy as a whole. (1-1-99)T

i. To determine whether contingent nonforfeiture upon lapse provisions are triggered under Subsection 024.04.b., a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer. (1-1-99)T

- j. Nonforfeiture benefits for qualified long-term care insurance contracts that are level premium contracts shall meet the following requirements: (1-1-99)T
- i. The nonforfeiture provision shall be appropriately captioned; (1-1-99)T
 - ii. The nonforfeiture provision shall provide a benefit available in the event of a default on the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the Secretary of the Treasury for the same contract form; and (1-1-99)T
 - iii. The nonforfeiture provision shall provide at least one (1) of the following: (1-1-99)T
 - (1) Reduced paid-up insurance; (1-1-99)T
 - (2) Extended term insurance; (1-1-99)T
 - (3) Shortened benefit period; or (1-1-99)T
 - (4) Other similar offerings approved by the Director. (1-1-99)T

025. STANDARDS FOR BENEFIT TRIGGERS.

01. Conditions Of Benefits Payment. A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three (3) of the activities of daily living or the presence of cognitive impairment. (1-1-99)T

02. Activities Of Daily Living. Insurers may use activities of daily living to trigger covered benefits in addition to those contained in Subsection 025.02 as long as they are defined in the policy. Activities of daily living shall include at least the following as defined in Section 004 and in the policy. (1-1-99)T

- a. Bathing; (1-1-99)T
- b. Continence; (1-1-99)T
- c. Dressing; (1-1-99)T
- d. Eating; (1-1-99)T
- e. Toileting; and (1-1-99)T
- f. Transferring. (1-1-99)T

03. Additional Provisions. An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements contained in Subsections 025.01 and 025.02. (1-1-99)T

04. Determinations Of Deficiency. For purposes of Section 025 the determination of a deficiency shall not be more restrictive than: (1-1-99)T

- a. Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or (1-1-99)T
- b. If the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others. (1-1-99)T

05. Assessments. Assessments of activities of daily living and cognitive impairment shall be performed by licensed or certified professionals, such as physicians, nurses or social workers. (1-1-99)T

06. Appeals. Long-term care insurance policies shall include a clear description of the process for appealing and resolving benefit determinations. (1-1-99)T

07. Effective Date. The requirements set forth in Section 025 shall be effective within twelve (12) months of the effective date of the rule and shall apply as follows: (1-1-99)T

a. Except as provided in Subsection 025.07.b. the provisions of Section 025 apply to a long-term care policy issued in this state on or after the effective date of the rule. (1-1-99)T

b. For certificates issued on or after the effective date of Section 025, under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, that was in force at the time this rule became effective, the provisions of Section 025 shall not apply. (1-1-99)T

026. ADDITIONAL STANDARDS FOR BENEFIT TRIGGERS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

01. Definitions. For purposes of Section 026 the following definitions apply: (1-1-99)T

a. Qualified long-term care services means services that meet the requirements of Section 7702B(b) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation, and rehabilitative services and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner. (1-1-99)T

b. Chronically ill individual has the meaning prescribed for this term by Section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

i. Being unable to perform (without substantial assistance from another individual) at least two (2) activities of daily living for a period of at least ninety (90) days due to a loss of functional capacity; or (1-1-99)T

ii. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment. (1-1-99)T

c. The term chronically ill individual shall not include an individual otherwise meeting these requirements unless within the preceding twelve (12) month period a licensed health care practitioner has certified that the individual meets these requirements. (1-1-99)T

d. Licensed health care practitioner means a physician, as defined in Section 1861(R)(1) of the Social Security Act, and a registered professional nurse, licensed social worker, or other individual who meets requirements prescribed by the Secretary of the Treasury. (1-1-99)T

e. Maintenance or personal care services means any care, the primary purpose of which is the provision of needed assistance with any of the disabilities, the existence of which leads to the conclusion that the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment). (1-1-99)T

02. The Chronically Ill. A qualified long-term care insurance contract shall pay for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner. (1-1-99)T

03. Payments And Conditions. A qualified long-term care insurance contract shall condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected

period of at least ninety (90) days due to a loss of functional capacity; or to severe cognitive impairment, as described in Subsection 026.06.b. (and as described under regulations or other guidance developed by the Secretary of the Treasury). An insured will be considered to have met a condition of payment if, within the preceding twelve (12) month period, a licensed health care practitioner has certified that the insured has met the requirements and the provider has prescribed the qualified long-term care insurance services pursuant to a plan of care. (1-1-99)T

04. Certifications By Professionals. Certifications regarding activities of daily living and cognitive impairment required pursuant to Subsection 026.03 shall be performed by licensed or certified professionals, such as physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the Secretary of the Treasury. (1-1-99)T

05. Certifications By Carrier. Certification required pursuant to Subsection 026.03 may be performed by the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the ninety (90) day period. (1-1-99)T

06. Standards. For the purposes of Section 026, determinations of functional capacity and severe cognitive impairment shall be based on the following standards: (1-1-99)T

a. For loss of functional capacity, requiring the substantial assistance of another person to perform the prescribed activities of daily living; or (1-1-99)T

b. For severe cognitive impairment, requiring substantial supervision by another person to protect the insured from threats to health and safety. (1-1-99)T

07. Appeals. Qualified long-term care contracts shall include a clear description of the process for appealing and resolving benefit determinations. (1-1-99)T

027. STANDARD FORMAT OUTLINE OF COVERAGE.

Section 027 of the rule implements, interprets and makes specific, the provisions of Section 41-4605(7)(a), Idaho Code, in prescribing a standard format and the content of an outline of coverage. (1-1-99)T

01. Format. The outline of coverage shall be a freestanding document, using no smaller than ten (10) point type. Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring. (1-1-99)T

02. Content. The outline of coverage shall contain no material of an advertising nature. (1-1-99)T

03. Standard Form. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated. Format for outline of coverage may be found on the Idaho Department of Insurance Home Page website, www.doi.state.id.us, select SHIBA (Senior Health Insurance Benefits Advisors) under Consumer Assistance link, see attachments to the NAIC Model Regulation implementing the Long-Term Care Insurance Minimum Standards. (1-1-99)T

028. REQUIREMENT TO DELIVER SHOPPER'S GUIDE.

01. Approved Format. A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the director, shall be provided to all prospective applicants of a long-term care insurance policy or certificate. (1-1-99)T

a. In the case of agent solicitations, an agent must deliver the shopper's guide prior to the presentation of an application or enrollment form. (1-1-99)T

b. In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form. (1-1-99)T

02. Exceptions. Life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the above-referenced guide, but shall furnish the policy summary required under Section 41-4605(9), Idaho Code, Disclosure and Performance Standards for Long-Term Care Insurance. (1-1-99)T

029. PENALTIES.

In addition to any other penalties provided by the laws of this state any insurer and any agent found to have violated any requirement of this state relating to the rule of long-term care insurance or the marketing of such insurance shall be subject to a fine of up to three (3) times the amount of any commissions paid for each policy involved in the violation or up to ten thousand dollars (\$10,000), whichever is greater. (1-1-99)T

030. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.70 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0170-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has proposed rule making. This action is authorized pursuant to Sections 41-211 and 41-4715, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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 address below.

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

On March 15, 1999, the Idaho Supreme Court ruled that the cap on reimbursement for chiropractic services contained in the current rule violates the equal protection clauses of the state and federal constitutions. The proposed amendment removes the cap on chiropractic services and imposes a cap on reimbursement for certain types of medical services regardless of who provides the services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Joan Krosch, Health Insurance Coordinator for the Department of Insurance, at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 19th day of August, 1999.

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

**Pursuant to Section 67-5221(1) this docket
is being published as a Proposed Rule.**

**This docket has been previously published as a Temporary Rule.
The temporary effective date is March 15, 1999.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 99-8, August 4, 1999,
pages 329 through 331.**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0170-9901

016. LIMITATIONS AND EXCLUSIONS.

- 01. Services Not Medically Necessary.** Excluded. Any service not medically necessary or appropriate unless specifically included within the coverage provisions. (1-25-95)
- 02. No Coverage.** Custodial, convalescent or intermediate level care or rest cures. (1-25-95)
- 03. Experimental Or Investigational.** Services which are experimental or investigational. (1-25-95)
- 04. Workers' Compensation, Medicare, CHAMPUS.** Services eligible for coverage by Workers' Compensation, Medicare or CHAMPUS. (1-25-95)
- 05. No Charges.** Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. (1-25-95)
- 06. No Medical Diagnosis.** Services for weight control, nutrition, and smoking cessation, including self-help and training programs as well as prescription drugs, used in conjunction with such programs and services. (7-1-98)
- 07. Cosmetic Surgery.** Cosmetic surgery and services, except for treatment for non-congenital injury or surgery. Mastectomy reconstruction is covered if within two (2) years of mastectomy. (1-25-95)
- 08. Artificial Insemination, Infertility, Sexual Dysfunction.** Artificial insemination and infertility treatment. Treatment of sexual dysfunction not related to organic disease. (1-25-95)
- 09. Induced Infertility.** Services for reversal of elective, surgically or pharmaceutically induced infertility. (1-25-95)
- 10. Vision.** Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. Vision tests and glasses will be covered for children under the age of twelve (12), except in catastrophic health benefit plans. (7-1-98)
- 11. Limitation Foot Care.** For treatment of weak, strained, or flat feet, including orthopedic shoes or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. (7-1-98)
- 12. ~~Spinal Manipulation.~~ Chiropractic services Manipulative Therapy And Related Treatment. Manipulative therapy and related treatment, including heat treatments and ultrasound, of the musculoskeletal structure for other than fractures and dislocations of the extremities will be subject to one thousand dollars (\$1,000) per year limit, subject to the policy deductible, ~~and~~ co-insurance, or co-payment. (6-30-95)()**
- 13. Dental, Orthodontic Services.** (7-1-98)
- a. For Basic and Standard plans: Dental and orthodontic services, except those needed for treatment of a medical condition or injury or as specifically allowed in the policy for children under the age of twelve (12). (7-1-98)
- b. For Catastrophic plans: Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy. (7-1-98)
- 14. Hearing Tests.** Hearing tests without illness being suspect. (1-25-95)

- 15. Hearing Aids, Supplies.** Hearing aids and supplies, tinnitus maskers, cochlear implants and exams for the prescription or fitting of hearing aids. (1-25-95)
- 16. Speech Tests.** Speech tests and therapy except as specifically allowed in the policy for children under the age of twelve (12). (1-25-95)
- 17. Private Room Accommodation Charges.** Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. (1-25-95)
- 18. Services Performed By A Member Of The Insureds Family.** Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents. (1-25-95)
- 19. No Coverage Prior To Effective Date Of Coverage.** Care incurred before the effective date of the person's coverage. (1-25-95)
- 20. Covered Injury Or Disease.** Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. (1-25-95)
- 21. Act Of War Or Armed Conflict.** Injury or sickness caused by war or armed international conflict. (1-25-95)
- 22. Operation And Treatment, Sexual Change.** Sex change operations and treatment in connection with transsexualism. (1-25-95)
- 23. Counseling.** Marriage and family and child counseling except as specifically allowed in the policy. (1-25-95)
- 24. Acupuncture.** (7-1-98)
- a. For Basic and Standard plans: Acupuncture except when used as anesthesia during a covered surgical procedure. (7-1-98)
- b. For Catastrophic plans: Acupuncture. (7-1-98)
- 25. Private Duty Nursing.** Private duty nursing except as specifically allowed in the policy. (1-25-95)
- 26. Employer Maintained Medical Or Dental Care.** Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. (1-25-95)
- 27. Termination.** Services incurred after the date of termination of a covered person's coverage except as allowed by the extension of benefits provision of the policy, if any. (7-1-98)
- 28. Personal Convenience Items.** Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. (1-25-95)
- 29. Failure To Keep A Scheduled Visit.** Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. (1-25-95)
- 30. Screening Examinations.** Charges for screening examinations except as otherwise provided in the policy. (1-25-95)
- 31. No Allowance.** Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. (1-25-95)
- 32. Preexisting Conditions.** Pre-existing conditions, except as provided specifically in the policy. (1-25-95)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.72 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH
INSURANCE AVAILABILITY ACT

DOCKET NO. 18-0172-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has proposed rule making. This action is authorized pursuant to Sections 41-211 and 41-4715, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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 address below.

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

The amendment eliminates an unnecessary reference to Chapter 47, Idaho Code, corrects incorrect Idaho Code references, and removes unnecessary wording.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Joan Krosch, Health Insurance Coordinator for the Department of Insurance, at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 24th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0172-9901

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the Director under Chapters 2, 47 and 52, Title 41, Idaho Code. (7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of Chapter 2, Title 41, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Office of the Attorney General". ~~(7-1-98)()~~

004. DEFINITIONS.

As used in this Rule: (7-1-98)

~~01. **Carrier.** Carrier means any entity operating under a current Certificate of Authority issued from the Department of Insurance to do the business of disability insurance in this state. Further definition is found under Section 41-5201(7). (7-1-98)~~

~~02. **Case Characteristics.** Case Characteristics are limited to age, individual tobacco use, geography and gender. An individual carrier must apply the use of such case characteristics on a uniform basis. Further definition is found under Section 41-5201(8), Idaho Code, and in IDAPA 18.01.69.015. (7-1-98)~~

~~03. **Geographic Area.** Geographic areas are limited to six (6) designated areas, with no area being smaller than a county. (7-1-98)~~

~~04. **Risk Characteristic.** Risk Characteristic means the health status, claims experience, duration of coverage, or any similar characteristic related to the health status or claims experience of an individual. Such characteristics can include family composition. (7-1-98)~~

~~05. **Risk Load.** Risk Load means the percentage above the applicable base premium rate that is charged by an individual carrier to the rates of the eligible individual, to reflect the risk characteristics of the eligible individual. (7-1-98)~~

~~06. **Idaho Resident.** Idaho resident means a person who is able to provide satisfactory proof of having resided in Idaho, as their place of domicile for a continuous six (6) month period, for purposes of being an eligible individual pursuant to Section 41-5203(14), Idaho Code. The six (6) month residency requirements would be waived for eligible individuals based on the Health Insurance Portability and Accountability Act of 1996. (7-1-98)~~

(BREAK IN CONTINUITY OF SECTIONS)

011. ASSESSMENTS.

~~01. **Initial Assessment.** The Board shall determine the initial capital cost of the program and shall make an initial assessment of each carrier in equal amount to fund the initial costs of the program. (7-1-98)~~

~~02. **Annual Assessment To Fund Losses.** The Board shall, prior to March 1st of each year determine and file with the Director an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year. This interim assessment shall be based on the assessment formula set forth in Section 41-4711(12)(c), Idaho Code. Initial or interim assessments paid will be credited to each carrier's account when the amounts needed to fund losses and pay program expenses are known. (7-1-98)~~

~~012. -- 014. (RESERVED).~~

~~015. **APPLICABILITY.** Section 41-5204, Idaho Code. (7-1-98)~~

~~016. -- 027. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

036. RESTRICTIONS RELATING TO PREMIUM RATES.

01. Rate Manual. An individual carrier shall develop a rate manual for all individual business. Base premium rates and new business premium rates charged to eligible individuals by the individual carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by an individual carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion. (7-1-98)

02. Requirements For Adjustments To Rating Method. An individual carrier shall not modify the rating method used in the rate manual for its individual business until the change has been approved as provided in this paragraph. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this Rule. (7-1-98)

03. Information Required For Review Of Modification Of Rating Method. A carrier may modify the rating method for its individual business only with prior approval of the Director. A carrier requesting to change the rating method for its individual business shall make a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing shall contain at least the following information: (7-1-98)

- a. The reasons the change in rating method is being requested; (7-1-98)
- b. A complete description of each of the proposed modifications to the rating method; (7-1-98)
- c. A description of how the change in rating method would affect the premium rates currently charged to eligible individuals in the health benefit plan, including an estimate from a qualified actuary of the number of individuals (and a description of the types of individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all individuals in a health benefit plan); (7-1-98)
- d. A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (7-1-98)
- e. A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for eligible individuals that would be in violation of Section 41-5206, Idaho Code. (7-1-98)

04. Change In Rating Method. For the purpose of Section 036 a change in rating method shall mean: (7-1-98)

- a. A change in the number of case characteristics used by an individual carrier to determine premium rates for health benefit plans in its individual business (an individual carrier shall not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); (7-1-98)
- b. A change in the method of allocating expenses among health benefit plans; or, (7-1-98)
- c. A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any individual that exceeds ten percent (10%). (7-1-98)
- d. For the purpose of Subsection 036.04, a change in a rating factor shall mean the cumulative change with respect to such factor considered over a twelve (12) month period. If an individual carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier shall consider the cumulative effect of all such changes in applying the ten percent (10%) test. (7-1-98)

05. Rate Manual To Specify Case Characteristics And Rate Factors To Be Applied. The rate manual developed pursuant to Subsection 036.01 shall specify the case characteristics and rate factors to be applied by the individual carrier in establishing premium rates for the health benefit plans. (7-1-98)

06. Case Characteristics Other Than Age, Individual Tobacco Use, Geography And Gender - Must Have Prior Approval Of Director. An individual carrier may not use case characteristics other than those specified in Section 41-5206(1)(g), Idaho Code, without the prior approval of the Director. An individual carrier seeking such an approval shall make a filing with the Director for a change in rating method under Subsection 036.02. (7-1-98)

07. Case Characteristics Shall Be Applied In A Uniform Manner. An individual carrier shall use the same case characteristics in establishing premium rates for each health benefit plan and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of an eligible individual. (7-1-98)

08. Rate Manual Must Clearly Illustrate Relationship Among Base Premium Rate And Any Difference In New Business Rate. The rate manual developed pursuant to Subsection 036.01 shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference. (7-1-98)

09. Differences In Premium Rates Must Reflect Reasonable And Objective Differences. Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and shall not be based in any way on the actual or expected health status or claims experience of the eligible individual groups that choose or are expected to choose a particular health benefit plan. An individual carrier shall apply case characteristics and rate factors within its health benefit plans in a manner that assures that premium differences among health benefit plans for identical individuals vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the individuals that choose or are expected to choose a particular health benefit plan. (7-1-98)

10. Premium Rates To Be Developed In Two Step Process. The rate manual developed pursuant to Subsection 036.01 shall provide for premium rates to be developed in a two (2) step process. In the first step, a base premium rate shall be developed for the eligible individual without regard to any risk characteristics. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-5206, Idaho Code, to reflect the risk characteristics of the individual. (7-1-98)

11. Exception To Application Fee, Underwriter Fee Or Other Fees. Except as provided in Subsection 036.12, a premium charged to an individual for a health benefit plan shall not include a separate application fee, underwriting fee, or any other separate fee or charge. (7-1-98)

12. Uniform Application Of Fees. A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to all health benefit plans. All such fees are premium and shall be included in determining compliance with the Act and this rule. (7-1-98)

13. Uniform Allocation Of Administration Expenses. An individual carrier shall allocate administrative expenses to the basic, standard, and catastrophic health benefit plans on no less favorable of a basis than expenses are allocated to other health benefit plans. The rate manual developed pursuant to Subsection 036.01 shall describe the method of allocating administrative expenses to the health benefit plans for which the manual was developed. (7-1-98)

14. Rate Manual To Be Maintained For A Period Of Six Years. Each rate manual developed pursuant to Subsection 036.01 shall be maintained by the carrier for a period of six (6) years. Updates and changes to the manual shall be maintained with the manual. (7-1-98)

15. Rate Manual And Practices Must Comply With Guidelines Issued By Director. The rate manual and rating practices of an individual carrier shall comply with any guidelines issued by the Director. (7-1-98)

16. Application Of Restrictions Related To Changes In Premium Rates. The restrictions related to changes in premium rates are set forth in Section 41-5206(1)(b), Idaho Code, and shall be applied as follows:

(7-1-98)

a. An individual carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates. (7-1-98)

b. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of Sections 41-5206(1)(b)(~~ii~~) and 41-5206(1)(d)(i), Idaho Code. (~~7-1-98~~)()

c. If for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the individual carrier is no longer enrolling new eligible individuals for the purposes of Sections 41-5206(1)(b)(~~i~~)(~~ii~~)(~~iii~~) and (~~de~~)(i), Idaho Code. (~~7-1-98~~)()

d. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan by more than twenty percent (20%), the carrier shall make a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made within thirty (30) days of the beginning of the rating period. (7-1-98)

e. An individual carrier shall keep on file for a period of at least six (6) years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (7-1-98)

17. Change In Premium Rate. Except as provided in Subsections 036.18 and ~~036.19~~, a change in premium rate for an eligible individual shall produce a revised premium rate that is no more than the following: (~~7-1-98~~)()

a. The base premium rate for the eligible individual, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by: (7-1-98)

b. One (1) plus the sum of: (7-1-98)

i. The risk load applicable to the eligible individual during the previous rating period; and (7-1-98)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (7-1-98)

18. Rating Restrictions On Plans Where Carrier Is No Longer Enrolling New Business. In the case of a health benefit plan into which an Individual carrier is no longer enrolling new Individuals, a change in premium rate for an Individual shall produce a revised premium rate that is no more than the base premium rate for the Individual (given its present composition and as shown in the rate manual in effect for the Individual at the beginning of the previous rating period), multiplied by Subsection ~~4~~036.18.a. and 036.18.b. ~~below~~; (~~7-1-98~~)()

a. One (1) plus the lesser of: (7-1-98)

i. The change in the base rate; or (7-1-98)

ii. The percentage change in the new business premium for the most similar health benefit plan into which the Individual carrier is enrolling new Individuals. (7-1-98)

b. One (1) plus the sum of: (7-1-98)

i. The risk load applicable to the Individual during the previous rating period; and (7-1-98)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (7-1-98)

~~19. **Plans Written Prior To January 1, 1995.** In the case of a health benefit plan described in Section 41-5206(1)(d), Idaho Code, if the current premium rate for the health benefit plan exceeds the ranges set forth in Section 41-5206, Idaho Code, the formula set forth in Subsections 036.17 and 036.18 will be applied as if the fifteen percent (15%) adjustment provided in Subsections 036.17.b.ii. and 036.18.c.ii. were a zero percent (0%) adjustment.~~ (7-1-98)

2019. Limitations On Revised Premium Rate. Notwithstanding the provisions of Subsections 036.17 and 036.18, a change in premium rate for an Individual shall not produce a revised premium rate that would exceed the limitations on rates provided in Section 41-5206, Idaho Code. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

055. APPLICATION TO REENTER STATE.

01. Restrictions On Offering Individual Health Insurance. An individual carrier that has been prohibited from writing coverage for individuals in this state pursuant to Section 41-5207(2), Idaho Code, may not resume offering health benefit plans to individuals in this state until the carrier has made a petition to the Director to be reinstated as an individual carrier and the petition has been approved by the Director. In reviewing a petition, the Director may ask for such information and assurances as the Director finds reasonable and appropriate. (7-1-98)

02. Restrictions Based On Geographic Service Area. In the case of an individual carrier doing business in only one established geographic service area of the state, if the individual carrier elects to non renew a health benefit plan under Section 41-5207(~~13~~)(~~4~~), Idaho Code, the individual carrier shall be prohibited from offering health benefit plans to individuals in that service area for a period of five (5) years. (7-1-98)()

(BREAK IN CONTINUITY OF SECTIONS)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage Or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) shall be considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-5203(2+2), and 41-5208(3)(~~b~~) and 41-5208(3)(~~e~~), Idaho Code, an individual carrier shall interpret the Act no less favorably to an insured individual than the following: (7-1-98)()

a. ~~A health benefit plan, certificate or other health benefit arrangement shall be considered employer-based if an employer sponsors the plan or arrangement or makes a contribution to the plan or arrangement; and~~ (7-1-98)

ba. A health benefit plan, certificate or other benefit arrangement shall be considered to provide benefits similar to or exceeding the benefits provided under the basic health benefit plan if the policy, certificate or other benefit arrangement provides benefits that: (7-1-98)

i. Have an actuarial value that is not substantially less than the actuarial value of the basic health benefit plan; or (7-1-98)

ii. Provides coverage for hospitalization and physician services that is substantially similar to or exceeds the coverage for such services in the basic health benefit plan. (7-1-98)

eb. In making a determination under Subsection 060.01.ba., an individual carrier shall evaluate the previous or existing policy, certificate or other benefit arrangement taken as a whole and shall not base its decision solely on the fact that one portion of the previous or existing policy, certificate or benefit arrangement provides less coverage than the comparable portion of the basic health benefit plan. (7-1-98)()

~~02. **Particular Service.** For the purposes of Section 41-5208(3)(b), Idaho Code, an individual will be considered to have qualifying previous coverage with respect to a particular service if the previous policy, certificate or other benefit arrangement covering such individual met the definition of qualifying previous coverage contained in Section 41-5203(21), Idaho Code, and provided any benefit with respect to the service. (7-1-98)~~

~~03. **Source Of Previous Or Existing Coverage.** An individual carrier shall ascertain the source of previous or existing coverage of each eligible individual and each dependent of an eligible individual at the time such individual or dependent initially enrolls into the health benefit plan provided by the individual carrier. The individual carrier shall have the responsibility to contact the source of such previous or existing coverage to resolve any questions about the benefits or limitations related to such previous or existing coverage. (7-1-98)(____)~~

(BREAK IN CONTINUITY OF SECTIONS)

067. RESTRICTIVE RIDERS.

~~01. **Restrictive Riders.** A restrictive rider, endorsement or other provision that would violate the provisions of Section 41-5208(3)(e), Idaho Code, and that was in force on the effective date of this rule may not remain in force beyond the first anniversary date of the health benefit plan subject to the restrictive provision that follows the effective date of this rule. An individual carrier shall provide written notice to those individuals whose coverage will be changed pursuant to this subsection at least thirty (30) days prior to the required change to the health benefit plan. (7-1-98)~~

~~02. **Basic, Standard, And Catastrophic Plans.** Except as permitted in Section 41-5208(3)(a), Idaho Code, an individual carrier shall not modify or restrict a basic, standard, or catastrophic health benefit plan in any manner for the purposes of restricting or excluding coverage or benefits for specific diseases, medical conditions or services otherwise covered by the plan. (7-1-98)~~

~~03. **Other Health Benefit Plans.** Except as permitted in Section 41-5208(3), Idaho Code, an individual carrier shall not modify or restrict any health benefit plan with respect to any eligible individual or dependent of an eligible individual, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such individual or dependent for specific diseases, medical conditions or services otherwise covered by the plan. (7-1-98)~~

(BREAK IN CONTINUITY OF SECTIONS)

075. RULES RELATED TO FAIR MARKETING.

~~01. **Individual Carrier Shall Actively Market.** An individual carrier shall actively market each of its health benefit plans to individuals in this state. An individual carrier may not suspend the marketing or issuance of the basic, standard, or catastrophic health benefit plans unless the carrier has good cause and has received the prior approval of the Director. (7-1-98)~~

~~02. **Marketing Basic, Standard, And Catastrophic Plans.** In marketing the basic, ~~and~~ standard, ~~and~~ catastrophic health benefit plans to individuals, an individual carrier shall use at least the same sources and methods of distribution that it uses to market other health benefit plans to individuals. Any producer authorized by an individual carrier to market health benefit plans to Individuals in the state shall also be authorized to market the basic, standard, and catastrophic health benefit plans. (7-1-98)(____)~~

~~03. **Offer Must Be In Writing.** An individual carrier shall offer at least the basic, ~~and~~ standard, ~~and~~ catastrophic health benefit plans to any individual that applies for or makes an inquiry regarding health insurance coverage from the individual carrier. The offer shall be in writing and shall include at least the following information:~~

(7-1-98)()

- a. A general description of the benefits contained in the basic, standard, and catastrophic health benefit plans and any other health benefit plan being offered to the individual; and (7-1-98)
- b. Information describing how the individual may enroll in the plans. (7-1-98)
- c. The offer may be provided directly to the individual or delivered through a producer. (7-1-98)

04. Timeliness Of Price Quote. An individual carrier shall provide a price quote to an individual (directly or through an authorized producer) within fifteen (15) working days of receiving a request for a quote and such information as is necessary to provide the quote. An individual carrier shall notify an individual (directly or through an authorized producer) within ten (10) working days of receiving a request for a price quote of any additional information needed by the individual carrier to provide the quote. (7-1-98)

05. Restrictions As To Application Process. An individual carrier may not apply more stringent or detailed requirements related to the application process for the basic, standard, and catastrophic health benefit plans than are applied for other health benefit plans offered by the carrier. (7-1-98)

06. Denial Of Coverage. If an individual carrier denies coverage under a health benefit plan to an individual on the basis of a risk characteristic, the denial shall be in writing and shall be maintained in the individual carrier's office. This written denial shall state with specificity the risk characteristic(s) of the individual that made it ineligible for the health benefit plan it requested (for example, health status). The denial shall be accompanied by a written explanation of the availability of the basic, standard, and catastrophic health benefit plans from the individual carrier. The explanation shall include at least the following: (7-1-98)

- a. A general description of the benefits contained in each such plan; (7-1-98)
- b. A price quote for each such plan; and (7-1-98)
- c. Information describing how the individual may enroll in such plans. (7-1-98)
- d. The written information described in this paragraph may be provided within the time periods provided in Subsection 075.04 directly to the individual or delivered through an authorized producer. (7-1-98)

07. Lowest Priced Basic, Standard, And Catastrophic Plan. The price quote required under Subsection 075.06.b. shall be for the lowest-priced basic, standard, and catastrophic health benefit plan for which the individual is eligible. (7-1-98)

08. Toll-Free Telephone Service. An individual carrier shall establish and maintain a toll-free telephone service to provide information to individuals regarding the availability of individual health benefit plans in this state. The service shall provide information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information that is reasonably designed to assist the caller to locate an authorized producer or to otherwise apply for coverage. (7-1-98)

09. No Requirement To Qualify For Other Insurance Product. An individual carrier may not require, as a condition to the offer of sale of a health benefit plan to an individual, that the individual purchase or qualify for any other insurance product or service. (7-1-98)

10. Plans Subject To Requirement Of The Act And This Rule. Carriers offering individual health benefit plans in this state shall be responsible for determining whether the plans are subject to the requirements of the Act and this Rule. Carriers shall elicit the following information from applicants for such plans at the time of application: (7-1-98)

- a. ~~Whether or not any portion of the premium will be paid by or on behalf of an individual, either directly or through wage adjustments or other means of reimbursement; and~~ (7-1-98)

~~b. Whether or not the prospective policyholder, certificate holder or any prospective insured individual intends to treat the health benefit plans as part of a plan or program under Section 162 (other than Section 162(1)), Section 125 or Section 106, Internal Revenue Code. (7-1-98)~~

~~**11. Failure To Comply.** If an individual carrier fails to comply with Subsection 075.11, the individual carrier shall be deemed to be on notice of any information that could reasonably have been attained if the individual carrier had complied with Subsection 075.11. (7-1-98)~~

121. Annual Filing Requirement. An individual carrier shall file annually the following information with the Director related to health benefit plans issued by the individual carrier to individuals in this state on forms prescribed by the Director: (7-1-98)

a. The number of individuals that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (7-1-98)

b. The number of individuals that were covered under the basic, standard, and catastrophic health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). (7-1-98)

c. The number of individual health benefit plans in force in each county (or by five (5) digit zip code) of the state as of December 31 of the previous calendar year; (7-1-98)

d. The number of individual health benefit plans that were voluntarily not renewed by Individuals in the previous calendar year; (7-1-98)

e. The number of individual health benefit plans that were terminated or non renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (7-1-98)

f. The number of health benefit plans that were issued to residents that were uninsured for at least the sixty-three (63) days prior to issue. (7-1-98)

132. Total Number Of Residents. All carriers shall file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under stop loss plans. (7-1-98)

143. Filing Date. The information described in Sections 075.12 and 075.13 shall be filed no later than March 15, each year. (7-1-98)

154. Specific Data. For purposes of this section, health benefit plan information shall include policies or certificates of insurance for specific disease, hospital confinement indemnity and stop loss coverages. (7-1-98)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.73 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE
AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0173-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has proposed rule making. This action is authorized pursuant to Sections 41-211 and 41-5211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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 address below.

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

On March 15, 1999, the Idaho Supreme Court ruled that the cap on reimbursement for chiropractic services contained in the current rule violates the equal protection clauses of the state and federal constitutions. The proposed amendment removes the cap on chiropractic services and imposes a cap on reimbursement for certain types of medical services regardless of who provides the services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Joan Krosch, Health Insurance Coordinator for the Department of Insurance, at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before October 27, 1999.

Dated this 19th day of August, 1999.

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

**Pursuant to Section 67-5221(1) this docket
is being published as a Proposed Rule.**

**This docket has been previously published as a Temporary Rule.
The temporary effective date is March 15, 1999.**

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-8, August 4, 1999, pages 332 through 334.**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0170-9901

011. LIMITATIONS AND EXCLUSIONS.

01. **Not Medically Necessary.** Any service not medically necessary or appropriate unless specifically included within the coverage provisions. (6-30-95)

02. **Custodial, Convalescent, Intermediate.** Custodial, convalescent or intermediate level care or rest cures. (6-30-95)

03. **Experimental, Investigational.** Services which are experimental or investigational. (6-30-95)

04. **Workers Compensation, Medicare Or CHAMPUS.** Services eligible for coverage by Workers' Compensation, Medicare or CHAMPUS. (6-30-95)

05. **No Charges, No Legal Obligation To Pay.** Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. (6-30-95)

06. **No Medical Diagnosis.** Services for weight control, nutrition, and smoking cessation, including self-help and training programs, as well as prescription drugs used in conjunction with such programs and services. (7-1-98)

07. **Cosmetic Surgery.** Cosmetic surgery and services, except for treatment for non-congenital injury or surgery. Mastectomy reconstruction is covered if within two (2) years of mastectomy. (6-30-95)

08. **Artificial Insemination And Infertility Treatment.** Artificial insemination and infertility treatment. Treatment of sexual dysfunction not related to organic disease. (6-30-95)

09. **Reversal Of Elective Infertility.** Services for reversal of elective, surgically or pharmaceutical induced infertility. (6-30-95)

10. **Vision Therapy.** Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. (6-30-95)

11. **Weak, Strained, Or Flat Feet.** For treatment of weak, strained, or flat feet, including orthopedic shoes or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. (6-30-95)

12. ~~Spinal Manipulation.~~ Chiropractic services **Manipulative Therapy And Related Treatment.** Manipulative therapy and related treatment, including heat treatments and ultrasound, of the musculoskeletal structure for other than fractures and dislocations of the extremities will be subject to one thousand dollars (\$1,000) per year limit, subject to the policy deductible, ~~and~~ co-insurance, or co-payment. (6-30-95)()

13. **Dental And Orthodontic Services.** (7-1-98)

a. For Basic and Standard plans: Dental and orthodontic services, except those needed for treatment of a medical condition or injury or as specifically allowed in the policy for children under the age of twelve (12). (7-1-98)

b. For Catastrophic plans: Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy. (7-1-98)

14. **Hearing Tests.** Hearing tests without illness being suspect. (6-30-95)

15. **Hearing Aids.** Hearing aids and supplies, tinnitus maskers, cochlear implants and exams for the prescription or fitting of hearing aids. (6-30-95)
16. **Excludes.** Speech tests and therapy. (6-30-95)
17. **Private Room.** Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. (6-30-95)
18. **Services Performed By A Member Of Family.** Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents. (6-30-95)
19. **Prior To Effective Date.** Care incurred before the effective date of the person's coverage. (6-30-95)
20. **Immunizations And Medical Exams And Tests.** Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. (6-30-95)
21. **Injury Or Sickness.** Injury or sickness caused by war or armed international conflict. (6-30-95)
22. **Sex Change Operations.** Sex change operations and treatment in connection with transsexualism. (6-30-95)
23. **Marriage and Family Counseling.** Marriage and family and child counseling except as specifically allowed in the policy. (6-30-95)
24. **Acupuncture.** (7-1-98)
- a. For Basic and standard plans: Acupuncture except when used as anesthesia during a covered surgical procedure. (7-1-98)
- b. For Catastrophic plans: Acupuncture. (7-1-98)
25. **Private Duty Nursing.** Private duty nursing except as specifically allowed in the policy. (6-30-95)
26. **Medical Services Received From Employer, Labor Union Association.** Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. (6-30-95)
27. **Termination.** Services incurred after the date of termination of a covered person's coverage, except as allowed by extension of benefits provision in the policy, if any. (7-1-98)
28. **Personal Hygiene And Convenience Items.** Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. (6-30-95)
29. **Failure To Keep A Scheduled Visit.** Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. (6-30-95)
30. **Screening Examinations.** Charges for screening examinations except as otherwise provided in the policy. (6-30-95)
31. **Wigs Or Hair Loss.** Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. (6-30-95)
32. **Pre-Existing Conditions.** Pre-existing conditions, except as provided specifically in the policy. (6-30-95)

IDAPA 23 - BOARD OF NURSING
23.01.01 - RULES OF THE BOARD OF NURSING
DOCKET NO. 23-0101-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 54-1404(9) and 54-1402(d), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled as requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: These rules provide standards, criteria, and curriculum requirements for nursing educational programs. The purpose of the revisions is to provide for flexibility to allow for future changes in education while assuring an acceptable level of safety and learning effectiveness for students.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge is imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because a Board-appointed task force investigated the need for revisions and offered suggested revisions. Subsequently, the Board held forums across the state, attended by approximately 400 interested persons, and incorporated resulting suggestions into the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sandra Evans at 334-3110.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th of August, 1999.

Sandra Evans
Executive Director
Board of Nursing
280 N. 8th St., Ste 210
P. O. Box 83720
Boise, ID 83720-0061
Phone: (208) 334-3110
Fax: (208) 334-3262

THE FOLLOWING IS THE TEXT OF DOCKET NO. 23-0101-9901

601. PURPOSE OF APPROVAL.

To assure safe practice of nursing by establishing standards, criteria, and curriculum requirements for ~~nursing~~ education programs ~~that are conducted to prepare~~ preparing persons for the practice of nursing, ~~or to increase and for~~ enhancing the knowledge and skills of the ~~practicing nurse~~ those in practice. (7-1-93)()

01. ~~Eligibility For Licensing Examination Preparation Of Graduates.~~ To assure ~~ensure~~ that graduates of ~~basic~~ nursing education programs of their eligibility to write the licensing examination for professional ~~or practical nurses in Idaho~~ are prepared for safe and effective nursing practice. (11-28-84)()

02. ~~Continued Review And Evaluation Guide For Development.~~ To ~~foster~~ serve as a guide for the continued review and evaluation ~~development of established~~ new nursing education programs. (7-1-91)()

03. ~~Evaluation Criteria Continued Improvement.~~ To ~~provide criteria for~~ foster the evaluation ~~continued improvement of new and~~ established nursing education programs. (7-1-91)()

04. ~~Evaluation Criteria.~~ To provide criteria for the evaluation of new and established nursing education programs. ()

05. ~~Eligibility For Licensing Examination.~~ To assure eligibility for admission to the licensing examination for nurses, and to facilitate interstate endorsement of graduates of Board-approved nursing education ~~programs.~~ ()

602. APPROVAL OF A NEW EDUCATIONAL PROGRAM.

01. ~~For Programs Preparing Unlicensed Assistive Personnel.~~ ()

a. Institutions applying for initial approval must make application to the Board on forms supplied by the Board. The following information must be included: ()

i. Accreditation status, relationship of educational program to parent institution. ()

ii. Curriculum to be used. ()

iii. Clinical sites to be used. ()

iv. Provision for qualified faculty. ()

b. Provisional approval for one (1) year will be granted to programs on initial application that provide evidence that Board-approved training standards will be met. ()

c. Programs with provisional approval must apply for full approval on forms supplied by the Board and submit such application to the Board office one (1) month prior to the expiration of provisional approval. ()

d. A representative of the Board shall visit the program one (1) year following initial provisional approval and submit a written report to the Board. ()

i. Following the Board's review of the visit report, the institution shall be notified of the Board's decision within thirty (30) days of the review. ()

ii. Following its review, the Board may grant full approval, if all conditions have been met; or conditional approval, if all conditions have not been met; or denial of approval if, conditions have not been met and the institution can provide no indication that they will be met within a reasonable timeframe. ()

02. ~~For Programs Preparing Practical Nurses, Professional Nurses, And Advanced Practice Professional Nurses.~~ ()

~~01a. Initial Application to Plan.~~ Any university, college, or other institution wishing to establish a nursing education program must make application to the Board on forms supplied by the Board. ~~(11-28-84)(____)~~

~~02b. Initial Application.~~ The following information must be included with the initial application: ~~(11-28-84)(____)~~

~~a.i.~~ Purpose for establishing the nursing education program; and (11-28-84)

~~b.ii.~~ Community needs and studies made, as basis for establishing a nursing education program; and (11-28-84)

~~e.iii.~~ Type of program; and (11-28-84)

and ~~d.iv.~~ ~~Parent institution: a~~ Accreditation status, relationship of educational program to parent institution; ~~(11-28-84)(____)~~

~~e.v.~~ Financial provision for the educational program; and (11-28-84)

~~f.vi.~~ Potential student enrollment; and (11-28-84)

~~g.vii.~~ Provision for qualified faculty; and (11-28-84)

~~h.viii.~~ Proposed clinical facilities and other physical facilities; and (11-28-84)

~~i.x.~~ Proposed time schedule for initiating the program. (11-28-84)

~~03c. Initial Survey Visit.~~ A representative of the Board shall visit the educational and clinical facilities and then submit a written report to the Board. ~~(11-28-84)(____)~~

~~04d. Application Review.~~ Representatives of the parent institution shall meet with the Board to review the application within ninety (90) days of the conduct of the initial survey visit. ~~(7-1-91)(____)~~

~~05e. Notification.~~ Following the Board's review, the parent institution shall be notified of the Board's decision within thirty (30) days of the review. ~~(7-1-91)(____)~~

~~06f. Appointment Of Administrator.~~ Following the appointment of a qualified nurse administrator, a minimum period of twelve (12) months shall be required for planning to be completed before the first class of students is admitted to the program. ~~(7-1-93)(____)~~

~~07g. Application For Provisional Approval.~~ Provisional approval may be applied for when the following conditions have been met: ~~(11-28-84)(____)~~

~~a.i.~~ A qualified nurse administrator has been appointed; and (11-28-84)

~~b.ii.~~ There are sufficient qualified faculty to initiate the program; and (11-28-84)

~~e.iii.~~ The curriculum and plans for its implementation have been developed, including tentative clinical affiliation agreements; and (7-1-91)

~~d.iv.~~ Program policies have been developed. (11-28-84)

~~08h. Provisional Approval.~~ Provisional approval must be granted before the first students are admitted to the nursing program. ~~(11-28-84)(____)~~

~~09i. Application For Full Approval.~~ Full approval may be applied for when the first students have completed the educational program. ~~(7-1-91)(____)~~

~~ai.~~ A representative of the Board will make a follow-up survey visit to the educational program and submit a written report to the Board. (7-1-93)

~~bii.~~ Following the Board's review, the parent institution will be notified of the Board's decision within thirty (30) days. (7-1-93)

~~eiii.~~ Following their review, the Board may grant: ~~F~~full approval, if all conditions have been met; or conditional approval, if all standards have not been met, with such conditions and requirements as the Board may designate to insure compliance with standards within the designated time period; or denial of approval, if standards have not been met. (7-1-93)()

~~10j.~~ ~~Time Limit.~~ Full approval must be applied for and granted within a three (3) year period following eligibility. (7-1-91)()

603. CONTINUANCE OF FULL APPROVAL OF EDUCATIONAL PROGRAM.

01. For Programs Preparing Unlicensed Assistive Personnel. A letter of continuing approval will be granted annually to programs that substantially meet the Board's standards, as evidenced by: ()

a. Information included in annual reports to the Board; and ()

b. Information obtained by Board representative during biennial on-site visits. ()

02. For Programs Preparing Practical Nurses, Professional Nurses, And Advanced Practice Professional Nurses. ()

~~01a.~~ ~~Certificate Of Approval.~~ A certificate of continuing full approval will be granted for a up to four ~~eight~~ (48) years period to nursing education programs that consistently meet the Board's standards, as evidenced by: (7-1-91)()

~~ai.~~ Information included in the annual report to the Board ~~of Nursing~~; and (11-28-84)()

~~bii.~~ Information obtained by ~~the a~~ Board's ~~professional staff~~ representative through consultation visits; and (11-28-84)()

~~eiii.~~ ~~Annual success~~ Acceptable performance on the licensing examination for each program shall be a pass rate of eighty percent (80%) or higher by the program's for its first-time writers graduates on the national licensing examination for the three (3) in any given calendar year period immediately preceding. A program whose pass rate falls below eighty percent (80%) for first-time writers in any two (2) consecutive calendar years shall: (7-1-91)()

(1) Present to the Board a plan for identifying possible contributing factors and for correcting any identified deficiencies; and ()

(2) Submit periodic progress reports on a schedule determined by the Board. ()

~~02b.~~ ~~Continuing Compliance.~~ To insure continuing compliance with the Board's standards, each approved nursing education program will submit an annual report to the Board. Based on their findings, the Board may: (7-1-91)()

~~ai.~~ Request additional information from the nursing education program. (7-1-91)

~~bii.~~ Conduct an on-site review of the nursing education program. (7-1-91)

~~eiii.~~ Request a full survey of the nursing education program. (7-1-91)

~~03c.~~ ~~Survey Reports.~~ Written reports of the survey will be submitted to the Board for review and

acceptance. Copies of the report and recommendations will then be sent to the educational institution within thirty (30) days of the review. (7-1-91)(____)

~~04d. Conditional Approval.~~ Nursing education programs that do not meet the standards of the Board may be placed on conditional approval status, with such conditions and requirements as the Board may designate to insure compliance with standards within a reasonable time period. (11-28-84)(____)

~~05e. Restoration Or Withdrawal Of Full Approval.~~ At the end of the period of conditional approval, full approval may be restored if the required conditions have been met, or approval may be withdrawn if the required conditions have not been met. Upon petition and written documentation by the nursing education program of extenuating circumstances, the Board may consider extending the period of conditional approval. The school must submit documentation within ten (10) days of notification of withdrawal of full approval. (7-1-91)(____)

~~06f. Request For Hearing.~~ Following notification of the Board's decision to place a program on conditional approval or to withdraw program approval, the educational program will have ten (10) days in which to request a hearing. Upon receipt of a request for hearing, the Board's action will be stayed until the matter is heard. Hearings shall be conducted in the same manner as disciplinary hearings, in accordance with Chapter 52, Title 67, Idaho Code. (11-28-84)(____)

604. DISCONTINUANCE OF AN EDUCATIONAL PROGRAM.

When an educational institution plans to discontinue its education program, the following procedure must be used: (11-28-84)

01. Notify In Writing. Notify the Board in writing at least one (1) academic year prior to the closure; and (11-28-84)

~~02. Present Follow Plans.~~ Present written Follow institutional plans assuring that educational standards will be maintained until the last class has graduated; and for program closure including: (11-28-84)(____)

a. Maintenance of program standards until last class has graduated; and (____)

~~03b. Provide For Records.~~ Make provision for preservation disposition of students' records. (11-28-84)(____)

(BREAK IN CONTINUITY OF SECTIONS)

631. ADMINISTRATION OF EDUCATIONAL PROGRAM.

~~01. Program Preparing Unlicensed Assistive Personnel.~~ The educational program shall be administered by the State Division of Professional-Technical Education in accredited educational institutions. (____)

~~02. Educational Programs Preparing Practical Nurse, Professional Nurse, And Advanced Practice Professional Nurse.~~ (7-1-91)(____)

a. The educational program in nursing shall be an integral part of an accredited institution of higher learning or a vocational/technical school. (7-1-91)(____)

~~02b. Organizational Plan.~~ There shall be an institutional organizational plan design that delineates demonstrates the relationship of the nursing education program to other units the administration and to comparable programs within the parent institution, and that clearly delineates the lines of authority, responsibility, and channels of communication. The program faculty are given the opportunity to participate in the governance of the program and the institution. (11-28-84)(____)

i. Qualifications, rights, and responsibilities of faculty are addressed in written personnel policies

which are consistent with those of the parent institution as well as those of other programs within the institution. ()

ii. Faculty work loads shall be consistent with responsibilities identified in Section 644. ()

~~03c. **Internal Structure.** The nursing education program shall must have an internal structure in which the responsibilities and relationships among faculty, students, administration, and cooperating agencies are organizational design with clearly defined authority, responsibility, and channels of communication that assures both faculty and student involvement.~~ (11-28-84)()

~~04d. **Administrative Responsibility And Control.** Administrative responsibility and control shall be delegated to the nursing education administrator by the parent institution.~~ (11-28-84)()

~~05e. **Policies.** Nursing education The program policies shall be in writing, and shall be must have a written purpose that is consistent with policies of the parent mission of the institution. Any deviations from (The program must have written policies of the parent that are congruent with the institution's must be justified based on program goals policies and are periodically reviewed.~~ (7-1-91)()

632. FINANCIAL SUPPORT OF EDUCATIONAL PROGRAM FOR PRACTICAL NURSE, PROFESSIONAL NURSE, AND ADVANCED PRACTICE PROFESSIONAL NURSE.
There must be evidence of financial support and resources adequate to achieve the purpose of the program. Resources include: facilities, equipment, supplies, and qualified administrative, instructional, and support personnel and services. ()

~~01. **Funds.** Adequate funds shall be allocated to the nursing education program for faculty, other necessary personnel, equipment, supplies, and services.~~ (11-28-84)

~~02. **Supporting Services.** Sufficient secretarial and other supporting services shall be provided to ensure appropriate use of faculty time.~~ (7-1-91)

(BREAK IN CONTINUITY OF SECTIONS)

640. FACULTY QUALIFICATIONS OF EDUCATIONAL PROGRAM.

~~01. **Licensure Requirement.** All nursing faculty, including the administrator, shall have a current Idaho professional nurse license. **Programs For Unlicensed Assistive Personnel.** Primary instructors shall be approved by the Board and shall have:~~ (11-28-84)()

a. A current unencumbered license to practice as a professional nurse in this state; ()

b. Evidence of three (3) years experience working as a professional nurse; ()

c. Evidence of two (2) years experience in caring for the elderly or chronically ill of any age; ()

d. Evidence of completion of a course in methods of instruction or a Train-the-Trainer type program; ()

e. Licensed practical nurses with a minimum of two (2) years experience in caring for the elderly or chronically ill of any age may assist with skills supervision under the supervision of an approved primary instructor. ()

~~02. **Educational Requirement.** All nursing There shall be sufficient faculty, including the administrator, shall hold at least a baccalaureate degree with a major in nursing to achieve the purpose of the program. **Practical Nurse Program Faculty Qualifications.** Nursing faculty who have primary responsibility for planning,~~

implementing, and evaluating curriculum in a program leading to licensure as a practical nurse shall have:

(7-1-91)()

- a. A current, unencumbered license to practice as a professional nurse in this state; ()
- b. A minimum of a baccalaureate degree with a major in nursing; and ()
- c. Evidence of nursing practice experience. ()

03. ~~Baccalaureate Degree Programs.~~ In ~~baccalaureate degree programs:~~ Professional Nurse Program Faculty Qualifications. There shall be sufficient faculty to achieve the purpose of the program.

(7-1-91)()

~~a. The administrator shall hold a master's degree, preferably with a major in nursing, and an earned doctorate degree. Nursing faculty who have primary responsibility for planning, implementing, and evaluating curriculum in a program leading to licensure as a professional nurse shall have:~~

(7-1-91)()

- i. A current, unencumbered license to practice as a professional nurse in this state; and ()
- ii. A minimum of a master's degree with a major in nursing; and ()
- iii. Evidence of nursing practice experience. ()

~~b. Beginning Fall semester 2000, the administrator shall hold a master's degree with a major in nursing and an earned doctorate with a major in nursing or a related field. Additional support faculty necessary to accomplish program objectives shall have:~~

(7-1-93)()

- i. A current, unencumbered license to practice as a professional nurse in this state; and ()
- ii. A minimum of a baccalaureate degree with a major in nursing; and ()
- iii. A plan approved by the Board for accomplishment of the master's of nursing within three (3) years of appointment to the faculty position. ()

~~e. Beginning Fall semester 1993, administrators who do not hold a master's degree with a major in nursing shall provide to the Board a plan for and evidence of progress toward completion of the degree.~~

(7-1-91)

~~d. Nursing faculty shall hold at least a master's degree, preferably in nursing, with preparation relevant to their area of teaching responsibility.~~

(7-1-91)

~~e. Beginning Fall semester 2000, nursing faculty shall hold a master's degree with a major in nursing, with preparation relevant to their area of teaching responsibility.~~

(7-1-93)

~~f. Beginning Fall semester 1993, faculty who do not hold a master's degree with a major in nursing shall provide to the Board a plan for and evidence of progress toward completion of the degree.~~

(7-1-91)

04. ~~Associate Degree Programs.~~ In ~~associate degree programs:~~ Advanced Practice Professional Nurse Program Faculty Qualifications. There shall be sufficient faculty to achieve the purpose of the program. Faculty in an advanced practice professional nurse program shall have:

(7-1-91)()

~~a. The administrator shall hold a master's degree, preferably in nursing. A current, unencumbered license to practice as a professional nurse in this state; and~~

(7-1-91)()

~~b. Beginning Fall semester 2000, the administrator shall hold a minimum of a master's degree with a major in nursing. A master's degree and an earned doctoral degree, one (1) of which is in nursing; or~~

(7-1-93)()

~~c. Beginning Fall semester 1993, administrators who do not hold a master's degree with a major in~~

~~nursing shall provide to the Board a plan for and evidence of progress toward completion of the degree. A master's degree with a major in nursing and an appropriate advanced practice professional nurse credential if responsible for courses in a specific advanced practice professional nurse category; and~~ (7-1-91)()

d. ~~Nursing faculty shall hold a master's degree, preferably in nursing. Evidence of nursing practice experience.~~ (7-1-91)()

e. ~~Beginning Fall semester 2000, nursing faculty shall hold a master's degree with a major in nursing, with preparation relevant to their area of teaching responsibility.~~ (7-1-93)

f. ~~By Fall semester 1993, faculty who do not hold a master's degree with a major in nursing shall provide to the Board, a plan for and evidence of progress toward completion of the degree.~~ (7-1-91)

05. Practical Nursing Programs. ~~In practical nursing programs all practical nursing faculty, including the nursing administrator, shall hold a baccalaureate degree with a major in nursing.~~ **Clinical Preceptors In Professional Nurse, Practical Nurse, And Advanced Practice Professional Nurse Programs.** Clinical preceptors may be used to enhance clinical learning experiences. Clinical preceptors shall be credentialed for nursing practice at or above the level for which the student is preparing. (7-1-91)()

a. Student-Preceptor ratio shall be appropriate to accomplishment of learning objectives; to provide for patient safety; and to the complexity of the clinical situation. ()

b. Criteria for selecting preceptors shall be in writing. ()

c. Functions and responsibilities of the preceptor shall be clearly delineated in a written agreement between the agency, the preceptor, and the educational program. ()

d. The faculty shall be responsible to: ()

i. Make arrangements with agency personnel in advance of the clinical experience, providing information such as numbers of students to be in the agency at a time, dates and times scheduled for clinical experience, faculty supervision to be provided, and arrange for formal orientation of preceptors. ()

ii. Inform agency personnel of faculty-defined objectives and serve as a guide for selecting students' learning experiences and making assignments. ()

iii. Monitor students' assignments, make periodic site visits to the agency, evaluate students' performance on a regular basis with input from the student and from the preceptor, and be available by telecommunication during students' scheduled clinical time. ()

e. Provide direct supervision, by either a qualified faculty person or an experienced professional nurse employee of the agency, during initial home visits and whenever the student is implementing a nursing skill for the first time or a nursing skill with which the student has had limited experience. ()

06. Continued Study. The parent institution will support and make provisions for continued professional development of the faculty. (7-1-91)

641. FACULTY NUMBER OF EDUCATIONAL PROGRAM RESPONSIBILITIES.

01. Numbers Needed. ~~There shall be sufficient numbers of full-time faculty qualified by education and clinical with educational preparation and nursing expertise to implement meet the objectives and purposes of the nursing education program.~~ (11-28-84)()

a. Number of faculty shall be sufficient to design and implement the curriculum necessary to prepare students to function in a rapidly changing healthcare environment. ()

b. Number of faculty in the clinical setting shall be sufficient in number to assure patient safety and

meet student learning needs. ()

02. Faculty-Student Ratio. There shall be no more than ten (10) students for every faculty person in the clinical facilities agencies. Deviations may be presented for approval with the program's annual report to the Board with written justification assuring client safety and supporting accomplishment of learner objectives. (7-1-91)()

03. Numbers Of Administrators Needed. There shall be at least one (1) qualified nursing administrator for each nursing education department or division. In institutions that offer nursing education programs for more than one (1) level of preparation and where the scope of administrative responsibility so requires, there shall be an individual administrator for each nursing education program. (11-28-84)

642. ~~CONDITIONS OF FACULTY EMPLOYMENT OF EDUCATIONAL PROGRAM (RESERVED).~~

~~**01. Qualifications, Rights, And Responsibilities.** Qualifications, rights, and responsibilities of faculty members shall be available in writing. (11-28-84)~~

~~**02. Personnel Policies.** Faculty personnel policies shall be available in writing and shall include those used in evaluation of performance and for promotion and tenure. (11-28-84)~~

~~**03. Time For Administrative Responsibilities.** The nursing education administrator shall have sufficient time provided for carrying out administrative responsibilities. Instructional assignments of the administrator shall be consistent with the scope of administrative responsibility. (11-28-84)~~

~~**04. Work Loads.** Faculty work loads shall be equitable within both the department and the institution and shall allow time for class and laboratory preparation, teaching, curriculum revision, improvement of teaching methods, guidance of students, participation in faculty organization and committees, attendance at professional meetings, and participation in continuing education activities and other activities such as research and scholarly productions appropriate to the institution. (7-1-91)~~

643. ADMINISTRATOR RESPONSIBILITIES OF THE NURSING EDUCATION ADMINISTRATOR AND QUALIFICATIONS.

The nursing administrator shall be responsible for: (7-1-93)

01. ~~Administration of the nursing program.~~ Administrator Responsibilities. The administrator provides the leadership and is accountable for the administration, planning, implementation, and evaluation of the program. The administrator's responsibilities include, but are not limited to: (7-1-93)()

- a. Development and maintenance of an environment conducive to the teaching and learning processes; ()
- b. Liaison with and maintenance of the relationship with administrative and other units within the institution; ()
- c. Leadership within the faculty for the development and implementation of the curriculum; ()
- d. Preparation and administration of the program budget; ()
- e. Facilitation of faculty recruitment, development, performance review, promotion, and retention; ()
- f. Liaison with and maintenance of the relationship with the Board; and ()
- g. Facilitation of cooperative agreements with practice sites. ()

02. Administrator Qualifications. The administrator of the program shall be a licensed professional nurse, with an unencumbered license in this state, and with the additional education and experience necessary to

direct the program. ()

~~02a. Liaison.~~ Liaison with central administration and other units of the parent institution. Programs for Unlicensed Assistive Personnel. Meet institutional requirements. (7-1-93)()

~~03b. Budget.~~ Preparation and management of the budget. Practical Nurse Administrator. The administrator in a program preparing for practical nurse licensure shall: (7-1-93)()

i. Hold a minimum of a master's degree with a major in nursing; and ()

ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. ()

~~04c. Facilitating Recruitment.~~ Facilitation of recruitment, selection, orientation and development of qualified faculty. Professional Nurse Administrator. The administrator in a program preparing for professional nurse licensure shall: (7-1-93)()

i. Hold a minimum of a master's degree with a major in nursing and meet institutional requirements; and ()

ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. ()

~~05d. Recommendations Regarding Faculty.~~ Recommendation of appointment, retention, promotion and tenure of faculty. Advanced Practice Professional Nurse Administrator. The administrator in a program preparing for advanced practice professional nursing shall: (7-1-91)()

i. Hold a master's degree and an earned doctoral degree, one of which is in nursing; and ()

ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. ()

~~06. Notification To Board.~~ Notification to the Board of any major changes in the program or its administration. (7-1-93)

644. FACULTY RESPONSIBILITIES OF THE NURSING EDUCATION FACULTY. Nursing faculty shall be responsible for responsibilities include, but are not limited to the following: (7-1-93)()

~~01. Philosophy And Objectives.~~ Development, implementation and evaluation of the philosophy and objectives of the program. **For Unlicensed Assistive Personnel.** (7-1-93)()

a. Provide theoretical instruction and practice experiences; ()

b. Select, monitor, and evaluate preceptors and the student learning experiences; ()

c. Evaluate student achievement of curricular outcomes related to nursing knowledge and practice; ()

~~02. Curriculum.~~ Development, implementation and evaluation of the curriculum. **For Practical Nurse, Professional Nurse, And Advanced Practice Professional Nurse:** (7-1-93)()

a. Assess, plan, implement, evaluate, and modify the program based on sociological and environmental indicators; ()

b. Design, implement, evaluate, and update the curriculum using a written plan; ()

c. Develop, implement, evaluate, and update policies for student admission, progression, retention,

and graduation in keeping with the policies of the school: ()

- d. Participate in academic advisement and guidance of students: ()
- e. Provide theoretical instruction and practice experiences: ()
- f. Select, monitor, and evaluate preceptors and the student learning experiences: ()
- g. Evaluate student achievement of curricular outcomes related to nursing knowledge and practice: ()
- h. Evaluate teaching effectiveness: ()
- i. Participate in activities that facilitate maintaining the faculty members' own nursing competence and professional expertise in the area of teaching responsibility, including instructional methodology: ()
- j. Participate in other scholarly activities, including research, consistent with institutional and professional requirements; and ()
- k. Participate in the organization of the program and institution. ()

03. ~~Criteria.~~ Development of criteria for student admission, progression, and graduation. (7-1-93)

04. ~~Clinical Learning Experiences.~~ Selection, assignment, supervision and evaluation of clinical learning experiences. (7-1-93)

05. ~~Student Achievement.~~ Evaluation of student achievement on the basis of curriculum objectives as related to both nursing knowledge and practice. (7-1-93)

06. ~~Academic Advisement.~~ Academic advisement of students. (7-1-93)

07. ~~Participation In Activities.~~ Participation in activities of the total faculty of the parent institution. (7-1-93)

08. ~~Maintenance And Improvement.~~ Maintenance and improvement of nursing competence in their area(s) of responsibility. (7-1-93)

645. ~~FACULTY ORGANIZATION, EDUCATIONAL PROGRAM.~~

01. ~~Purpose.~~ The faculty shall be organized so that they can develop, implement, and evaluate the nursing program. (11-28-84)

02. ~~Regular Meetings.~~ There shall be regular meetings of the faculty organization. (11-28-84)

03. ~~Minutes Of Meetings.~~ Minutes of all meetings shall be kept on file; minutes shall reflect issues, discussion and actions taken. (7-1-91)

04. ~~Size Of Faculty.~~ Faculty organization, records and documentation shall be appropriate to the faculty size. (7-1-91)

646.5 -- 659. (RESERVED).

660. STUDENTS, EDUCATIONAL PROGRAM.

01. ~~Admission Without Discrimination.~~ Students shall be admitted without discrimination as to age, creed, ethnic origin, marital status, race, or sex. **For Unlicensed Assistive Personnel. Student policies should facilitate mobility and articulation and be consistent with the educational standards of the parent institution.**

(11-28-84)()

~~02. **Admission, Progression, And Graduation.** Requirements for admission, readmission, progression, retention, dismissal and graduation shall be available to the students in written form and shall be consistent with those of the parent institution. Requirements specific to nursing students may be adopted if justified by the nature and purposes of the nursing program. **For Practical Nurses, Professional Nurses, And Advanced Practice Professional Nurses.** Student policies should facilitate mobility and articulation and be consistent with the educational standards of the parent institution. Student policies in relation to the following must be in writing and available:~~ (11-28-84)()

- a. Admission, readmission, progression, retention, graduation, dismissal, and withdrawal; ()
- b. Physical, mental health, and legal standards required by affiliate agencies and the law governing the practice of nursing; ()
- c. Student responsibilities; ()
- d. Student rights and grievance procedures; and ()
- e. Student opportunity to participate in program governance and evaluation. ()

~~03. **Student Participation.** Students shall have the opportunity to participate in the development, conduct, and evaluation of the nursing education program.~~ (11-28-84)

~~04. **Student Health.** Students shall be required to maintain a level of personal health that will not jeopardize patient/client welfare.~~ (11-28-84)

(BREAK IN CONTINUITY OF SECTIONS)

680. CURRICULUM, EDUCATIONAL PROGRAM.

~~01. **Curriculum Consistency.** The curriculum shall reflect the philosophy, organizing framework, purpose and objectives of the nursing education program, and shall be consistent with the law governing the practice of nursing. **Student Competence.**~~ (11-28-84)()

- a. Students enrolled in a program for unlicensed assistive personnel shall be provided the opportunity to acquire and demonstrate the knowledge, skills, and abilities for safe and effective practice. ()
- b. Students enrolled in a practical nursing program shall be provided the opportunity to acquire and demonstrate the knowledge, skills, and abilities for safe and effective nursing practice. The graduate from a practical nurse program is responsible and accountable to practice according to the standards of practice for the licensed practical nurse as defined in Section 401. ()
- c. Students enrolled in a professional nurse program shall be provided the opportunity to acquire and demonstrate the knowledge, skills, and abilities for safe and effective nursing practice. The graduate from a professional nurse program is responsible and accountable to practice according to the standards of practice for the professional nurse as defined in Section 460. ()
- d. Students enrolled in advanced practice professional nursing education shall be provided the opportunity to acquire and demonstrate the knowledge, skills, and abilities for safe and effective advanced nursing practice. The graduate from an advanced practice professional nursing program is responsible and accountable to practice according to the standards for the advanced practice nursing role for which the nurse is prepared as defined in Section 280. ()

~~02. **Credit Ratio.** The ratio between nursing and non nursing credit should allow for adequate preparation for the safe and effective practice of nursing. Ratio justification shall be based on program goals and outcomes. **Program Evaluation.** The program shall have a plan for total program evaluation that includes, but is not limited to the following: organization and administration, faculty, students, curriculum, and performance of graduates. Implementation of the plan and use of findings for relevant decision making must be evident.~~ (7-1-91)()

~~03. **Consistency With Philosophy And Objectives.** The length, organization, content, instructional methods and placement of courses shall be consistent with the philosophy and objectives of the program and of the parent institution.~~ (11-28-84)

~~04. **Measurable Objectives.** There shall be measurable outcome objectives for each nursing course that reflect the philosophy and objectives of the educational program.~~ (7-1-91)

~~05. **Selection Of Learning Experiences.** Learning experiences and methods of instruction shall be selected to fulfill the stated objectives for each nursing course.~~ (11-28-84)

~~06. **Concurrent Experiences.** Related clinical experiences shall be provided concurrently with theory to the greatest extent possible.~~ (7-1-91)

~~07. **Evaluation By The Faculty.** All aspects of the educational program shall be evaluated on a systematic basis by the faculty with provision for student participation.~~ (11-28-84)

681. CURRICULUM REQUIREMENTS FOR NURSING EDUCATION PROGRAMS.

~~01. **Practical Nursing Programs.** All programs in practical nursing shall include the following: **General Curriculum.** The curriculum for licensed practical nurses, professional nurses, and advanced practice professional nurses shall:~~ (11-28-84)()

~~a. Content and clinical practice in medical-surgical, maternal, child health, and geriatric nursing which may be integrated, combined, or presented as separate courses. Clinical application shall be in acute and long term care settings. The curriculum for unlicensed assistive personnel shall be administered by the State Division of Professional-Technical Education. Be planned, implemented, and evaluated by the faculty with provisions for student input;~~ (11-28-84)()

~~b. Content from the areas of anatomy, physiology, microbiology, chemistry, nutrition and pharmacology which may be integrated, combined, or presented as separate courses. Reflect the mission and purpose of the nursing education program;~~ (11-28-84)()

~~c. Be organized logically and sequenced appropriately; ()~~

~~d. Facilitate articulation for horizontal and vertical mobility; ()~~

~~e. Have a syllabus for each nursing course; ()~~

~~f. Have written, measurable terminal outcomes that reflect the role of the graduate; and ()~~

~~g. Be responsive to changing healthcare environment. ()~~

~~e. Concepts of communication, growth and development, mental health and illness, and cultural diversity. (11-28-84)~~

~~d. Instruction in ethical behavior, nursing history and trends, and legal aspects of nursing. (11-28-84)~~

~~e. Concepts of the nursing process shall be taught and applied in acute and long term care settings. (11-28-84)~~

02. ~~Associate Degree Nursing.~~ All associate degree nursing programs shall include the following: Curriculum Changes. Major curriculum changes, as defined in Section 700, must be submitted to the Board for approval prior to implementation. (11-28-84)()

a. ~~Theory and practice in nursing that encompasses the attainment and maintenance of physical and mental health and the prevention of illness for individuals throughout the life process. Concepts of the nursing process shall be taught and applied in acute and long term care settings. (11-28-84)~~

b. ~~Instruction in the physical and biological sciences including content drawn from the areas of anatomy and physiology, chemistry, physics, micro biology, pharmacology and nutrition. These may be integrated, combined or presented as separate courses. (11-28-84)~~

e. ~~Instruction in the social and behavioral sciences, including content drawn from the areas of communication, psychology, sociology, human development, cultural diversity and such other areas as necessary to meet the institutional requirements for the associate degree. (11-28-84)~~

d. ~~Concepts of ethics, nursing history and trends, and the professional and legal aspects of nursing to include the delegation of nursing functions. (7-1-91)~~

e. ~~Concepts of patient care management. (7-1-91)~~

03. Baccalaureate Degree Programs. All baccalaureate degree programs shall include the following: Practice Sites. The program must have sufficient correlated practice experiences to assure development of nursing competencies. (11-28-84)()

a. ~~Theory and practice in nursing that encompasses the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life process. Concepts of the nursing process will be taught in acute, long term care and community settings. (11-28-84)~~

b. ~~Instruction in physical and biological sciences, including content drawn from the areas of anatomy and physiology, chemistry, physics, microbiology, pharmacology and nutrition, provides a basis for the upper division major in nursing. Content may be integrated, combined, or presented as separate courses. (11-28-84)~~

e. ~~Instruction in the social and behavioral sciences, including content drawn from the areas of communication, psychology, sociology or anthropology, human development, cultural diversity and such other areas as necessary to meet the institutional requirements for a baccalaureate degree. (11-28-84)~~

d. ~~Concepts of nursing research, ethics, nursing history and trends, and the professional and legal aspects of nursing. (11-28-84)~~

e. ~~Theory and clinical practice in the areas of leadership, management, and decision-making. (11-28-84)~~

04. Unlicensed Assistive Personnel Curriculum: ()

a. The curriculum shall reflect classroom hours and clinical hours sufficient to accomplish stated objectives. ()

b. Each unit of instruction shall have behaviorally stated objectives. ()

c. Clinical (skills) experience shall be selected to enable achievement of the defined objectives.()

d. Within the identified hours of training, at least sixteen (16) hours of classroom instruction shall be provided prior to direct involvement with a facility resident, and shall include the following topics: communication and interpersonal skills, infection control, safety/emergency procedures, promoting residents' independence, and respecting residents' rights. ()

e. Content that is included in Units 1-3 of the approved curriculum must be taught before the basic care tasks defined in Subsection 400.04 can be done for residents. ()

f. Curriculum must include content and clinical practice in basic nursing skills, personal care skills, mental health and social service needs, basic restorative services, and residents' rights. ()

g. Clinical training component. Training programs must use a skills checklist to document students' performance of all skills taught in the program. Upon program completion, a copy of the performance record will be given to the student. ()

05. Practical Nurse Curriculum. ()

a. The curriculum includes nursing didactic content and practice experience that establish the knowledge base for demonstrating beginning competency; and ()

b. The curriculum includes content necessary to prepare the graduate for practice consistent with defined standards for practice as defined in Section 401; and ()

c. The curriculum includes integrated, combined or separate coursework from the following academic disciplines and meets requirements for the credential with a major in practical nursing: ()

i. Communication and information systems concepts; ()

ii. Behavioral and social science concepts that serve as a framework for understanding growth and development throughout the life cycle, human behavior, interpersonal relationships, and cultural diversity; ()

iii. Physical and biological sciences concepts that help the students gain an understanding of the principles of scientific theory and computation; ()

iv. Nursing concepts that provide the basis for understanding the principles of nursing care and appropriate and sufficient correlated nursing practice experiences to assure development of competencies as a member of the interdisciplinary team; ()

v. Concepts regarding legal, managerial, economic, and ethical issues related to responsibilities of the practical nurse; and ()

vi. Courses to meet the school's general education requirements for the credential awarded. ()

06. Professional Nurse Curriculum. ()

a. The curriculum includes nursing didactic content and practice experience that establish the knowledge base for demonstrating beginning competency related to: ()

i. Nursing practice; ()

ii. Systems thinking and interdisciplinary team function; and ()

iii. The promotion and restoration of optimal health in clients across the lifespan in a variety of primary, secondary and tertiary settings focusing on individuals, groups, and communities. ()

b. The curriculum includes content necessary to prepare the graduate for practice consistent with defined standards for practice as defined in Section 460; and ()

c. The curriculum includes integrated, combined or separate coursework from the following academic disciplines and meets requirements for a degree with a major in nursing: ()

i. Concepts in written and oral communication, values clarification, scientific inquiry, computation,

and informatics. ()

ii. Behavioral and social sciences concepts that serve as a framework for the understanding of growth and development throughout the life cycle, human behavior, interpersonal relationships, cultural diversity, and economics related to the social context of healthcare; ()

iii. Physical and biological sciences concepts that help the student gain an understanding of the principles of scientific theory; ()

iv. Arts and humanities concepts that develop the aesthetic, ethical, and intellectual capabilities of the student; ()

v. Concepts regarding research, nursing theory, legal and ethical issues, trends in nursing, principles of education and learning, and professional responsibilities; ()

vi. Experiences that promote the development of leadership and management skills, interdisciplinary and professional socialization; and ()

vii. Courses to meet the school's general education requirements for the academic degree. ()

07. Advanced Practice Professional Nursing Program Curriculum. ()

a. The curriculum includes content necessary to prepare the graduate for practice consistent with defined standards for advanced nursing practice; and ()

b. The curriculum shall include content from nursing and related academic disciplines and meet requirements for a graduate degree with a major in nursing; ()

i. Advanced theory and research in nursing, biological and behavioral sciences, interdisciplinary education, cultural diversity, economics and informatics sufficient to practice as a graduate prepared professional nurse; ()

ii. Legal, ethical, and professional responsibilities of a graduate prepared professional nurse; ()

iii. Didactic content and supervised practice experience relevant to the nursing focus of the graduate specialty; ()

iv. Courses to meet the school's requirements for the master's degree. ()

(BREAK IN CONTINUITY OF SECTIONS)

700. CURRICULUM CHANGE, EDUCATIONAL PROGRAM.

Any proposed curriculum revision that involves major changes in the philosophy and objectives, significant course content changes, or changes in the length of the program, shall be submitted to and approved by the Board prior to implementation. Minor curriculum changes such as redistribution of nursing course content or slight increase or decrease in the number of theory and clinical hours must be reported to the Board in the Annual Report, but do not require Board approval. Curriculum revision that alters existing articulation agreements must be approved by the State Board of Education prior to implementation. (11-28-84)()

(BREAK IN CONTINUITY OF SECTIONS)

~~730. REQUIREMENTS FOR SELECTION AND USE OF COOPERATING AGENCIES, EDUCATIONAL PROGRAM PRACTICE SITES.~~

~~The program must have sufficient practice experiences to assure development of nursing competencies. ()~~

~~01. **Approval By Other Agencies.** Cooperating agencies shall be approved by the appropriate recognized accreditation, evaluation or licensing body, to be eligible for Board approval as appropriate. Cooperating agencies for clinical practice used for programs preparing unlicensed assistive personnel shall be approved by the Board, based on Board-approved criteria. (11-28-84)()~~

~~02. **Approval By Board.** All clinical facilities, agencies, or institutions utilized by the educational program shall be approved by the Board of Nursing. **Evaluation By Faculty.** Agencies used to provide practice experiences must be evaluated periodically by faculty. (11-28-84)()~~

~~03. **Written Agreements.** Current written agreements with cooperating agencies shall be on file and shall be reviewed and renewed on a regular basis. Agreements shall include responsibilities and privileges of each party and termination clauses that protect the learning needs of students. **Sufficient Experiences.** There must be sufficient practice experiences to assure the development of nursing competencies consistent with the level of preparation. (11-28-84)()~~

~~04. **Planned Communication.** Means shall be provided for ongoing and periodic planned communication between faculty and agency administrative personnel and between faculties of all educational programs using the agency; the responsibility for coordination shall be specifically identified. **Written Agreements.** There must be written agreements with cooperating agencies that are reviewed and revised periodically. (7-1-91)()~~

~~05. **Relationship To Faculty And Students.** There shall be evidence that the agency's personnel understand their relationship to faculty and students. **Faculty Supervision.** Sufficient faculty must be employed to supervise student practice experiences. An appropriate student to faculty ratio must be maintained to provide for safety and protection of patients, students, and faculty members. (7-1-91)()~~

~~06. **Nursing Service Administrator.** The nursing service administrator shall be a licensed professional nurse with credentials of education, experience, and demonstrated ability appropriate for the position responsibilities. It is recommended that the nursing service administrator have no less than a baccalaureate degree in nursing. **Planned Communication.** Means shall be provided for ongoing and periodic planned communication between faculty and agency administrative personnel and between faculties of all educational programs using the agency; the responsibility for coordination shall be specifically identified. (11-28-84)()~~

~~07. **Numbers Of Nursing Personnel.** There shall be sufficient numbers of nursing personnel to meet the needs of patients and to serve as role models for students. (11-28-84)~~

~~08. **Adequate Preparation.** Nursing personnel shall have adequate preparation for their roles. (11-28-84)~~

~~09. **Personnel Policies.** There shall be clearly defined written personnel policies. (11-28-84)~~

~~10. **Job Descriptions.** There shall be job descriptions for all categories of nursing personnel that are consistent with the legally defined scope of practice. (11-28-84)~~

~~11. **Orientation And Inservice Programs.** There shall be a planned program for orientation, and inservice programs for nursing personnel. (11-28-84)~~

~~12. **Written Philosophy.** A written philosophy of patient care shall be utilized to give direction to nursing care activities. (11-28-84)~~

~~13. **Policy/Procedure Manuals.** There shall be complete and current policy/procedure manuals. (11-28-84)~~

- ~~14. **Quality Assurance.** A quality assurance program shall be implemented. (11-28-84)~~
- ~~15. **Nursing Process.** Nursing process is documented for each person receiving care. (7-1-91)~~
- ~~16. **Adequate Number Of Patients.** There shall be an adequate number of patients demonstrating a sufficient variety of nursing care needs to meet the objectives established by the faculty for the experience. (11-28-84)~~
- ~~17. **Reference Materials.** There shall be appropriate reference materials in the clinical areas such as hospital procedure and policy manuals, medical dictionary, and current texts specific to the clinical specialty. (7-1-91)~~

~~**731. CRITERIA FOR FACILITIES OF THE PARENT INSTITUTION, EDUCATIONAL PROGRAM.**~~

- ~~01. **Parent Institution Approval.** The parent institution shall be approved by the appropriate approving agency, such as the State Board of Education/Vocational Education, or Northwest Accrediting Association. (11-28-84)~~
- ~~02. **Resources.** Resources, facilities, and services that are needed for effective implementation of the nursing education program shall be provided by the parent institution. (11-28-84)~~
- ~~03. **Physical Facilities.** The physical facilities of the parent institution shall include offices for the nursing administrator, faculty members, and staff; classrooms and laboratories adequate for the numbers of students; and adequate space for instructional equipment and materials. (11-28-84)~~
- ~~04. **Library Resources.** Library space and holdings shall be adequate in number and kinds for the nursing education program and shall be accessible to students and faculty. (11-28-84)~~
- ~~05. **Evaluation.** Faculty shall evaluate resources, facilities and services on a regular basis. (11-28-84)~~

~~**732. -- 759. (RESERVED);**~~

~~**760. EDUCATION PROGRAM CRITERIA FOR NURSE PRACTITIONER PROGRAMS.**~~

- ~~01. **Accreditation And Requirements For Approval.** Any program of study preparing a nurse practitioner must be accredited by a national accrediting body recognized by the Idaho Board of Nursing, or must meet the criteria set forth below. (11-28-84)~~
- ~~02. **Periodic Review.** Each program in Idaho shall be subject to periodic review to determine whether standards for approval are being maintained. (11-28-84)~~
- ~~03. **Collegiate Program.** The program of study shall be offered by or affiliated with an accredited college or university. (11-28-84)~~
- ~~04. **Program Of Study.** The program of study shall show evidence of a curriculum directed toward preparing licensed professional nurses for an expanded nursing role. (11-28-84)~~
- ~~05. **Length Of Program.** The nurse practitioner program shall extend for at least one (1) academic year, consist of at least four (4) months, in the aggregate, of class-room instruction, and shall include both a didactic and a preceptorship phase. (11-28-84)~~
- ~~06. **Funding.** Adequate funds shall be allocated by the controlling institution to carry out the stated purpose of the program. (11-28-84)~~
- ~~07. **Philosophy And Objectives.** The philosophy and objectives shall be clearly stated in behavioral terms and describe the competencies/capabilities of the graduates. (11-28-84)~~
- ~~08. **Facilities.** Clinical, classroom, and library facilities shall be adequate for the needs of the program.~~

(11-28-84)

~~09. **Records.** Records of the program, philosophy, objectives, curriculum, faculty, students and graduates shall be maintained systematically and be retrievable.~~ (11-28-84)

~~10. **Evaluation.** Provision shall be made for periodic program evaluation by the faculty and students. Periodic evaluations shall be done to measure the student's knowledge of content and the student's clinical competency.~~ (11-28-84)

~~761. **FACULTY IN EDUCATION PROGRAMS FOR NURSE PRACTITIONERS.**~~

~~01. **Adequate Number.** There shall be an adequate number of qualified faculty available to develop and implement the program, to achieve the stated objectives, and to supervise and evaluate clinical experience.~~ (11-28-84)

~~02. **Program Director.** The nursing director of the program shall have the minimum of a master's degree in nursing and experience in teaching nursing.~~ (11-28-84)

~~03. **Professional Faculty.** Professional faculty members shall be currently licensed to practice their profession.~~ (11-28-84)

~~04. **Academic Faculty.** Academic faculty shall be qualified by degree and experience for the discipline they are teaching.~~ (11-28-84)

~~05. **Preceptors.** Preceptors shall be either licensed professional nurses approved as nurse practitioners, or qualified licensed physicians.~~ (7-1-91)

~~06. **Preceptor Participation.** Preceptors shall participate in teaching, supervising, and evaluating students.~~ (11-28-84)

~~762. **STUDENT POLICIES IN EDUCATION PROGRAMS FOR NURSE PRACTITIONERS.**~~

~~01. **Admission And Withdrawal.** Admission criteria shall be clearly stated and available in written form. Policies for withdrawal, dismissal, and re-admission shall be available.~~ (11-28-84)

~~02. **Graduation.** Graduation shall be based upon satisfactory completion of the didactic and preceptor portions of the program.~~ (11-28-84)

~~763. **CURRICULUM IN EDUCATION PROGRAMS FOR NURSE PRACTITIONERS.**~~

~~01. **Consistency.** The course content, length, methods of instruction, and learning experiences shall be consistent with the philosophy and objectives of the program.~~ (11-28-84)

~~02. **Program Content.** The program shall include, but need not be limited to, theory and supervised clinical experience in comprehensive physical and psychosocial assessment; interviewing and communication skills; eliciting, recording and maintaining a health history; interpreting laboratory findings; initiating and modifying selected therapies; initiating and providing emergency treatments; assessing community resources; making referrals to appropriate professionals or agencies; providing instruction and counseling to individuals, families and groups in the areas of health promotion and maintenance.~~ (11-28-84)

~~03. **Additional Program Content.** The program shall include content relating to role realignment, legal implications of expanded practice and the health care delivery system.~~ (11-28-84)

~~764-899. (RESERVED).~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS
DOCKET NO. 24-0101-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Limits use of a seal on drawings not personally prepared by the architect or his staff; ties definition of contract administration to contract used by the owner and architect; and change reference to the handbook that provides information for minimum qualifications for applicants applying for examination.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0101-9901

300. APPLICATION (Rule 300).

01. Licensure By Examination. (7-1-93)

a. Application for examination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (3-18-99)

b. Applicants shall secure and furnish all information required by the uniform application form and shall include the following: (7-1-93)

- i. Certified transcript of all subjects and grades received for all college courses taken. (7-1-93)
- ii. If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. (7-1-93)
- iii. Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (7-1-93)
- iv. A recent two inch by three inch (2" x 3") photograph taken within the previous year for identification purposes. (7-1-93)
- v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)
- c. Application shall not be presented to the Board or evaluated by the Board until all required information is furnished and the required fee is paid. (7-1-93)
- d. To be considered by the Board, properly completed applications must be received by the Executive Secretary at least thirty (30) days prior to the first day of the month in which the Board will meet. (7-1-98)
- e. Qualifications of Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the current NCARB ~~Circular of Information #1, Appendix "A" handbook for architects and interns~~ where such ~~Circular of Information handbook~~ does not conflict with Idaho law. After June 1, 1993, all applicants for the ARE must have completed the Intern Development Program (IDP) requirements. (7-1-97)()

02. Licensure By Endorsement - Blue Cover. (7-1-97)

- a. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (7-1-97)
- b. Seismic knowledge requirements for endorsement applicants. Each applicant for license under endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements: (7-1-97)
 - i. "I have passed the examinations in Building Construction and Structural Design of the Western Conference of State Architectural Registration Boards in June 1963 or since and/or the NCARB in 1965 or since." (7-1-97)
 - ii. "I am registered in the State of _____ in 19__ , where competence in seismic was a requirement for registration since _____ , 19__ ." (7-1-93)
 - iii. Certification of the successful completion of the seismic seminar approved by the National Conference of Architectural Registration Boards. (7-1-93)
- c. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination. (7-1-93)

03. Licensure By Endorsement - Equivalency. (7-1-97)

- a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (7-1-97)

b. Applicant shall comply with all requirements set forth in Subsections 300.01, 300.02.b.i., 300.02.b.ii., 300.02.b.iii., and 300.02.c. (7-1-97)

c. Applicant shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (7-1-97)

d. Applicant shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

401. -- 4409. (RESERVED).

410. USE OF AN ARCHITECT'S SEAL (Rule 410).

An architect's seal shall be placed on all technical submissions prepared personally by the architect or prepared by his staff under the architect's direction and personal supervision. An architect shall only seal those documents prepared by another licensed professional where the architect has both control over and detailed professional knowledge of the work or matters contained in said document. Nothing in this rule shall limit an architect's responsibility to the owner for the work of other licensed professionals to the extent established by contract between the owner and architect.

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411. -- 449. (RESERVED).

550. INTERPRETATIONS (Rule 550).

The following interpretation of Laws relating to Architecture in Idaho Code are hereby made by the Board. (7-1-93)

01. Reference To Building. Under Section 54-309, reference to any building wherein the safeguarding of life, health, and property is concerned means any building which public or private sector of population may use or any building into which the public or private sector of the population is invited either as spectators, visitor, student, guest, or employee, or any building where the private or public sector of the population conducts business. (7-1-93)

02. Administration Of Construction Contracts. Under Section 54-309, paragraph 1-c, "Practice of Architecture," Section 54-305, paragraph 1-f, Grounds for Discipline, the words "Administration of Construction Contracts", in accordance with current knowledge and usage in the profession means "Administration of the Contract" as defined in the ~~current edition of the General Conditions of the~~ relevant Contract for Construction (~~AIA Document A201~~) or Owner-Architect Agreement as published by the American Institute of Architects.

(7-1-93)()

03. Professional Standards. Under Section 54-305, an architect shall be completely objective and truthful in all professional reports, statements, or testimony and shall include therein all relevant and pertinent information known to him. (7-1-93)

04. Direct Supervision. Direct supervision is that degree of supervision by a licensed architect overseeing the work of another whereby the architect has both control over, and detailed professional knowledge of, the work prepared under his or her supervision. The primary contract or agreement for the project must be between the architect of record and the entity for which architectural services are provided, not between the person being supervised and the entity for which the services are provided. (7-1-98)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS
DOCKET NO. 24-0201-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-521, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Provide equivalent of tenth grade education to be any test approved by the United States Department of Education; delete language which currently exists in the law regarding student daily hours; delete requirement of schools maintaining monthly records on Bar-40 and Bar-41 forms; delete that schools must submit monthly Bar-40 forms; add schools shall maintain student records for a period of two years; add schools may file a letter of explanation as to why student hours are not verified by the school.

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: To allow the board to take advantage of other means of insuring minimum education equivalency that have not been previously allowed by rule; to change the reporting procedure for student training requirements and afford schools an additional option in reporting a students training.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 18th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0201-9901

250. EDUCATIONAL REQUIREMENTS AND EQUIVALENCY (Rule 250).

01. High School Education. The Idaho law as amended by the 1959 Session of the Idaho State Legislature requires that an applicant for license under Sections 54-506 and 54-512, Idaho Code, show proof of having at least two (2) years of high school education. This provision has been interpreted as satisfactory completion of the tenth grade - eligibility to commence the eleventh grade. (7-1-98)

02. General Equivalent Tenth Grade Education Development Tests. The Board has selected the ~~General Education Development Tests~~ will accept any test approved by the ~~Idaho~~ United States Department of Education for the purpose of determining equivalent tenth grade education. (7-1-98)(7-12-99)T

03. Test Fees. A fee is required for the examination. If an applicant takes the G.E.D. tests and receives an average cutting score of not less than thirty-five (35), with no category below a cutting score of thirty (30), he or she is considered to have the equivalent of a tenth grade education. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

500. SCHOOLS (Rule 500).

01. Barber College Instructor Requirements. A barber college must be under the direct, personal supervision of a registered barber instructor at all times. (7-1-93)

02. Out Of State Barber College Requirements. Barber colleges from out-of-state applying for approval must have licensed instructors in their schools as required by the Idaho Barber Law. If the states where the colleges are located do not require a license or an examination for their instructors, the applicants must have their instructors take the Idaho instructor's examination before colleges will be approved. This examination will not qualify successful applicant for an Idaho instructor's certificate, unless applicant is also an Idaho registered barber. (7-1-93)

03. Barber College Maximum Student Enrollment. No barber college shall enroll more than ten (10) students until the Board finds that such college has a sufficient number of patrons to provide the training for all students in general barbering practice required by these rules. No barber college shall increase its enrollment above the ten (10) student limitation without the approval of the Board. (7-1-93)

04. Identification. (7-1-93)

a. Each barber college shall advertise to the public that it is a barber college by displaying a sign which shall contain in letters not less than six inches (6") in height the words "Barber College" or "Barber School". (7-1-93)

b. Each barber college shall display in a conspicuous place on its premises a sign stating that the work done therein is done exclusively by students. (7-1-93)

05. Sanitation. (7-1-93)

a. Each barber college shall post in a conspicuous place on its premises a copy of these rules, and also a copy of the rules governing sanitary conditions of barber shops adopted by the Board. Each college shall require strict compliance by its students to the rules governing barber shops. (7-1-93)

b. Any violation of Section 54-507, Idaho Code, or these rules by a barber college shall be cause for revocation by the Board of its general approval of such college. Any action by the Idaho State Barber Board for the revocation of a barber schools approval shall be in accordance with the provisions set forth in Sections 54-507 and 54-521, Idaho Code. No barber college shall continue to engage in the business of or represent itself as being a barber college if its approval by the Board has been revoked. (7-1-93)

c. Each barber college shall have adequate ventilating and lighting equipment approved by the Board. (7-1-93)

d. Each barber college shall provide one (1) toilet for men and one (1) toilet for women. (7-1-93)

06. Practical Training Room. The floor of the practical training room shall be covered with tile or any type of first grade linoleum and shall have available the following equipment and facilities: (7-1-93)

a. One (1) lavatory for each three (3) chairs. (7-1-93)

b. One (1) cabinet for tools and linens for each chair. (7-1-93)

c. One (1) approved soiled towel container with hinged lid or door for each chair. (7-1-93)

d. One (1) sterilization solution container for each chair, adequate in size to accommodate all instruments to be used on each patron. (7-1-93)

e. One (1) mechanical hand vibrator for every ten (10) students or a fraction thereof. (7-1-93)

f. One (1) hair dryer. (7-1-93)

g. One (1) time clock. (7-1-93)

07. Space Required. Each barber college shall have within the premises in which it is located adequate space to accommodate all facilities required by the Board. (7-1-93)

08. Barber Chair Required. Each barber chair in each such college shall be of such construction that it may be readily cleaned and it shall be mechanically workable and in good working order. Space between barber chairs, and the workstand or wall, shall be adequate so that no student will be hampered in the performance of his work. Compliance with the requirements of this subsection shall be subject to the determination of the Board and its approval. (7-1-93)

09. Equipment Requirements. (7-1-93)

a. Classroom - The classroom shall be equipped with sufficient seating capacity for all students attending the classroom and shall have the following equipment: (7-1-93)

i. One (1) lavatory with hot and cold running water for every two (2) barber chairs to be approved for scientific barbering practice classes. (7-1-93)

ii. One (1) blackboard of not less than six feet by three and one-half feet (6 ft x 3 1/2 ft) in size. (7-1-93)

iii. One (1) chart of the skin and hair. (7-1-93)

iv. One (1) chart of the muscles of the head, face and neck. (7-1-93)

v. One (1) chart of the nerves of the head, face and neck. (7-1-93)

vi. One (1) chart of the bones of the head and face. (7-1-93)

vii. One (1) chart of the blood supply to the head and face. (7-1-93)

viii. One (1) standard dictionary. (7-1-93)

ix. One (1) medical dictionary. (7-1-93)

- x. One (1) microscope for the study of bacteria. (7-1-93)
- b. Student equipment requirements: (7-1-93)
- i. Tools. (7-1-93)
- ii. Two (2) clippers - electric. (7-1-93)
- iii. Four (4) brushes. (7-1-93)
- iv. One (1) razor (ejector). (7-1-93)
- v. Three (3) shears - One of which must be a thinning shear. (7-1-93)
- vi. One (1) smock. (7-1-93)
- vii. Each barber college shall furnish each student upon enrollment, a copy of Section 54-507, Idaho Code, and a copy of State of Idaho, Board of Barber Examiners, Bureau of Occupational Licenses, "Sanitary Rules for Barber Shops and Schools". (7-1-93)
- 10. Textbook.** (7-1-93)
- a. Schools shall use texts that cover all phases of barbering. (7-1-93)
- 11. Curriculum - Hours - Theory - Work Inspected - Attendance - School Examination.** (7-1-93)
- a. Each barber college shall meet the requirements for admission of students as set forth in Sections 54-506 and 54-507, Idaho Code, and in these rules. (7-1-93)
- b. Each barber college curriculum shall consist of not less than seventeen hundred (1700) hours. Students preparing for the Idaho Registered Barber examination must complete seventeen hundred (1700) hours within a period of ten and one half (10 1/2) months before graduating. The average daily schedule of each student shall consist of the following: One (1) clock hour of theoretical study and/or one (1) hour of clinical demonstration in a classroom. Seven (7) hours of general barbering practice. (7-1-93)
- c. Each barber college shall submit a daily schedule of its course of study to the Board for its approval and shall post a copy of such approved schedule in its general clinic where same can be easily read by all students. (7-1-93)
- d. Each barber college shall require attendance in all subjects ~~and no student shall be permitted to spend more than eight (8) clock hours in the college in any one (1) day. Daily hours are to comply with Section 54-507, Idaho Code.~~ No Patron shall be released from a chair after being served by a student until all the work performed by the student has been thoroughly inspected and approved by an instructor. ~~(7-1-93)~~(7-12-99)T
- e. Each barber college shall issue a certificate of graduation to each student after satisfactory completion of one thousand seven hundred (1700) hours. (7-1-93)
- f. Any student who fails to pass the examination conducted by the Board shall be required to complete a further course of study and training of three (3) months of not less than five hundred (500) hours in an approved school before being eligible to take the examination again. (7-1-93)
- g. Persons who obtain training in an approved school of barbering, but who did not complete the course of training and/or did not obtain a license in Idaho, will lose credit for five hundred (500) hours after one (1) year has lapsed since the termination of such training, and thereafter an additional two hundred fifty (250) hours for each additional year or portion thereof. (7-1-93)
- 12. Records Required Of Colleges Of Barbering.** (7-1-93)

a. Schools shall maintain monthly records on forms provided by the Bureau of Occupational Licenses (Form Bar 40 & Bar 41) of training. (7-1-93)(7-12-99)T

b. Schools submit a copy of the Bar 40 form to the Bureau of Occupational Licenses on or before the tenth day of the month following the month recorded. (7-1-93)

eb. The aforementioned records be signed and dated by the student and instructor and be made available for inspection at any time. The school shall maintain these records for a period of two (2) years. (7-1-93)(7-12-99)T

ec. The information shown on the monthly record forms is to be transferred to Form Bar-41, Student Record of Instruction, to be filed with application for license or upon termination of training the board. (7-1-93)(7-12-99)T

ed. Schools must inform the Bureau of Occupational Licenses of the names of all instructors employed in said schools, and also notify said bureau any time such instructors are terminated. (7-1-93)

fe. Each school will be inspected periodically by an agent of the Bureau of Occupational Licenses. (7-1-93)

gf. If a student is absent from training for a period of thirty (30) consecutive calendar days or more they are considered to have discontinued their course of training. When a student discontinues a course of training Form Bar 41 must be completed and submitted to the Bureau of Occupational Licenses together with the student permit. When a student's course of training at a school has been completed or terminated, the completed operations, number of classroom hours and practical training are to be totaled by the school on the Record of Instruction Form. This form is to be filed with the board by the school within thirty (30) days of the completion or termination of training or a letter of explanation filed with the board by the school as to why student's hours are not verified by the school, together with the student permit. (7-1-93)(7-12-99)T

hg. When a student resumes training after they have been terminated, they are required to file a new application, pay an additional fee and receive a permit to practice as a student. (7-1-93)

ih. Records of training shall be maintained by the approved barber college wherein students are being trained. The number of required operations on the Monthly Record Form (Form Bar-40) and Student Record of Instruction (Form Bar-41) are as follows: (7-1-93)

i. Haircut - Eight hundred (800). (7-1-93)

ii. Style/Blow dry (Does not include haircut) - Two hundred (200). (7-1-93)

iii. Shampoo - Two hundred fifty (250). (7-1-93)

iv. Permanent Wave - Thirty-five (35). (7-1-93)

v. Shave or Beard Trim - Twenty-five (25). (7-1-93)

vi. Facial or Massage - Twenty (20). (7-1-93)

vii. Color/Bleach/Rinse - Ten (10). (7-1-93)

viii. Hair or Scalp Treatment - Twenty-five (25). (7-1-93)

ix. Curling Iron - Twenty (20). (7-1-93)

ji. Hygiene and Sanitation shall be taught on a continuing basis and indicated on the report form by a grade. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS
DOCKET NO. 24-0301-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 18, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-707, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Increase application fee to \$250; delete obsolete rules regarding examination; add that it is the applicant's duty to take and pass the national board examinations.

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: To delete obsolete rules regarding the examination.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The fee being established is as stated above in the descriptive summary. Statute authorizing this fee is Section 54-707, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0301-9901

150. FEES (Rule 150).

01. Application Fee. Application Fee (includes original license) - ~~One~~ Two hundred fifty dollars (\$~~102~~250). ~~(7-1-93)(8-18-99)T~~

02.	Examination Fee. Examination Fee (in addition to application fee) — One hundred fifty dollars (\$150).	(7-1-93)
03.	Reexamination Fee. Reexamination Fee — One hundred fifty dollars (\$150).	(7-1-93)
042.	Annual Renewal Fee. Annual Renewal Fee - One hundred dollars (\$100).	(7-1-93)
053.	Inactive License. Inactive License - Fifty dollars (\$50).	(7-1-93)
064.	Inactive. Inactive (retired, age sixty-five (65) and over) License - Five dollars (\$5).	(7-1-93)
075.	Temporary Permit Fee. Temporary Permit Fee - Fifty dollars (\$50).	(7-1-93)
086.	Non-Refundable. All fees are non-refundable	(7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

200. EXAMINATIONS (Rule 200).

It shall be the applicant's duty to take and successfully pass the National Board Examinations administered by the National Board of Chiropractic Examiners as specified in these rules. (8-18-99)T

~~01. Time And Place.~~ Examination for licensure will be held semi-annually in January and July, at a time and place designated by the Board in Boise, Idaho. (7-1-93)

~~02. Scope Of Examination.~~ The Idaho examination shall consist of the following subjects: (7-1-93)

- ~~a. X-Ray Interpretation — written. (7-1-93)~~
- ~~b. Adjustive Technique — written and practical. (7-1-93)~~
- ~~c. Jurisprudence — written. (7-1-93)~~
- ~~d. Nutrition — written. (7-1-93)~~
- ~~e. Examinations in the areas listed in Section 54-709(1)(b), Idaho Code not included in this rule are covered by the required written National Board Examination. (7-1-93)~~

~~03. Grading Of Examinations. (7-1-93)~~

- ~~a. An examination is passed when the applicant receives a score of seventy five percent (75%) or above in each subject tested as determined by the board for that examination. Due to the adjustive technique requiring artistic abilities this particular examination will be graded only as pass or fail in the opinion of the examining Board Members. (7-1-93)~~

- ~~b. Failure to pass three (3) or more subject examinations will require the applicant to retake the entire examination. (7-1-93)~~

~~04. Re-Take Examinations. (7-1-93)~~

- ~~a. In reference to Section 54-709, Idaho Code, an applicant for licensure failing a retake examination, must attend at least thirty-six (36) hours of post graduate study through a recognized Council on Chiropractic Education approved school offering the subject matter pertinent to and required by the candidate's area of failure. (7-1-93)~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS
DOCKET NO. 24-0801-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 20, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1106 and 54-1107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Establish a temporary permit which would allow mortician applicant's to work under supervision until passing the examination; establish a temporary permit fee of \$35.

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:

To allow mortician applicant's to work under supervision until passing the examination.

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

The fee being established is as stated above in the descriptive summary. Statute authorizing this fee is Section 54-1107, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0801-9901

251. -- 29974. (RESERVED).

275. TEMPORARY PERMIT (Rule 275).

An individual shall be eligible for a temporary permit to practice as a licensed mortician if such individual meets all other requirements for a mortician license under the Mortician Act or the Board's rules except successful passage of the required examination. An individual shall only be eligible for one (1) temporary permit which shall only be effective from application and its issuance until the results of the next scheduled examination are released. An individual shall only perform those services of a mortician under a temporary permit under the direct and immediate personal supervision of a licensed mortician. (8-20-99)T

276. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

500. FEES (Rule 500).

- 01. Funeral Director.** Funeral Director - Forty dollars (\$40). (7-1-93)
- 02. Funeral Establishment.** Funeral Establishment - Fifty dollars (\$50) (original license/annual renewal). (7-1-93)
- 03. Mortician.** Mortician - Forty dollars (\$40) (original license/annual renewal). (7-1-93)
- 04. Mortician Resident Trainee.** Mortician Resident Trainee - Thirty-five dollars (\$35) (original license/annual renewal). (7-1-93)
- 05. Temporary Permit Fee.** Thirty-five dollars (\$35). (8-20-99)T
- 056. Application Fee.** Application Fee - Fifty dollars (\$50). (7-1-93)
- 067. Examination Fee.** Examination Fee - Fifty dollars (\$50) (in addition to application fee). (7-1-93)
- 078. Certificate Of Authority.** Certificate of Authority - Twenty-five dollars (\$25) (original certificate/annual renewal). (7-1-93)
- 089. Application For Reinstatement.** Application for reinstatement within five (5) years: Twenty-five dollars (\$25) reinstatement fee and annual renewal fees for back years (Reference Section 67-2614, Idaho Code). (7-1-93)
- 0910. Maintenance Of Pre-Need Trust Accounts Fee.** Pursuant to Section 54-1134D., Idaho Code, a fee not to exceed ten percent (10%) of the annual earned interest income may be charged for maintenance of pre-need trust accounts. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.08.02 - RULES OF THE STATE BOARD OF MORTICIANS GOVERNING CREMATORIES IN IDAHO

DOCKET NO. 24-0802-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 20, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1106, 27-303, 27-305, 27-306, 27-307, 27-308 and 27-309, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Add to content of record that each crematory must maintain records on a crematory log as adopted by the board.

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:

To further explain the content of records required by crematories.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0802-9901

300. RECORDS OF CREMATION OF BODIES (Rule 300).

01. Content Of Record. Each crematory must maintain a record of each cremation of human remains, all in the form of that crematory log as adopted by the board, disclosing: ~~(7-1-98)~~(8-20-99)T

- a. The name of the decedent whose body was cremated; and (7-1-98)
- b. The name and address of the person, or names and addresses of the persons, if more than one (1), authorizing the cremation of that body as received by the crematory or its representative; and (7-1-98)
- c. The date upon which that body was received by the crematory; and (7-1-98)
- d. The place where that body was received; and (7-1-98)
- e. A statement as to whether or not the body was embalmed; and (7-1-98)
- f. The date of the cremation of that body; and (7-1-98)
- g. The subsequent disposal of the cremated remains of that body by the crematory. (7-1-98)

02. Responsibility For Record. Such record must be made as soon as reasonably possible after the cremation and must be dated and signed by the owner and operator of the crematory and by the licensed mortician who supervised or was otherwise directly responsible for the cremation. (7-1-98)

03. Inspection By The Board. Such records must be maintained at the crematory and open for inspection at any reasonable time by the Board or its designated representatives. (7-1-98)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.09.01 - RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS
DOCKET NO. 24-0901-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 31, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Establish examination fee shall be that charged by the national examining entity; provide that the examinations shall be held at locations and times determined by the entity administering the national examination; establish the state examination shall be a take-home examination; establish that an applicant shall certify they understand and will abide by the state law and rules governing Nursing Home Administrators and facilities; delete examination fee; establish original application fee to be \$65.

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: Examination/ Application fee were a combined fee. Examination fee has been eliminated to coincide with law change wherein the examination fee is that charged by the national examining entity. Application fee has been decreased to \$65.00.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The fee being established is as stated above in the descriptive summary. Statute authorizing this fee is Section 54-1604, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0901-9901

100. EXAMINATION FOR LICENSURE (Rule 100).

01. Examination Fee. The examination fee ~~must accompany the application for examination to the Bureau of Occupational Licenses for the national examination shall be in the amount as determined by the National Association of Board of Examiners of Nursing Home Administrators and shall be paid to the entity administering said examination.~~ The examination fee is in addition to the license fee provided for in Section 54-1604, sub-paragraph (g), Idaho Code. ~~(7-1-93)(8-31-99)T~~

02. Good Moral Character. Evidence of good moral character on the application form is to be signed by two (2) reputable individuals not more than one (1) of which may be a minister, priest, rabbi, or their equivalent and neither shall be members of the applicant's family. (7-1-93)

03. Content Of Exam, Passing Scores. The examination shall be that issued by the National Association of Board of Examiners of Nursing Home Administrators, and an examination pertaining to Idaho law and rules governing nursing homes. The passing of the National Association of Board of Examiners of Nursing Home Administrators examination shall be the scale score passing point as established by NAB. The passing score of the Idaho Laws and Rules Examination shall be seventy-five percent (75%). (7-1-93)

04. Date And Location Of Exam, ~~Deadline Date For Filing Application.~~ Examinations shall be held ~~on the second Thursday of January, April and October of each year in the office of the Bureau of Occupational Licenses beginning at 9:30 a.m., unless changed to a later date by Board action setting forth justifiable reasons. Applications received by the Bureau of Occupational Licenses after forty five (45) days preceding an examination will be scheduled for a subsequent examination at the location and at the times determined by the entity administering the national examination. The state examination shall be a take-home examination and be returned to the Board upon submission of the application. The applicant shall further certify to the Board that he or she has reviewed, understands, and will abide by the state laws and rules governing Nursing Home Administrators and facilities.~~ ~~(7-1-93)(8-31-99)T~~

05. Suitability Requirements. An applicant shall be deemed to have met the suitability requirements referred to in Section 54-1605, Idaho Code, by compliance with sub-paragraphs 2 or 3 of that section. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

600. FEES (Rule 600).

01. Original License And Annual Renewal Fee. Original Licenses and Annual Renewal Fee - Sixty-five dollars (\$65) (7-1-98)

02. Examination Application Fees. Examination Fee ~~—One hundred fifty dollars (\$150).~~ ~~(7-1-93)(8-31-99)T~~

a. Original application fee sixty-five dollars (\$65). (8-31-99)T

b. Endorsement application fee sixty-five (\$65). (8-31-99)T

03. ~~Reexamination Fee.~~ ~~Reexamination Fee —One hundred dollars (\$100).~~ (7-1-93)

04. ~~Reciprocal Endorsement Fee.~~ ~~Reciprocal Endorsement Fee (in addition to exam fee) —Sixty five dollars (\$65).~~ (7-1-93)

053. Temporary Permit Fee. Temporary Permit Fee - Sixty-five dollars (\$65). (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY
DOCKET NO. 24-1001-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 25, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1509, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Provide for licensure by endorsement if an applicant holds a current license, in good standing, in another state with requirements similar to Idaho including therapeutic privileges; establish that the license in such other state has not been suspended or revoked or subject to any pending or unresolved licensure action; and the applicant has not committed any act which would constitute violation of the Idaho Optometry Act or Board Rules; establish the applicant must pass the "Treatment and Management of Ocular Disease Examination" and the Idaho law examination; establish that the applicant must have been engaged in the practice of optometry continuously for not less than the last five (5) years and delete residency requirement.

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:

Promulgate rules regarding licensure by endorsement to comply with law change effective July 1, 1999.

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

No fees are being increases or imposed as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1001-9901

275. RECIPROCITY ENDORSEMENT (Rule 275).

01. Endorsement. Any person who presents to the Board of Optometry a certified copy of a certificate or license of registration which he holds in good standing in another state or a foreign country, which state or foreign country has ~~the same or~~ similar requirements for licensing or registration as is provided for new applicants in Idaho (including therapeutic privileges), may apply to the Board for the issuance of a license to practice optometry in the state of Idaho ~~providing the person applying meets the requirements for therapeutic certification and passes within twelve (12) months of application both the National Board of Examiners in Optometry Part III Examination and the International Association of Boards of Examiners in Optometry, Inc., "Treatment and Management of Ocular Disease Examination"~~. ~~(1-6-93)~~(8-25-99)T

02. Conditions To Be Granted A License. The right to be granted a license to practice optometry in Idaho is also subject to the following conditions set out below: (7-1-93)

a. ~~That the sister state in the United States affords like privileges and rights to optometrists licensed in this state. The submission of a completed application meeting the requirements of Subsection 175.01 including the applicable fee.~~ ~~(7-1-93)~~(8-25-99)T

b. That the license or certificate of registration of the applicant shall not have been suspended or revoked by any ~~sister~~ state or country or subject to any pending or unresolved licensure action in any state or country. That the applicant must not have committed any act which would constitute a violation of the Optometry Act or Board Rules. ~~(7-1-93)~~(8-25-99)T

c. That the applicant has ~~not previously failed to pass the examination required as a prerequisite to licensing in this state prior to his admission to practice in any other state or country where he may subsequently have been licensed~~ successfully passed the "Treatment and Management of Ocular Disease Examination" administered by the Association of Regulatory Boards of Optometry and completed and returned the state of Idaho law examination. ~~(7-1-93)~~(8-25-99)T

d. That the applicant has been engaged in the practice of optometry continuously for not less than ~~four~~ the last five (5) years. ~~(7-1-93)~~(8-25-99)T

e. ~~That the applicant certifies his intention to reside in and practice optometry in this state within ninety (90) days of licensure.~~ ~~(7-1-93)~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.11.01 - RULES OF THE STATE BOARD OF PODIATRY
DOCKET NO. 24-1101-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 19, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-605, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Correct reference to the American Podiatry Association to the American Podiatry Medical Association; delete requirement of a personal interview of applicants by the board; change the dates of the examination to the third Monday of July; change written national examination to written examination; delete practical and/or oral examination; and change the regular meetings of the board to coincide with the examination dates.

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:

Confer a benefit to applicants by changing the requirements for licensure by examination.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 18th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1101-9901

010. DEFINITIONS AND STANDARDS (Rule 10).

- 01. Act.** The Act means Chapter 143 Idaho session Laws of 1957 codified as Chapter 6, Title 54, Idaho Code, and any amendments thereto. (7-1-93)
- 02. Board.** The Board means the State Board of Podiatry, as prescribed in Section 54-604, Idaho Code. (7-1-93)
- 03. Licensure.** Licensure means the act of acquiring a license to practice podiatry in Idaho. (7-1-93)
- 04. Reputable School.** A "reputable school" of podiatry is, and the term as used in these rules shall mean, an approved podiatry school located within the United States or Canada and designated as such by the council on Education and the American Podiatry Medical Association. ~~(7-1-93)~~(7-19-99)T

(BREAK IN CONTINUITY OF SECTIONS)

400. LICENSURE BY EXAMINATION (Rule 400).

- 01. Examination Of Applicants.** Examination of applicants shall be conducted by the whole board or by its designated agents or representatives. (7-1-97)
- 02. Exam Required For Licensure.** No person shall be licensed to practice podiatry unless he or she shall have passed an examination given by the board. (7-1-98)
- ~~**03. Interview Of Applicants By Board.** The Board will personally interview all applicants to certify their eligibility for licensure on the third Tuesday of January of each year. (7-1-98)~~
- ~~**043. Exam Dates.** Written National Examinations shall be held at Boise, Idaho, the ~~second Tuesday~~ third Monday of ~~June~~ and ~~optional December~~ July and at such other times as the board shall direct. The practical and/or oral examination will follow the candidate interview on the ~~third Tuesday of January,~~ possibly extending through ~~Wednesday and/or Thursday of the third week of January.~~ The practical and/or oral examination shall cover subjects relating to podiatry which the board feels necessary. (7-1-98)(7-19-99)T~~
- 054. Passing Grade.** No applicant shall be granted a license unless he attains a passing grade as determined by the board in all subjects examined and a general average of seventy-five percent (75%) as established in Section 54-606, Idaho Code. (9-28-94)
- 065. Failure Of Exam.** An applicant failing in the examination shall be entitled within six (6) months to a reexamination upon the payment of an additional fee as established in Section 300. (9-28-94)
- 076. Failure Of Reexam.** An applicant who fails the examination on two (2) such reexaminations shall exhaust his privilege under his original application. (9-28-94)
- 087. Original Application.** The original application will be considered null and void after a period of two (2) years from date of original application if no license has been issued. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

600. GENERAL PROVISIONS (Rule 600).

Regular meetings of the board shall be the ~~second Tuesday~~ third Monday of ~~June~~ July and an ~~optional December~~ meeting of each year at such other times as determined by the board. ~~(7-1-93)~~(7-19-99)T

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.16.01 - RULES OF THE STATE BOARD OF DENTURITRY
DOCKET NO. 24-1601-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-4205, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: Delete competency examination; change dates of examinations from Monday to Friday; change examination will be at a time and place designated by the board; change filing date of application to 90 days prior to examination; establish an inactive licensure status and fee of \$50; clarify the 2 year internship must be as a denture lab technician; add correspondence and home study courses are not eligible for continuing education credit; delete requirement of a current CPR card; and clarify definition of denture technician.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The fees being established are as stated above in the descriptive summary. Statute authorizing these fees is Section 54-3312.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 27th day of July, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1601-9901

150. EXAMINATIONS (Rule 150).

01. Date Of Licensure Examination. The licensure examination will be held semi-annually on the first ~~Monday~~ Friday in June and the second Friday in January. (7-1-93)(____)

~~**02. Competency Exam.** Competency examinations may be taken at any time arrangements with an Idaho Education Institution to administer the examination can be made after approval of the application. Arrangements to take the competency examination is the responsibility of the applicant. (7-1-93)~~

~~032.~~ **Place.** All examinations will be administered at ~~an Idaho Educational Institution~~ the time and place as designated by the board. (7-1-93)()

~~043.~~ **Content.** Examinations shall be written, ~~oral,~~ and practical demonstration of skills. (7-1-93)()

~~054.~~ **Grading.** An applicant to pass the examination must obtain an average percentage score of seventy-five percent (75%) or better. The written and practical examinations shall carry equal weight. ~~The oral examination results may not adjust an average score downward but may add two (2) percentage points to the average score when the board rules the examination passed.~~ (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

200. APPLICATIONS (Rule 200).

~~01.~~ **Application Filing Date.** Licensure applications must be received in the Bureau of Occupational Licenses ~~on or before March 1 preceding the June examination~~ ninety (90) days prior to the scheduled examinations. Applications received after that date will be held over for ~~scheduling the following year~~ the board's next scheduled examination. (7-1-93)()

~~02.~~ **Application Form For Licensure.** Applications for licensure shall be made on forms approved by the board and furnished by the Bureau of Occupational Licenses and shall include all other documents necessary to establish the applicant meets the requirements for licensure except examination and is eligible to take the licensure examination. (7-1-93)

~~03.~~ **Application Form For Competency Exam.** Applications for the competency examination shall be made on forms approved by the board and furnished by the Bureau of Occupational Licenses and shall include all other documentation necessary to establish the applicants' internship equivalency except for examination. (7-1-93)

~~043.~~ **Application Must Be Complete.** All applications must be complete in every respect and accompanied by the appropriate fees before being considered received by the Bureau of Occupational Licenses. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

250. FEES (Rule 250).

The following fees are established by the board: (7-1-93)

~~01.~~ **License Application And Exam Fee.** License application and examination fee - three hundred dollars (\$300). (7-1-93)

~~02.~~ **Competency Application And Exam Fee.** Competency application and examination fee - three hundred dollars (\$300). (7-1-93)

~~032.~~ **Intern Application And Permit Fee.** Intern application and permit fee - three hundred dollars (\$300). (7-1-93)

~~043.~~ **Initial License Fee.** Initial license fee - three hundred dollars (\$300). (7-1-93)

~~054.~~ **Annual Renewal Fee.** Annual renewal fee - three hundred dollars (\$300). The annual renewal fee must be accompanied with certification of the applicant having met the required continued education set forth in Section 54-3313, Idaho Code, and Section 350. (8-24-94)

05. Inactive License Fee. The fee for a renewal of an inactive license shall be fifty dollars (\$50). ()

(BREAK IN CONTINUITY OF SECTIONS)

300. INTERNSHIP (Rule 300).

01. Requirements And Conditions For Internship. ()

a. To be eligible for internship the applicant must have completed; ()

i. The educational requirements set forth in Section 54-3310(b), Idaho Code; or ()

ii. Have dentistry experience of three (3) years within the five (5) years immediately preceding application. ()

b. Where an internship is established based on experience, the internship is valid only while the intern is actively pursuing completion of Idaho licensure requirements. ()

c. Application shall be made on forms provided by the Bureau of Occupational Licenses and shall: ()

i. Documenting the location of practice; ()

ii. Include the name and address of the supervising dentist or dentist; ()

iii. Include a sworn or affirmed statement by the supervising dentist or dentist; ()

iv. Include a sworn or affirmed statement by the supervisor accepting supervision of the intern; ()

v. Include a sworn statement by applicant that he is knowledgeable of law and rules and will abide by all requirements of such law and rules; and ()

vi. Include such other information necessary to establish applicant's qualifications for licensure as a dentist and establish compliance with pre-intern requirements. (7-1-93)()

042. Internship Equivalency. A person shall be considered to have the equivalent of two (2) years internship under a licensed dentist ~~who successfully completes the competency examination approved by the board, administered by an Idaho Educational Institution and~~ who has met and verifies one (1) of the following within the five (5) years immediately preceding application: (7-1-93)()

a. Two (2) years internship as a denture lab technician under a licensed dentist; or (7-1-93)()

b. Two (2) years in the military as a denture lab technician ~~in the dental field~~; or (7-1-93)()

c. Three (3) years experience as a dentist under licensure in another state or Canada; ~~or,~~ (7-1-93)()

d. ~~Five (5) years experience in dentistry attested to by affidavits sworn to by three (3) responsible adult citizens excluding close relatives and clergy.~~ (7-1-93)

023. Internship Not To Exceed One Year. Internship not to exceed one (1) year acquired through a formal training program in an acceptable school will be accepted toward the two (2) year required internship for licensure. (7-1-93)

034. Training Requirements. Each year of required internship shall consist of two thousand (2,000) clock hours of training and performance of the following minimum procedures for licensure. (7-1-93)

a. Procedures shall include all steps required in constructing a finished denture but not limited to the following: (7-1-93)

i. Patient charting - thirty-six (36) minimum. (7-1-93)

ii. Operatory sanitation - thirty-six (36) minimum. (7-1-93)

iii. Oral examination - thirty-six (36) minimum. (7-1-93)

iv. Impressions, preliminary and final (pour models, custom trays) - thirty-six (36) minimum. (7-1-93)

v. Bite registrations - twelve (12) minimum. (7-1-93)

vi. Articulations - twelve (12) minimum. (7-1-93)

vii. Set ups - twelve (12) minimum. (7-1-93)

viii. Try ins - twelve (12) minimum. (7-1-93)

ix. Processing (wax up, flask-boil out, packing, grind-polish) - thirty-six (36) minimum. (7-1-93)

x. Delivery-post adjustment - thirty-six (36) minimum. (7-1-93)

b. Processed relines (one (1) plate = one (1) unit) - twenty-four (24) units. (7-1-93)

c. Tooth repairs - forty-eight (48) minimum. (7-1-93)

d. Broken or fractured plates or partials - forty-eight (48) minimum. (7-1-93)

045. Reporting Requirements. Interns must file reports, attested to by the supervisor, with the board on forms provided by the Bureau of Occupational Licenses on a monthly basis and recapped at termination or completion of the training. (7-1-93)

056. Denture Clinic Requirements. Denture clinic requirements for approved internship training: (7-1-93)

a. There shall be not more than one (1) internee per licensed denturist or dentist who is practicing at the clinic on a full time basis. (7-1-93)

b. There shall be a separate work station in the laboratory area for each intern with standard equipment, i.e. lathe, torch and storage space. The intern shall provide necessary hand tools to perform the duties of the denture profession. Use of the operatory facilities and other equipment will be shared with the intern. (7-1-93)

301. -- 34914. (RESERVED).

315. INACTIVE LICENSURE STATUS (Rule 315).

01. Request License Be Placed On Inactive Status. A denturist licensee may request the board that his license be placed upon inactive status. ()

02. License Fee For Inactive Status. A licensee shall be required to submit an annual renewal fee of fifty dollars (\$50) in order to remain on inactive status. ()

03. While On Inactive Status. A licensee on inactive status shall not provide or perform denturist services as defined in these rules. ()

04. Reactivating Inactive License. A licensee on inactive status may reactivate his license to active status by paying the renewal fee for an active license and providing proof they have completed and obtained such continuing education as required by board rule of not less than twelve (12) hours for each year of inactive licensure. ()

05. License Inactive Over Five Years. No license may remain on inactive status for more than five (5) years. ()

316. -- 349. (RESERVED).

350. CONTINUING EDUCATION (Rule 350).

The board may accredit education programs for purposes of continuing education where the subject matter of the program is determined to be pertinent to the practice of dentistry. (7-1-93)

01. Subjects. Subjects deemed pertinent to the practice of dentistry are those set forth in Section 54-3311(b), Idaho Code and may also include ethics courses. (7-1-93)

02. Request For Approval. Requests for approval of continuing education programs must be made to the board, in writing, and provide an outline of the program which the board is being asked to approve. The request must also address the matters set forth in Subsection 350.05 below. Requests may accompany the annual renewal form or may be made to the board in advance of the program for which approval is sought as indicated in Subsection 350.03, below. (7-1-93)

03. Requests For Pre-Approval. Requests for pre-approval of continuing education programs must be made to the board, in writing, and provide an outline of the program which the board is being asked to approve. Requests for pre-approval must also address the matters set forth in Subsection 350.05 below. (7-1-93)

a. Requests for pre-approval must be received by the Bureau of Occupational Licenses no less than eleven (11) working days prior to the date of the program. (7-1-93)

b. Requests for pre-approval which are not denied within ten (10) working days from receipt by the Bureau will be deemed approved. (7-1-93)

c. Only those continuing education programs sponsored by recognized educational institutions (such as accredited colleges or universities), state or national denturist boards or associations, will be eligible for pre-approval consideration by the board. All other programs will be considered at the time of renewal. (7-1-93)

04. Credit For Continuing Education Attendance. Continuing education credit will be given only for actual time in attendance by the licensee. No credit will be given for non-instructive time. Correspondence or Home Study courses shall not be eligible for continuing education credits. (7-1-93)()

05. Requests For Approval Of Programs. All requests for approval or pre-approval of educational programs must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, and a statement by the licensee of how the course is believed to be pertinent to the practice of dentistry as specified in Section 54-3311(b), Idaho Code. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

450. STANDARDS OF CONDUCT AND PRACTICE (Rule 450).

01. Sanitation. (7-1-93)

- a. There shall be three (3) separate rooms; a reception room, and operatory room and a laboratory. (7-1-93)
- b. The operatory room shall have hot and cold running water, basin with approved disposal system; disinfectant soap; single-use towels, a cuspidor with running water and a closed waste receptacle. (8-24-94)
- c. The laboratory room shall have hot and cold running water, and basin with approved disposal system. (8-24-94)
- d. There shall be a method of sterilization and disinfection evident and in use to insure the protection of the public. (8-24-94)
- e. All floors, walls, ceiling and benches shall be kept in a sanitary condition at all times. (8-24-94)
- f. Every patient shall have a separate and clean bib and a disposable cup. (7-1-93)
- g. Every denturist shall wear a clean and professional garment. (7-1-93)
- h. The hands of every denturist shall be washed in the presence of every patient with germicidal or antiseptic soap and water. Every denturist shall wear disposable gloves. (8-24-94)
- ~~i. Each licensed denturist must carry a current C.P.R. card. (8-24-94)~~
- ji. Adequate and conveniently located toilet facilities with hot and cold running water, basin with approved disposal system, soap and single use towels will be provided within the building. (8-24-94)
- kj. All denturist offices shall be open to inspection anytime during the business hours to inspection by the board or its agents. (7-1-93)
- hk. All telephones must have emergency phone numbers placed on the telephone. (7-1-93)
- 02. Office Standards.** (7-1-93)
 - a. Denturists shall take care to use proper sterilization and sanitation techniques in all phases of their work. (7-1-93)
 - b. A complete record of each patient shall be kept. (7-1-93)
 - c. All teeth and materials used shall meet ADA standards. (7-1-93)
- 03. General Conditions.** (7-1-93)
 - a. Conditions deemed by investigators to be a menace to the public health will be brought to the attention of the board for consideration and immediate action. (7-1-93)
 - b. These Standards of Conduct and Practice shall be conspicuously posted in every licensed denturist's place of business. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

550. DENTURE TECHNICIAN DEFINED (Rule 550).

A denture technician is a person whose ~~practice of dentistry~~ is limited to making, ~~fitting~~, constructing, altering, reproducing or repairing of a full upper or lower removable prosthetic denture, the repairing of a removable partial upper or lower prosthetic denture but is not allowed to make an impression or come in direct contact with a patient.

(7-1-93)(____)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.17.01 - RULES OF THE STATE BOARD OF ACUPUNCTURE
DOCKET NO. 24-1701-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 13, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4705, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Establish rules for Acupuncture licensure; establish legal authority; establish title and scope; establish written interpretations; establish definitions as set forth in the law; establish criteria for filing of application and licensure; establish procedure for request for approval of qualifications; establish fees to be application fee \$250, original license fee \$250, annual renewal fee \$250 for licensure and \$150 for technician certificate, inactive license fee \$50; establish an expiration date for licenses to be June 30th of each year; establish reinstatement of license fee to be \$250; establish the scope of practice of acupuncture; establish that practitioners shall maintain records for a minimum of five (5) years; establish that a business name or trade name used by a practitioner shall be registered with the board within five (5) days from use of such name.

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:

Promulgate rules for Acupuncture Law enacted July 1, 1999.

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

The fee being established is as stated above in the descriptive summary. Statute authorizing this fee is Section 54-4705, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

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

IDAPA 24
TITLE 17
Chapter 01

24. 17.01 - RULES OF THE STATE BOARD OF ACUPUNCTURE

000. LEGAL AUTHORITY (Rule 0).

These rules are hereby prescribed and established pursuant to the authority vested in the State Board of Acupuncture by the provisions of Section 54-4705, Idaho Code. (8-13-99)T

001. TITLE AND SCOPE (Rule 1).

01. Title. These rules shall be cited as IDAPA 24.17.01, "Rules of the State Board of Acupuncture". (8-13-99)T

02. Scope. These rules review and establish the minimum requirements for licensure/certification of acupuncturists. (8-13-99)T

002. (RESERVED).

003. WRITTEN INTERPRETATIONS (Rule 3).

The Board may, from time to time, issue written statements pertaining to the interpretation of the rules of this chapter. Such interpretations, if any, shall be available for public inspection and copying, at cost, in the main office of the Bureau of Occupational Licenses. (8-13-99)T

004. ADMINISTRATIVE APPEALS (Rule 4).

Administrative Appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (8-13-99)T

005. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

01. Board. The State Board of Acupuncture as prescribed in Section 54-4704, Idaho Code. (8-13-99)T

02. Technician Certificate. The category of license granted to a qualified applicant for Acupuncture Technician pursuant to Section 54-4708, Idaho Code, and other Board approved criteria. (8-13-99)T

03. Certification. The category of license granted to a qualified applicant who meets the requirements for full or associate membership of the American Academy of Medical Acupuncture, or fellowship of the International Academy of Medical Acupuncture, Inc. and other Board approved criteria pursuant to Sections 54-4703 and 54-4707, Idaho Code. (8-13-99)T

04. License. Any license, certification or technician certificate issued to a qualified applicant pursuant to IDAPA 24.17.01, "Rules of the State Board of Acupuncture," promulgated by the Board, permitting said applicant to practice acupuncture in the state of Idaho. (8-13-99)T

05. Practitioner. A person to whom a license, certification or technician certificate has been issued pursuant to these rules. (8-13-99)T

06. Licensure/Licensed. The category of license granted to a qualified applicant who meets NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) eligibility criteria, and other Board approved criteria pursuant to Sections 54-4703 and 54-4706, Idaho Code. (8-13-99)T

011. -- 099. (RESERVED).

100. APPLICATIONS (Rule 100).

Applications for licensure, certification and technician certificate shall be on forms to be prepared and approved by the Board. (8-13-99)T

101. -- 199. (RESERVED).

200. QUALIFICATIONS FOR LICENSURE (Rule 200).

01. Requirements For Licensure. Applicants for licensure shall meet the following requirements:

(8-13-99)T

a. Submittal of a complete application and fee.

(8-13-99)T

b. For July 1, 1999, through June 30, 2000, qualification for NCCAOM eligibility criteria for certification. (8-13-99)T

c. After July 1, 2000, qualification for NCCAOM eligibility criteria for acupuncture certification; or

(8-13-99)T

i. Similar requirements as approved by the Board; and

(8-13-99)T

ii. Demonstrated successful completion of an acupuncture internship, or other equivalent experience as approved by the Board; and (8-13-99)T

iii. Received a passing grade on an NCCAOM Acupuncture certification examination; or (8-13-99)T

iv. Other demonstration of proficiency as uniformly required by the Board for other similarly qualified applicants for certification. (8-13-99)T

02. Requirements For Certification. Applicants for certification shall meet the following requirements: (8-13-99)T

a. Submittal of a complete application and fee.

(8-13-99)T

b. For July 1, 1999, through June 30, 2000, full or associate membership of the American Academy of Medical Acupuncture or fellowship of the International Academy of Medical Acupuncture, Inc.; or (8-13-99)T

i. Such other comparable requirements as approved by the Board;

(8-13-99)T

c. After July 1, 2000, full membership of the American Academy of Medical Acupuncture or fellowship of the International Academy of Medical Acupuncture, Inc.; or (8-13-99)T

i. Such other comparable requirements as approved by the Board; and

(8-13-99)T

ii. Received a passing grade on an examination; or

(8-13-99)T

iii. Other demonstration of proficiency as uniformly required by the Board for other similarly qualified applicants for certification. (8-13-99)T

03. Requirements For Acupuncture Technician Certificate. Applicants for Acupuncture technician Certificate shall meet the following requirements: (8-13-99)T

a. Submittal of a complete application and fee.

(8-13-99)T

b. Successful completion of the requirements for clinical technician certificate from the International

- Academy of Medical Acupuncture, Inc.; or (8-13-99)T
- i. Such other comparable requirements as are approved by the Board; and (8-13-99)T
 - ii. Successful completion of a clean or sterile needle technique course approved by the Board; and (8-13-99)T
 - iii. Receipt of a passing grade on an examination leading to an Acupuncture Technician Certificate, or other demonstration of proficiency as may be uniformly required for other similarly qualified applicants as approved by the Board. (8-13-99)T

201. -- 225. (RESERVED).

226. REQUEST FOR APPROVAL OF QUALIFICATION (Rule 226).

01. Course Review. A person or entity may request approval of a course of study in acupuncture that will be offered to qualify applicants for a credential to practice acupuncture. The request shall include a complete description of the required hours, scope and extent of academic and other training and clinical experience offered through the course along with appropriate supporting documentation and course materials. The request shall also designate whether approval is sought for compliance with standards for licensure, certification or technician certificate. (8-13-99)T

02. Individual Qualification. An applicant may request approval of his individual qualification for licensure or certification in acupuncture. The request shall include a complete description of the number of hours, scope and extent of academic and other training and clinical experience the individual has received along with available supporting documentation. The request shall also designate whether qualification is sought for licensure, certification or technician certificate. A demonstration of proficiency or examination may be required as a part of the determination of the individual's qualification. (8-13-99)T

227. -- 299. (RESERVED).

300. FEES (Rule 300).

- 01. Application Fee.** Application fee for original license – two hundred fifty dollars (\$250). (8-13-99)T
- 02. Original License Fee.** Original license fee – two hundred fifty dollars (\$250). (8-13-99)T
- 03. Annual Renewal Fee.** (8-13-99)T
 - a. Annual renewal fee for Licensure – two hundred fifty dollars (\$250). (8-13-99)T
 - b. Annual renewal fee for Certification – two hundred fifty dollars (\$250). (8-13-99)T
 - c. Annual renewal fee for Technician Certification – one hundred fifty dollars (\$150). (8-13-99)T
- 04. Inactive License.** Inactive license fee – fifty dollars (\$50). (8-13-99)T
- 05. Non-refundable.** All fees are non-refundable. (8-13-99)T
- 06. Yearly Fees.** With the exception of Subsection 300.01 and 300.02 all fees provided under these rules are yearly fees. (8-13-99)T

301. RENEWAL OR REINSTATEMENT OF LICENSE (Rule 301).

01. Expiration Date. All Acupuncture licenses expire on June 30th of each year and must be renewed annually on or before July 1st on forms provided by the Board. Licenses not so renewed will be cancelled.

(8-13-99)T

02. Reinstatement. Any license cancelled for failure to renew may be reinstated upon payment of two hundred fifty dollars (\$250) renewal application fee accompanied by an application and two hundred fifty dollars (\$250) license fee. (8-13-99)T

302. RENEWAL REQUIREMENT (Rule 302).

01. Active Status. Each renewal application must be accompanied by: (8-13-99)T

a. The established fee; and (8-13-99)T

b. Renewal application. (8-13-99)T

02. Inactive Status. A practitioner may request in writing to be placed on inactive status and pay the inactive status fee. Such request must be made no later than July 1st, otherwise the license shall be deemed cancelled for failure to renew. (8-13-99)T

03. Definition Of Inactive Status. "Inactive" status means a holder of an Idaho Acupuncture license which may be made active by paying the renewal application fee. Until payment of said fee, such individual may not practice acupuncture in the state of Idaho. (8-13-99)T

303. -- 399. (RESERVED).

400. SCOPE OF PRACTICE OF ACUPUNCTURE (Rule 400).

The Board recognizes that the practice of acupuncture is widely utilized as a treatment modality and that acupuncture may be appropriately and effectively utilized within various disciplines. The Board also finds that regulation of the scope of practice for practitioners is appropriate to protect the health, safety and welfare of the people of Idaho. Upon being granted a credential to practice acupuncture, a practitioner is authorized to provide only acupuncture services and treatments for which that practitioner has been appropriately trained and prepared by Board approved education or practical experience. Information contained within the application or otherwise included in the credential file maintained by the Board for that practitioner shall be prima facie evidence of the practitioner's education and experience. It is the responsibility of the individual practitioner to ensure that the information in his credential file is accurate, complete and supplemented timely. (8-13-99)T

401. RECORDS (Rule 401).

A practitioner shall keep accurate records of each patient the practitioner treats. The records shall include the name of the patient, the indication and nature of treatment given, and any other relevant data deemed important by the practitioner. Records shall be kept on file for a minimum of five (5) years and shall be open to inspection at any time by the Board or its duly authorized representative and shall be made available to the patient on request. (8-13-99)T

402. -- 499. (RESERVED).

500. USE OF BUSINESS NAME OR TRADE NAME (Rule 500).

A business name or trade name used by a practitioner shall be registered with the Board within five (5) business days from commencement of using such name. (8-13-99)T

501. -- 524. (RESERVED).

525. DISPLAY OF LICENSE (Rule 525).

The license shall be conspicuously displayed in the office of the Practitioner. (8-13-99)T

526. -- 550. (RESERVED).

551. CHANGE OF ADDRESS (Rule 551).

A practitioner shall notify the Board of any change of address within thirty (30) days of the change. (8-13-99)T

552. -- 999. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD
DOCKET NO. 24-1801-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 12, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4106, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Allow a certified residential appraiser thirty (30) months to accumulate the required hours of real estate experience; and allows a certified general appraiser thirty-six (36) months to accumulate the required hours of real estate appraiser experience.

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: Compliance with other current rules regarding time periods required for gaining the experience requirement.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 18th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-9901

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (Rule 350).

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following

examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified an individual must meet the continuing education requirement. (7-1-97)

01. Education. As a prerequisite to taking the examination for certification as an Idaho Certified Residential Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he has successfully completed not less than one hundred twenty (120) classroom hours of courses in subjects related to real estate appraisal approved by the board. Each applicant must have successfully completed not less than ninety (90) classroom hours of study related to those topics outlined under Subsection 299.02.e., the basic principles of real estate appraising and thirty (30) classroom hours of advanced residential or non-residential specialized courses relating to the topics specified at Subsection 299.02.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the Uniform Standards of Professional Appraisal Practice, and Code of Ethics; will be credited to the classroom hour requirement. (7-1-97)

02. Experience. (3-18-99)

a. Prerequisite to sit for the examination: Equivalent of three (3) years appraisal experience (see Subsection 299.03.b.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (3-18-99)

b. The applicant must accumulate a minimum of two thousand five hundred (2,500) hours of real estate appraisal experience in not less than ~~twenty-five~~ thirty (2530) months. Two thousand (2,000) hours of the experience shall be from residential field appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 299.03.c. ~~(3-18-99)~~(7-12-99)T

(BREAK IN CONTINUITY OF SECTIONS)

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified, an individual must meet the continuing education requirement. (7-1-97)

01. Education. As a prerequisite to taking the examination for certification as an Idaho State Certified General Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he/she has successfully completed not less than one hundred eighty (180) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than one hundred sixty (160) classroom hours of study related to those topics outlined under Subsection 299.02.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the Uniform Standards of Professional Appraisal Practice, and Code of Ethics; and one hundred (100) classroom hours of advanced non residential specialized courses relating to the topics specified at Subsection 299.02.e. (7-1-97)

02. Experience. (3-18-99)

a. Prerequisite to sit for the examination. Equivalent of three (3) years appraisal experience (See Subsection 299.03.b.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (3-18-99)

b. The applicant must accumulate a minimum of three thousand (3,000) hours of appraisal experience in not less than ~~thirty-six~~ (306) months. Two thousand (2,000) hours of the experience must be nonresidential field appraisal experience. The balance of one thousand (1,000) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience as outlined in Subsection 299.03.c. ~~(3-18-99)~~(7-12-99)T

**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
NOTICE OF LEGISLATIVE ACTION AFFECTING IDAHO PUBLIC UTILITIES
COMMISSION ADMINISTRATIVE RULES CHAPTERS
31.02.01, 31.11.01, 31.46.01, 31.46.02, AND 31.81.01**

DOCKET NO. 31-0000-9901

NOTICE OF PROPOSED RULES

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Request for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

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

In 1999, the Legislature repealed the Motor Carrier Act (Sections 61-801 through 61-818, Idaho Code) and restructured the Public Records Act (Section 9-340, Idaho Code). The Commission's proposed changes are non-substantive and necessary to reflect 1999 legislative action.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Cheri C. Copsey, Deputy Attorney General, at (208) 334-0314.

DEADLINE FOR WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules.

All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before October 27, 1999. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 23rd day of August 1999.

Barbara Barrows
Assistant Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762

Street Address for Express Mail:
472 West Washington Street
Boise, ID 83702-5983

**THE FOLLOWING IS THE TEXT OF THE CHAPTERS
AFFECTED BY THE LEGISLATIVE ACTION**

IDAPA 31
TITLE 02
Chapter 01

31.02.01 - PUBLIC RECORDS ACT RULES OF THE IDAHO
PUBLIC UTILITIES COMMISSION

005. DEFINITIONS (Rule 5).

The following definitions are used in this title and chapter: (7-1-93)

01. Copy. "Copy" means transcription by handwriting, photocopy, duplicating machine or reproduction by any other means that does not alter or damage a public record. See Section 9-337(1), Idaho Code. (7-1-93)

02. Custodian. "Custodian" means the person having personal possession and control of public records. Ordinarily, official documents of the Idaho Public Utilities Commission are in the legal custody of the Commission Secretary and physical possession of the Secretary's staff. In addition, certain files and documents may be in the possession or control of the Commissioners, the public information officer, the fiscal officer, or the heads of the ~~legal, regulated carrier, and utilities~~ Commission divisions, or personnel of the division staffs. See Section 9-337(2), Idaho Code. (7-1-93)()

03. Inspection. "Inspection" means the right to listen, view and make notes of public records as long as the public record is not altered or damaged. See Section 9-337(3), Idaho Code. (7-1-93)

04. Investigatory Record. "Investigatory record" means information with respect to an identifiable person, group of persons or entities compiled by the Commission pursuant to its statutory authority to investigate specific acts, omissions, failures to act, or other conduct over which the Commission has regulatory authority or law enforcement authority. Investigatory records before the Commission include informal complaints or inquiries concerning utilities ~~or regulated carriers~~, audits and investigations of utilities ~~or regulated carriers~~, memoranda or similar documents recommending whether audits or investigations of utilities ~~or regulated carriers~~ should be initiated, or other information falling within the statutory definition of investigatory records. See Section 9-337(4), Idaho Code. (7-1-93)()

05. Person. "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity. See Section 9-337(7), Idaho Code. (7-1-93)

06. Public Record. "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by the Commission, regardless of physical form or characteristics. See Section 9-337(10), Idaho Code. (7-1-93)

07. Trade Secrets. "Trade secrets" mean information, including a formula, pattern, compilation, program, computer program, device, method, technique or process that: (7-1-93)

a. Derives independent economic value, actual or potential, from not being generally known to or not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (7-1-93)

b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. See Section 9-340(2)~~D~~, Idaho Code. (7-1-93)()

08. Writing. "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every other means of recording, including letters, words, pictures, sounds or symbols or a combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums or other documents. See Section 9-337(12), Idaho Code. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

101. RECORDS OF FORMAL PROCEEDINGS (Rule 101).

Records of formal proceedings, which are described in the Commission's Rules of Procedure, IDAPA 31.01.01.000 et. seq., include all records in the Commission Secretary's official file as detailed in the Rules of Procedure. These records are in the custody and possession of the Commission Secretary and the Secretary's staff. ~~Ordinarily, records pertaining to utilities are in the document room in the Commission's Administrative Division, and records pertaining to regulated carriers are in the Regulated Carrier Division, except that dated records may be in rented storage.~~ All records of proceedings may be inspected, examined or copied by any person under the procedures of Section 9-338, Idaho Code, and of these rules, except as the Rules of Procedure, recognize statutory exemptions from disclosure of certain discoverable material, or unless exempted from disclosure under Sections 9-340A through 9-340F, Idaho Code.

~~(7-1-93)()~~

(BREAK IN CONTINUITY OF SECTIONS)

103. STATUTORY REPORTING--REPORTS SUBMITTED PURSUANT TO ORDER OR RULE (Rule 103).

Reports submitted under Sections 61-401 through 61-406, 61-517, 61-531 through 61-537, 61-802B, 61-804, 61-1003, 62-611, Idaho Code or other statutes, and reports submitted pursuant to order or rule are in the custody and possession of the Commission Secretary and the Secretary's staff or the clerical staffs of the Utilities or Regulated Carrier Divisions. ~~Ordinarily, reports pertaining to utilities are in the document room in the Commission's Administrative Division or in the Utilities Division, and reports pertaining to regulated carriers are in the Regulated Carrier Division, except that dated reports may be in rented storage.~~ All those reports, except those protected as trade secrets under Section 9-340(2), Idaho Code, and rules implementing that Section, or unless exempted from disclosure under Sections 9-340A through 9-340F, Idaho Code, may be inspected, examined or copied by any person under the procedures of Section 9-338, Idaho Code, and of these rules.

~~(7-1-93)()~~

(BREAK IN CONTINUITY OF SECTIONS)

105. COMPUTER PROGRAMS--COMPUTER MODELING--COMPUTER DATA (Rule 105).

The Commission maintains substantial information on computers. Computer terminals with access to the information are located throughout the Commission's offices. Copyrightable computer programs or copyrightable compilations of data purchased, leased or obtained from sources outside Idaho state government, and other programs or data the release of which would contravene federal or state laws protecting intellectual property are exempt from disclosure under Section 9-340~~(2)~~D, Idaho Code. Unless covered by the previous sentence, or unless exempted from disclosure under Sections 9-340A through 9-340F, Idaho Code, computer programs and data bases used or developed by the Commission and its Staff may be inspected, examined or copied by any person under the procedures of Section 9-338, Idaho Code and of these rules.

~~(7-1-93)()~~

106. INVESTIGATORY RECORDS (Rule 106).

Investigatory records of the Commissioners and individual Staff members are in the custody and possession of personal or divisional files in offices throughout the Commission. Investigatory records are exempt from inspection, examination or copying under Section 9-340~~(2)~~B, Idaho Code; provided that, when investigatory records are placed in public files like the Commission Secretary's official file, they cease being exempt and they may be inspected, examined or copied by any person under the procedure of Section 9-338, Idaho Code, and of these rules. Investigatory records may be examined by or disclosed to the objects of the investigation pursuant to Section 9-335, Idaho Code.

~~(7-1-93)()~~

107. PERSONNEL RECORDS (Rule 107).

Personnel records for the Commission's employees are in the custody and possession of the Administrative and the Fiscal Divisions of the Commission, division heads or individual personnel. Personnel records are exempt from disclosure under Section 9-340~~(36)C~~, Idaho Code, except as made public by that section. (7-1-93)()

108. MISCELLANEOUS RECORDS (Rule 108).

If records in the custody or possession of the Commission do not fit into any of the categories of Rules 101 through 107, they are considered miscellaneous records. Ordinarily, miscellaneous records are maintained in individual's offices or files. There will be a case-by-case determination whether miscellaneous records are open to inspection, examination and copying under Section 9-338, Idaho Code, or are exempt from disclosure under Sections 9-340A through 9-340E, Idaho Code, except that materials protected from copying by federal copyright law are always exempt from copying. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

203. REQUESTS IMPLICATING RECORDS EXEMPT FROM DISCLOSURE (Rule 203).

When a person requests to examine records that may be exempt from disclosure under Sections 9-340A through 9-340E, Idaho Code, the person making the request will be asked to reduce the request to writing. Within three (3) working days after receiving this written request, the requester will be notified in writing whether or to what extent the request will be granted or denied. If the request is denied in whole or in part, the written notification will be signed by a Commissioner, the Commission Secretary or one of the Secretary's deputies, or a Deputy Attorney General assigned to the Commission, and, if not signed by a Deputy Attorney General, shall indicate that a Deputy Attorney General assigned to the Commission has been consulted and believes that there is a statutory basis for the denial or partial denial of the request, listing the statutes relied upon. (7-1-93)()

204. REQUESTS THAT CANNOT BE ANSWERED WITHIN THREE WORKING DAYS (Rule 204).

If the Commission cannot grant or deny a person's request to inspect, examine or copy public records within three (3) working days from the receipt of the request because a longer time is needed to locate or retrieve the public records or because it cannot be determined within three (3) working days whether some or all of the request involves materials exempt from disclosure under Sections 9-340A through 9-340E, Idaho Code, the requester will be notified of the delay in writing within three (3) working days of the request. Within ten (10) working days of the request, the request will be granted or denied in whole or in part. (7-1-93)()

BREAK IN CHAPTERS

IDAPA 31
TITLE 11
Chapter 01

**31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED
BY IDAHO PUBLIC UTILITIES COMMISSION**

004. PUBLIC RECORDS ACT COMPLIANCE (Rule 4).

Notes of telephone reports required by Rule 301 and written reports required by Rule 302 are public records subject to inspection, examination and copying. Further investigative reports by the Commission or the Commission Staff are investigatory records exempt from disclosure. See Sections 9-337(4) and 9-340~~(2)B~~, Idaho Code. Reports required by these rules and the results of further investigations by the Commission are by statute prohibited from admission into evidence in any action for damages based on or arising out of the loss of life or injury to the person or property. See

Section 61-517, Idaho Code.

(4-1-98)()

BREAK IN CHAPTERS

IDAPA 31
TITLE 46
Chapter 01

31.46.01 - UNIVERSAL SERVICE FUND RULES

004. PUBLIC RECORDS ACT COMPLIANCE (Rule 4).

Rule 303.05 details which papers filed with the Commission in connection with the administration of the Universal Service Fund are public records and which are trade secrets exempt from disclosure under Section 9-340(2)D, Idaho Code. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

303. THE ADMINISTRATOR'S ANNUAL REPORT TO THE COMMISSION (Rule 303).

01. The Administrator's Compliance Report. The administrator shall report to the Commission on or before June 15 whether all telephone corporations receiving the forms have complied with the reporting requirements of this Rule 303 and Rules 202, 203, and 204, specifically identifying telephone corporations that have failed to report altogether, those that have incompletely reported, those that have reported late, and those that have failed to remit the monthly surcharges required by Rule 201. The report shall include a summary of the actions taken against the telephone corporations not complying with the USF rules. (4-26-95)

02. Report Of Existing Conditions. On or before July 15 of each year the administrator shall submit a report to the Commission providing the following information: (7-1-93)

a. Calculations of weighted statewide average rates required by Rule 302, providing workpapers showing each telephone corporation's contributions to the totals and averages contained in the administrator's calculation in Rule 302. (7-1-93)

b. Calculations of the USF's expected revenues under the status quo for the twelve (12) months beginning July 1 made by: (7-1-93)

i. Multiplying the existing local surcharge for residence service by the statewide total residence lines as of May 1; (7-1-93)

ii. Multiplying the existing local surcharge for business service by the statewide total business lines as of May 1; (7-1-93)

iii. Multiplying the total MTS/WATS access minutes for the previous calendar year by the existing MTS/WATS surcharge per access minute; and (7-1-93)

iv. Summing the three (3) products. (7-1-93)

c. Calculations of the expected revenue requirement of the USF under the status quo for the twelve

(12) months beginning July 1 made by listing and summing the annualized rate of disbursement for every telephone corporation for which the Commission has ordered and authorized disbursements from the USF together with the administrator's annual budget for administration of the USF. (7-1-93)

d. Calculations of the expected revenue requirement of the USF as described in Rule 303.02.c. assuming that companies revise their rates pursuant to Rule 106.02 to maintain funding eligibility and that their USF funding is adjusted pursuant to Rule 106.04. (4-26-95)

e. Actual USF balances at the end of the quarters ending in June, September and December of the preceding year and of the quarters ending in March and June of the year of the report (or the estimated USF balance for the quarter ending June 30 if actual balances are not yet available). (4-26-95)

03. Recommendation. The administrator shall report the USF's expected surplus or deficit for the twelve (12) months beginning July 1 based upon the assumption that the USF surcharges will not be changed. The administrator shall also report whether this surplus or deficit will alter the expected fund balance during the twelve (12) months beginning July 1 following the report significantly enough to recommend that USF surcharges be raised or lowered. If the administrator believes that the USF surcharges should be raised or lowered, the administrator shall recommend a target balance for the USF for the end of the twelve months beginning July 1 following this report and the amount by which USF collections would be increased or decreased beginning October 1 to meet this target. (7-1-93)

04. Review By Commission Staff. On or before August 15 the Commission Staff shall review the calculations and recommendations of the administrator and call any errors or omissions to the attention of the administrator and the Commission. (7-1-93)

05. Report A Public Record--Workpapers Exempted Trade Secrets. The report of the administrator showing statewide aggregate totals of local service and MTS/WATS revenues, inventories of services, and other information not identifying any telephone corporation or customer is a public record available for inspection, examination and copying under 9-338, Idaho Code. The workpapers accompanying the report showing individual telephone corporations' data for Title 62 services and individual telephone corporation's reports to the administrator showing data for Title 62 services, together with any data for Title 61 services protected from disclosure under applicable trade secret law, are trade secrets exempt from disclosure under 9-340(2)D, Idaho Code. (7-1-93)(____)

BREAK IN CHAPTERS

IDAPA 31
TITLE 46
Chapter 02

31.46.02 - RULES FOR TELECOMMUNICATIONS RELAY SERVICES (TRS)

004. PUBLIC RECORDS ACT COMPLIANCE (Rule 4).
Subsection 205.05 details which papers filed in connection with the administration of the Telecommunications Relay Service Fund are public records and which are trade secrets exempt from disclosure under Section 9-340(2)D, Idaho Code. (7-1-93)(____)

BREAK IN CHAPTERS

IDAPA 31
TITLE 81
Chapter 01

**31.81.01 - RULES RELATING TO ELECTRIC AND NATURAL OR MANUFACTURED
GAS CONSUMPTION FROM GROUND WATER PUMPING
(THE ENERGY CONSUMPTION REPORTING RULES)**

004. PUBLIC RECORD ACT COMPLIANCE (Rule 4).

The energy consumption reports required by these rules are exempt from public disclosure and copying under Section 9-340(42)D, Idaho Code. ~~(4-26-95)~~(____)

01. Report Summaries. The Department may make summaries of such reports available upon written request provided that the identity of individual customers or accounts is protected from public disclosure and cannot be ascertained from the summaries. (4-26-95)

02. Consumption Reports. The Department may release consumption reports to state and federal entities for research purposes provided the identity of individual customers or accounts is protected from public disclosure and cannot be ascertained from the reports. (4-26-95)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-0101-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-304 through 61-306, 61-406, 61-501 through 61-503, 61-507, 61-538, 61-601 through 61-607, 61-621, 61-902, 61-909, 61-1305, 62-304, 62-602, 62-610, 62-610F, 62-619, and 62-1303, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Request for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The Commission is proposing several changes to its Rules of Procedure. First, the 1999 Legislature repealed the Motor Carrier Act (Sections 61-801 through 61-818, Idaho Code) and restructured the Public Records Act (Section 9-340, Idaho Code). Consequently, all references and citations to the Motor Carrier Act and the Commission's prior Motor Carrier Rules (IDAPA 31.61.01.000) have been eliminated. References to the Public Records Act have been amended to reflect the current citations.

Second, in 1997 the Legislature authorized the Commission to exempt any security, class of securities or class of public utilities from the securities filing procedures pursuant to Section 61-909, Idaho Code. The Commission proposes to amend its Rules to implement this statute. Third, the Commission is proposing to amend its Procedural Rules and add rules addressing the procedures for the receipt, safeguarding and handling of trade secrets and other confidential information exempt from public disclosure pursuant to Sections 9-340A through 9-340F, Idaho Code. The Commission is also proposing to modify several rules regarding the receipt of evidence and testimony otherwise exempt from public disclosure pursuant to Sections 9-340A through 9-340F, Idaho Code.

Fourth, the Commission is amending several rules to allow it to serve copies of its Orders and Notices electronically at the request of parties. The Commission is proposing to require that parties provide their electronic addresses (if available). The Commission is also proposing to modify its Rules to serve Notices of Modified Procedure and Notices of Applications upon counties affected by such pleadings. Finally, the Commission is proposing several other amendments to its Rules to improve readability, eliminate ambiguity and inconsistencies, correct citations, and make other housekeeping changes.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because of the non-substantive nature of many of the changes.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312.

DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules. All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before October 27, 1999. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 20th day of August 1999.

Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338/ FAX: (208) 334-3762

Street Address for Express Mail:
472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-0101-9901

IDAPA 31
TITLE 01
Chapter 01

31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION

000. LEGAL AUTHORITY (Rule 0).

These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code, ~~the Motor Carrier Act, Chapter 8, Title 61, Idaho Code,~~ Chapters 9, 10 and 13, Title 61, Idaho Code, Chapters 3 and 4, Title 6+2, Idaho Code, the Telecommunications Act of 1988, as amended, Chapter 6, Title 6+2, and Chapter 12, Title 62, Idaho Code, Chapter 13, Title 62, Idaho Code, and the particular authority of Sections 56-904, 61-304 through 61-309, 61-501, 61-502, 61-503 through 61-505, 61-507, 61-538, 61-601 through 61-607, 61-610 through 61-619, 61-6201 through 61-626, 61-808, 61-809, 61-817, 61-902 through 61-905, 61-909, 61-1003 through 61-1005, 61-1007, 61-1305, 61-1306, 62-304, 62-305, 62-424, 62-604, 62- 605, 62-608 through 62-612, 62-610A through 62-610F, 62-614 through 62-616, 62-619, 62-622, and 62-1201 through 62-1207, 62-1303, and 62-1304, Idaho Code. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

009. RELATIONSHIP TO REGULATED CARRIER RULES (Rule 9) (RESERVED).

~~Whenever these rules address the same subject matter as the Commission's Rules Governing Transportation of Persons or Property Over Highways of the State of Idaho by Motor Vehicles (the Motor Carrier Rules), IDAPA 31.61.01.000 et seq., the specific provisions of the Motor Carrier Rules govern.~~ (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

012. OFFICE--OFFICE HOURS - FAX NUMBER - MAILING, ADDRESS ELECTRONIC AND STREET ADDRESSES (Rule 12).

The principal office of the Commission is in Boise, Idaho. This office is open from 8:00 a.m. to 5:00 p.m., except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-0300. The Commission's text telephone (TDD) number for the hearing or speech impaired is (208) 334-3151. (7-1-93)()

01. Fax Number, Mailing And Street Addresses. The Commission's FAX number is (208) 334-3762. The Commission's mailing address is: Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074. The street address of the Commission is: 472 West Washington, Boise, Idaho 83702-5983. All documents filed in all proceedings must be filed with the Commission at one (1) of these addresses. (7-1-93)()

02. Electronic Address. The Commission's electronic address for its Internet homepage is www.puc.state.id.us. ()

(BREAK IN CONTINUITY OF SECTIONS)

016. SERVICE BY COMMISSION (Rule 16).

The Commission Secretary serves all notices, orders, summonses, and complaints issued by the Commission or by the Secretary. (7-1-93)

01. Service Of Orders And Notices. All notices and orders served by the Commission may be served by United States mail. Notices and orders may be served by electronic mail at the request of persons to be served. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is either deposited in the United States mail or transmitted electronically. All orders and notices shall be affixed with the Commission Secretary's official service date on the first page. The Commission Secretary will serve all orders and notices in a proceeding on the representatives of each party designated pursuant to Rule 41 for that proceeding and upon other persons designated by these rules or by the Commission or any Commissioner. (7-1-93)()

02. Service Of Summonses And Complaints. The Commission Secretary will serve complaints against utilities upon the person designated for that purpose by the utility. All utilities must maintain on file with the Commission Secretary a designation of such a person. Summonses and complaints directed to regulated utilities, ~~motor carriers~~ or other persons ~~may~~ shall be served by registered or certified mail. Writs of summons or subpoena and warrants of attachments directed to all other persons must be served by a person authorized to serve process by statute or by the Idaho Rules of Civil Procedure. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

026. INFORMAL FILES MAY BE INVESTIGATIVE RECORDS (Rule 26).

Files created by the Commission and its Staff in response to informal inquiries or complaints are investigatory records within the meaning of Sections 9-337(4) and 9-340B(221), Idaho Code, are generally exempt from disclosure according to the standards of Sections 9-337 through 9-348, Idaho Code, but are available under ~~Idaho Code, Section 9-342, Idaho Code,~~ to the customer, applicant, utility, carrier, etc., that are the subjects of the investigation. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

039. PERSONS--PERSONS NOT PARTIES--INTERESTED PERSONS (Rule 39).

The term "person" includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in administrative proceedings. Persons other than the persons named in Rules 32 through 37 are not parties for the purpose of any statute or rule addressing rights or obligations of parties. Interested persons for purposes of the Commission Secretary's service of notice under Rules 113, 123, and 202 are municipalities, counties, and chambers of commerce in the area affected by a proceeding and persons who were parties in any proceeding of a similar kind involving the same utility or regulated carrier in the preceding three years. This rule defines interested persons for purposes of Rules 113, 123, and 202, but not for purposes of Section 61-626, Idaho Code. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

041. INITIAL PLEADING BY PARTY--LISTING OF REPRESENTATIVES (Rule 41).

01. Designation Of Representative Required. The initial pleading of each party to a proceeding (be it an application, petition, complaint, motion, or answer) must name the party's representative(s) for service and state the representative's(s) mailing and electronic (if available) address(es) for purposes of receipt of all official documents. Parties desiring to be served by electronic mail shall indicate their preference in their initial pleadings.

Service of documents on the named representative(s) by mail or by electronic mail is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as a party's representative, the person signing the pleading will be considered the party's representative. (7-1-93)(____)

02. Number Of Representatives. No more than two (2) persons may be designated as a party's representatives for purposes of service or receipt of official documents unless otherwise authorized by order. The Commission may condition such an order upon reasonable terms concerning payment of copying costs and mailing costs to additional representatives. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

049. NOTICE OF PARTIES (Rule 49).

As reasonably necessary in a proceeding, and in any event, at least once in every proceeding, the Commission Secretary will issue to the parties a notice of parties. The notice of parties will list all parties, their representative(s) under Rule 41, their representative's(s') mailing or electronic address(es), exhibit numbers assigned to the parties, and any other information required by the Commission. The Commission Secretary will maintain on file a current list of all parties to a proceeding and issue a revised notice of parties as reasonably necessary to reflect changes in the previous notice of parties. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

052. APPLICATIONS--DEFINED--FORM AND CONTENTS (Rule 52).

All pleadings requesting a right, certificate, permit, or authority from the Commission or the award of intervenor funding are called "applications". Applications, ~~other than applications concerning motor carrier authority,~~ must: (7-1-93)(____)

01. State Facts. Fully state the facts upon which they are based, (7-1-93)

02. Refer To Provisions. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based, and (7-1-93)

03. Pray For The Order, Authorization, Or Certificate ~~Or Permit~~ Sought. Unless otherwise exempted from disclosure by statute, information in applications is public information not exempt from disclosure under Section 9-340C(452), Idaho Code. ~~Applications for motor carrier authority must comply with the Motor Carrier Rules, IDAPA 31.61.01.000 et seq.~~ (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

061. FILING DOCUMENTS WITH THE COMMISSION--NUMBER OF COPIES--FACSIMILE TRANSMISSION (FAX) (Rule 61).

The following numbers of documents must be filed with the Commission Secretary: (7-1-93)

01. ~~Utilities Cases. Printed Filings.~~ Printed Filings. When filing printed material. (____)

a. In utilities cases (other than security issuances): (7-1-93)(____)

ai. Pleadings (applications, petitions, complaints, motions, answers and consent agreements)--an original and seven (7) copies. (7-1-93)

- ~~b~~ii. Briefs, proposed orders, statements of position, and exceptions under Rule 312--eight (8) copies. (7-1-93)()
- eiii. Prepared testimony and exhibits--nine (9) copies (one (1) copy designated as reporter's copy) plus computer disk as required by Rule 231.05. (7-1-93)
- ~~d~~iv. Discovery-related documents (notice of deposition, production requests, written interrogatories, requests for admission, answers to discovery, explanations in lieu of discovery under Rule 225 and objections to discovery)--three (3) copies except as requested pursuant to Rule 229. (7-1-93)
- ~~02~~b. ~~Regulated Carrier Cases And Security Issuances.~~ In regulated carrier and sSecurity issuance cases: (7-1-93)()
- ai. Pleadings--an original and four (4) copies. (7-1-93)
- bii. Other documents except for discovery-related documents--five (5) copies. (7-1-93)
- eiii. Discovery-related documents--three (3) copies. (7-1-93)
- ~~03~~2. **FAX Filings.** Pleadings (including supporting affidavits, memoranda, etc.) not exceeding ten (10) pages in length, notice of taking depositions, notices of withdrawal of party or of withdrawal of representative, stipulations, and documents requiring urgent or immediate action by the Commission may be filed with the Commission Secretary by facsimile transmission (FAX). Whenever any such document is filed by FAX, originals must be delivered to the Commission by overnight mail on the next working day. The use of FAX is prohibited to file prepared testimony and exhibits, requests for or answers to discovery (other than notices of taking deposition), or any other documents except as authorized by this paragraph. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

067. INFORMATION EXEMPT FROM PUBLIC REVIEW--DEFINITIONS--FORM--PROCEDURES (Rule 67).

- 01. Definitions.** ()
- a. Trade Secrets. Trade secrets as defined in Section 9-340D, Idaho Code, means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that: ()
- i. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and ()
- ii. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Trade secrets filed with the Commission are exempt from public inspection, examination and copying pursuant to Section 9-340D, Idaho Code. ()
- b. Confidential Information. Confidential information means information, documents, or records filed with the Commission that are specifically exempt from public inspection, examination and copying pursuant to Sections 9-340A through 9-340F, Idaho Code. ()
- 02. Form.** In addition to the requirements of Rule 62 (except Subsection 062.01.a.), information that is alleged to be trade secrets, confidential or otherwise exempt from public disclosure shall be served upon the Commission and other parties who have entered into a protective agreement pursuant to Subsection 067.04 in either printed or electronic format. ()

a. If in printed form, the page(s) containing the trade secret or confidential information shall be reproduced on any colored paper other than white. Each page shall be marked as "TRADE SECRETS" or "CONFIDENTIAL". ()

b. If in electronic form, the trade secret or confidential information shall be reproduced separately on a DOS formatted three and one-half (3.5") inch, one point forty-four (1.44) megabyte diskette and not included with other material electronically filed. Each diskette containing trade secret or confidential information shall be clearly identified with the case caption, case number, title of document and marked as "TRADE SECRETS" or "CONFIDENTIAL". ()

03. Procedure. Whenever a party believes that information contained in pleadings or other documents are trade secrets, confidential or otherwise exempt from public disclosure, the attorney of such party designated by Rule 41 must state in writing that the information is protected by law from public inspection, examination or copying, citing the specific grounds and legal authority for that assertion. Documents containing trade secrets or confidential information shall be separated from documents not containing trade secrets or confidential information. Trade secrets or confidential information contained in documents will be removed and replaced with a page marked: "This page allegedly contains trade secrets or confidential material and is separately filed." All materials for which no assertion of protection from public inspection, examination and copying is made will be placed in files available for public inspection. Trade secrets, confidential information and other records exempt from public inspection shall be separately stored in a secured location with limited access and safeguarded from unauthorized disclosure. ()

04. Protective Agreements. In proceedings before the Commission involving trade secrets or other confidential information, parties may enter into protective agreements to facilitate and safeguard the exchange of necessary information. Protective agreements may include procedures for copying, exchanging, serving, safeguarding, or challenging the characterization of trade secrets or confidential information. The Commission shall not be a party and will not be bound by the terms of a protective agreement. ()

~~0678.~~ -- 070. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

072. FORM AND CONTENTS OF PETITIONS TO INTERVENE (Rule 72).

Petitions to intervene must comply with Rules 41, 61, and 62. The petition must set forth the name and address of the petitioner and clearly and concisely state the direct and substantial interest of the petitioner in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. Applications for intervenor funding should be made in a separate document from the petition to intervene. ~~Intervenor in motor carrier matters must also comply with the Motor Carrier Rules, IDAPA 31.61.01.000, if applicable.~~ (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

076. PUBLIC WITNESSES (Rule 76).

Persons not parties and not called by a party who testify at hearing are called "public witnesses". Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings. Subject to Rules 249 and 251, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Rule 231 with regard to filing and service of testimony and exhibits to the same extent as witnesses of parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection. ~~Public witnesses in motor carrier matters must comply with applicable Motor Carrier Rules, IDAPA 31.61.01.000 et seq.~~ (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

102. NOTICE OF PETITION FOR DECLARATORY ORDERS (Rule 102).

Notice of petition for declaratory ruling will be issued to all affected utilities ~~or summarized for affected common carriers in the Summary of Motor Carrier and Rail Activities.~~ Orders disposing of the petition will be served on all affected utilities ~~or summarized for affected common carriers in the Summary of Motor Carrier and Rail Activities.~~
(7-1-93)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

111. FORM AND CONTENTS--NEW UTILITY (Rule 111).

Applicants for the issuance of a certificate of convenience and necessity for a new utility under Section 61-526, Idaho Code, ~~or Commission order, (other than for motor carriers)~~ must submit the data required by this rule (where relevant) with their applications. ~~Applications for motor carrier permits are governed by the Motor Carrier Rules, IDAPA 31.61.01.000 et seq.~~
(7-1-93)(_____)

- 01. Name, Address And Form Of Business.** (7-1-93)
 - a. If the applicant is a sole proprietor: (7-1-93)
 - i. The name, ~~and~~ business address, and electronic address (if available) of the applicant; and (7-1-93)(_____)
 - ii. The business name of the sole proprietorship. (7-1-93)
 - b. If the applicant is a partnership: (7-1-93)
 - i. A list of the names, ~~and~~ business addresses, and electronic addresses (if available) of all the partners; and (7-1-93)(_____)
 - ii. The business name of the partnership. (7-1-93)
 - c. If the applicant is a corporation:
 - i. A short statement of the character of public service in which it may engage; (7-1-93)
 - ii. The name of the state in which it is incorporated; (7-1-93)
 - iii. Its principal business address, ~~and~~ its principal business address within Idaho, and electronic address (if available); (7-1-93)(_____)
 - iv. A certified copy of its articles of incorporation; and (7-1-93)
 - v. If not incorporated in Idaho, a certificate of good standing issued by the Secretary of State of Idaho. (7-1-93)
- 02. Written Explanation Why Service Is Proposed.** A statement or prepared testimony and exhibits explaining why the proposed utility service is or will be in the public convenience and necessity. (7-1-93)
- 03. Proposed Operations.** A full description of the proposed location, route or routes of the utility service, including a description of the manner of construction, and the names of all public utilities, corporations, or persons with whom the proposed new utility is likely to compete. (7-1-93)
- 04. Maps.** A map of suitable scale showing the location of the utility service and its relation to other

public utilities in the area that offer or provide similar utility service. (7-1-93)

05. Financing Of Construction. A statement of the manner in which the applicant proposes to finance new utility service construction, the time when the applicant proposes to begin construction and the time when the applicant proposes to begin service. (7-1-93)

06. Cost Of Service. Estimates of the cost of extending to and the annual cost of serving the territory for which the certificate is sought, of the number of service connections already made or to be made, of the annual revenue from them or expected annual revenue from them, and of anticipated rates and charges. (7-1-93)

07. Financial Statement. A financial statement of the applicant. (7-1-93)

112. FORM AND CONTENTS--EXISTING UTILITY (Rule 112).

Existing utilities applying for the issuance of or the amendment of a certificate of convenience and necessity under Section 61-526, Idaho Code, (~~other than a motor carrier~~) must submit the following data (where relevant):

(7-1-93)(____)

01. Statement And Explanation. A statement or prepared testimony and exhibits explaining why the proposed construction or expansion is or will be in the public convenience and necessity. (7-1-93)

02. Description Of Construction Or Expansion. A full description of the proposed construction or expansion, including the manner of construction or expansion, and if an expansion, the names of all public utilities, corporations, or persons with whom the expanded utility is likely to compete. (7-1-93)

03. Map. A map of suitable scale showing the location of the construction or expansion and its relation to other public utilities in the area(s) that offer or provide similar utility service. (7-1-93)

04. Financial Statement And Construction Timelines. A statement of the manner in which the applicant proposes to finance the construction or expansion, the time when the applicant proposes to begin the construction or expansion, and the time when the applicant proposes to complete the construction or expansion. (7-1-93)

05. Cost Estimates And Revenue Requirements. Estimates of the cost of the construction or expansion, the number of additional customers to be served by the construction or expansion, the revenues to be derived from the construction or expansion, and of the effects of the construction or expansion on revenue requirements. (7-1-93)

113. NOTICE OF APPLICATION--ORDERS (Rule 113).

~~Except for motor carriers, a~~ Notice of application for a certificate of convenience and necessity will be issued to all interested persons in all cases in which statute requires formal consideration of the application or in which the Commission intends to conduct formal proceedings to consider the application. ~~Motor carrier applications will be summarized in the Summary of Motor Carrier and Rail Activities.~~ (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

121. FORM AND CONTENTS OF APPLICATION TO CHANGE RATES (RULE 121).

01. Utility Applications To Change Rates. Applications by any public utility ~~other than a motor carrier~~ to increase, decrease or change any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change must include the following data: (7-1-93)(____)

a. An exhibit showing in full each proposed change in rates, tolls, rentals, charges, rules or regulation by striking over proposed deletions to existing tariffs and underlining proposed additions or amendments to existing tariffs, except applications to increase or decrease all or almost all rates and charges by a uniform percentage or by a

uniform amount may be made by filing a tariff listing the proposed change and all unchanged rates and charges or rates and charges not changed by a uniform percentage or a uniform amount, or by use of another designation previously approved by the Commission that clearly calls attention to all proposed changes in numbers or wording. (7-1-93)

b. If the application is subject to Rule 122, a complete justification of the proposed increase in the form of testimony and exhibits or a narrative exposition. (7-1-93)

c. If the application is subject to Rule 122, when a general change in recurring rates is proposed, a statement showing how the application has been brought to the attention of affected customers under IDAPA 31.21.02.102 or 31.41.02.102. (7-1-93)

d. A statement that the applicant stands ready for immediate consideration of the application. (7-1-93)

e. If the application is subject to Rule 122, testimony and exhibits showing financial statements, cost of capital and appropriate cost of service studies. (7-1-93)

f. Workpapers or documentation showing how test year data were adjusted. (7-1-93)

g. If the applicant provides utility service in states other than Idaho or utility service subject to federal regulation, a jurisdictional separation of all investments, revenues and expenses allocated or assigned in whole or in part to Idaho intrastate utility business regulated by this Commission showing allocations or assignments to Idaho. (7-1-93)

02. Proposals Based Upon Computer Modeling. In addition, in any application in which a computer model is used to represent or simulate processes from which the revenue requirement is derived or upon which allocations of the revenue requirement to different customer classes are based, complete documentation of all those computer models must be supplied to the Staff, upon request, and be available in the utility's office or other depository. The Staff may request that the computer model itself be provided. A computer model includes the representation or simulation of a process, but does not mean or include the compilation of actual data. The application must state that the documentation of the models already on file in the applicant's office or other depository fully describes the models or that necessary updates or additions to previous documentation that will fully describe the models is on file and will be supplied on request. (7-1-93)(____)

03. Grounds For Returning Or Dismissing Application. Failure to comply with Rule 121.01 and 121.02 of this rule is grounds to return or dismiss an application under Rule 65. (7-1-93)

~~**04. Motor Carrier Applications.** Applications involving changes in the rates of motor carriers are governed by the Motor Carrier Rules, Rule 6, IDAPA 31.61.01.000 et seq. (7-1-93)~~

122. NOTICE OF INTENT TO FILE A GENERAL RATE CASE (Rule 122).

01. Which Utilities Must File Notice. Utilities with annual gross revenues from retail customers in the State of Idaho exceeding three million dollars (\$3,000,000) must file with the Commission a "notice of intent to file a general rate case" at least sixty (60) days before filing a general rate case. If the general rate case described in the notice is not filed within one-hundred twenty (120) days after filing of the notice of intent to file a general rate case, by operation of this rule a notice of intent to file a general rate case will be considered withdrawn unless it is supplemented with a written statement that the utility still intends to file a general rate case of the kind described in its notice of intent to file a general rate case. (7-1-93)

02. Exceptions For Trackers, Etc. This rule applies only to general rate increases. Examples of cases outside the scope of this rule include (but are not limited to) fuel, power cost adjustment (PCA), commodity or purchased power tracker rate increases, emergency or other short-notice increases caused by disaster or weather-related or other conditions unexpectedly increasing a utility's expenses, rate increases designed to recover governmentally-imposed increases in costs of doing business, such as changes in tax laws or ordinances, or other increases designed to recover increased expenses arising on short notice and beyond the utility's control. (7-1-93)(____)

123. PROPOSED CHANGES TO RATES OR RULES--EFFECTIVE DATE--NOTICE OF APPLICATION--SUSPENSION (Rule 123).

01. Statutory Notice Of Rate Changes. No application by any public utility ~~or regulated common carriers~~ to change any rate, fare, toll, rental, charge or classification, or any rule, regulation, or contract relating to or affecting any rate, fare, toll, rental, charge, classification, or service, or in any privilege or facility, can be effective unless notice is given to the Commission and the public pursuant to Section 61-307, Idaho Code. If the application for such a change proposes an effective date fewer than thirty (30) days after the application is filed, the effective date of the change is delayed until thirty (30) days after the application is filed by operation of Section 61-307, Idaho Code, unless the Commission by order approves an earlier effective date for good cause shown. In the absence of an order approving or suspending any or all such proposed changes, the changes not suspended or approved go into effect thirty (30) days after filing or on their proposed effective date, whichever is later. If no effective date is proposed for the changes, the changes do not go into effect until approved by order. (7-1-93)(____)

02. Notice Of Application. ~~Except in the case of motor carriers, w~~ Within twenty-one (21) days of the date of any application to change any rate, fare, toll, charge, or classification, or any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification, or service, or in any privilege or facility, the Commission Secretary will issue a notice of application to all interested persons, unless notice is issued pursuant to modified procedure or the application is earlier approved or described by order. (7-1-93)(____)

03. Suspension Of Proposed Rate Changes. At any time before proposed changes take effect pursuant to Sections 61-307, Idaho Code and Rule 123.01 of this rule, the Commission may suspend the effectiveness of the changes pursuant to Sections 61-622 or 61-623, Idaho Code, whichever is applicable. Whenever the Commission suspends proposed changes for less than the maximum period of suspension allowed by statute, it may extend the period of the suspension to the statutory maximum consistent with the statutory standards. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

131. FORM OF TARIFFS (Rule 131).

Tariff schedules of utilities ~~other than regulated carriers~~ must show the designation "Idaho Public Utilities Commission" on their title page. A blank space approximately three by one and one-half inches (3" x 1-1/2") must be provided for the Commission's stamp of approval in the upper right or lower right corner of each schedule filed. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

141. FORM AND CONTENTS OF APPLICATION TO ISSUE SECURITIES (Rule 141).

Except as provided in Rule 142, ~~147 or Section 61-909, Idaho Code~~, any utility applying to issue securities under Sections 61-901 ~~et seq.~~ through 61-904, Idaho Code, must submit an application with the following information: (7-1-93)(____)

- 01. Description.** A general description of the applicant's field of operations. (7-1-93)
- 02. A Full Description Of The Securities.** Including the proposed: (7-1-93)
 - a. Amount; (7-1-93)
 - b. Interest or dividend rates; (7-1-93)
 - c. Date of issue (or statement that the securities will be a shelf registration); (7-1-93)

- d. Date of maturity; (7-1-93)
- e. Voting privileges; (7-1-93)
- f. Call or redemption provisions; and (7-1-93)
- g. Sinking fund or other provisions for securing payment. (7-1-93)
- 03. A Statement Of The Proposed.** (7-1-93)
 - a. Method of marketing; (7-1-93)
 - b. Terms of sale; (7-1-93)
 - c. Underwriting discounts or commissions; (7-1-93)
 - d. Sale price; and (7-1-93)
 - e. Net proceeds to the applicant, including itemized statements of all fees and expenses (estimated if not known) to be paid in connection with the proposed transaction. (7-1-93)
- 04. A Statement Of The Purposes.** Statement of the purposes for which the proceeds from the securities will be used, including: (7-1-93)
 - a. A description of the property to be acquired or constructed and a statement of its cost or value (estimated if not known); (7-1-93)
 - b. A description of obligations to be refunded or expenditures for which reimbursement is intended; or (7-1-93)
 - c. Other information advising the Commission of the nature and purposes of the proposed transaction. (7-1-93)
- 05. Statement Of Explanation.** A statement explaining why the proposed transaction is consistent with the public interest and necessary or appropriate for or consistent with the applicant's proper performance of service as a public utility. (7-1-93)
- 06. Financial Statement.** A financial statement showing the authorized and outstanding classes of the applicant's securities and certified copies of the resolutions of stockholders or directors authorizing the proposed transaction and other instruments relating to the transaction. (7-1-93)
- 07. Proposed Order.** A proposed order granting the application, captioned proposed order of applicant, suitable for adoption by reference if the application is granted. (7-1-93)
- 08. Statement Of Public Notice Application.** A statement that notice of the application has been published in those newspapers in general circulation in the applicant's service area in Idaho or nearest applicant's service area in Idaho or will be published within seven (7) days of the application. These newspapers are: the Coeur d'Alene Press (Coeur d'Alene), the Idaho Business Review (Boise), the Idaho State Journal (Pocatello), the Idaho Statesman (Boise), the Lewiston Morning Tribune (Lewiston), the Post Register (Idaho Falls), the Preston Citizen (Preston), the Bonner County Daily Bee (Sandpoint), and the Times News (Twin Falls). The Commission may require the applicant to furnish further necessary information. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

145. REQUESTS FOR EXPEDITIOUS ACTION (Rule 145).

If a pleading requests the Commission to issue an order authorizing issuance of securities sooner than thirty (30) days after initial filing with the Commission, each copy of the pleading making that request must be accompanied by a cover letter stating the following:

ATTENTION COMMISSION SECRETARY AND HEAD LEGAL SECRETARY:

(Name of party) requests that the Commission issue an

Order approving issuance of these securities on or before _____, 19__ (date).

(7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

147. EXEMPTION (Rule 147).

Pursuant to Section 61-909, Idaho Code, the Commission may, by order, exempt any security or a class of security or a class of public utility from the provisions of Sections 61-902 through 61-905, Idaho Code, if it finds the public interest will not be adversely affected. See Commission Order No. 26959. (____)

147~~8~~. -- 150. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

162. FORM AND CONTENTS OF PETITION FOR INTERVENOR FUNDING (Rule 162).

An application for intervenor funding must contain the following: (7-1-93)

01. Itemized List Of Expenses. An itemized list of expenses that the intervenor requests to recover broken down into categories such as legal fees, witness fees, or reproduction fees. Legal and witness fees shall, where applicable, indicate hourly rates. (7-1-93)(____)

02. Statement Of Proposed Findings. A statement of the intervenor's proposed finding or recommendation that the intervenor wishes the Commission to adopt. (7-1-93)

03. Statement Showing Costs. A statement showing that the costs that the intervenor proposes to recover are reasonable in amount. (7-1-93)

04. Explanation Of Cost Statement. A statement explaining why the costs described in Rule 162.03~~1~~ constitute a significant financial hardship for the intervenor. (7-1-93)(____)

05. Statement Of Difference. A statement showing how the intervenor's proposed finding or recommendation ~~described in Rule 162.02 in the case~~ differs materially from the testimony and exhibits of the Commission Staff. (7-1-93)(____)

06. Statement Of Recommendation. A statement showing how the intervenor's recommendation or position addressed issues of concern to the general body of utility users or consumers, and (7-1-93)

07. Statement Showing Class Of Customer. A statement showing the class of customer on whose behalf the intervenor appeared. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

201. SCOPE OF MODIFIED PROCEDURE (Rule 201).

The Commission may preliminarily find that the public interest may not require a hearing to consider the issues presented in a proceeding and that the proceeding may be processed under modified procedure, i.e., by written submissions rather than by hearing. ~~The scope and procedure of modified procedure in motor carrier matters are governed by the Motor Carrier Rules, IDAPA 31.61.01.000 et seq.~~ (7-1-93)()

202. NOTICE OF MODIFIED PROCEDURE (Rule 202).

01. Notice Of Modified Procedure. When the Commission finds that it may not be in the public interest to hold a hearing in a matter, notice of modified procedure will be issued. It will: (7-1-93)

- a. Describe the issues presented in the proceeding, (7-1-93)
- b. Summarize the moving party's justification for the proposed changes and its position, (7-1-93)
- c. State that the Commission finds that it may be in the public interest not to hold a hearing in the proceeding and will not do so unless it receives written protests or comments opposing the use of modified procedure and stating reasons why modified procedure should not be used, and (7-1-93)
- d. Establish the deadline for filing written protests or comments with the Commission. (7-1-93)

02. Distribution Of Notice. ~~Except in motor carrier matters, e~~Copies of the notice of modified procedure will be ~~mailed~~ provided to all interested persons, including newspapers, municipalities, counties, and chambers of commerce located within the territorial scope of the application, petition or complaint whose readers, citizens or members may be affected by the proceedings and to all parties. Unless otherwise provided by the notice of modified procedure, all interested persons will have at least twenty-one (21) days from the date of the notice to file a written protest or comment. ~~Motor carrier matters will be summarized in the Summary of Motor Carrier and Rail Activities.~~ (7-1-93)()

203. PROTESTS AND COMMENTS (Rule 203).

Any person affected by the proposal of the moving party may file a written protest, support or comment before the deadline of the notice of modified procedure. Protests, supports and comments must contain a statement of the reasons for the protest, support or comment, but need not ask for a hearing. Persons desiring a hearing must specifically request a hearing in their written protests or comments. A copy of the person's protest, support or comment must be served on the representative of the moving party. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

231. PREPARED TESTIMONY AND EXHIBITS (Rule 231).

01. Prepared Testimony May Be Required. Order, notice or rule may require a party or parties to submit prepared testimony and exhibits to be presented at hearing. (7-1-93)

02. Format For Prepared Testimony. (7-1-93)

- a. Prepared testimony and exhibits must be accompanied by a cover sheet showing the case caption and case title, the person testifying, the party for whom the testimony is offered, and the nature of the testimony (direct, rebuttal, etc.). (7-1-93)
- b. The first page of prepared testimony should contain testimony only (i.e., it should begin with the first question to the witness and not repeat the information on the cover page). (7-1-93)
- c. Prepared testimony must be submitted on white eight and one half by eleven inch (8-1/2" x 11") paper, be double-spaced (except for quoted material and tables or other collections of numerical data), and contain no

~~the representative that the attorney~~ is familiar with the material claimed not to be available for public inspection, examination and copying and in good faith believes there is a basis in law for that claim. ()

02. Procedures. When an answer contains material, some of which is protected by law from public inspection, examination, and copying and some of which is not, the protected material must be reproduced on any colored paper other than white and separated from material available for public review. Each page of the material exempt from public review must be marked "Trade Secrets" or "Confidential". All material exempt from public review shall be filed with the Commission Secretary and served on all parties under seal pursuant to Rule 229. Material exempt from public review shall be separately stored in a secure location with limited access and safeguarded from unauthorized disclosure. All material for which no assertion of protection against public inspection, examination and copying is made will be placed in files available for public inspection. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

243. HOW HEARINGS ARE HELD (Rule 243).

01. All Hearings Presumed Open. All hearings conducted by the Commission are open to the public except when a hearing may be partially closed to safeguard trade secrets or other confidential information protected from public disclosure. The Commission disfavors closed hearings and parties shall take all reasonable measures to avoid the need to close a public hearing. Such measures include: (7-1-93)()

- a. Using references to page and line or column numbers: ()
- b. Using summaries or generalizations: ()
- c. Stipulating that the evidence be offered in the public hearing; or ()
- d. Offering testimony in writing. ()
- e. If parties intend to cross-examine or offer testimony that may necessitate the partial closure of a hearing, they shall advise the Commission or presiding officer at the beginning of the hearing. ()

02. Methods Of Conducting Hearings. Hearings may be held in person or by telephone or television or other electronic means, if each participant to the hearing has an opportunity to participate in the entire proceeding while it is taking place. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

263. OFFICIAL NOTICE (Rule 263).

01. Matters That May Be Officially Noticed. The Commission may officially note at hearing and in its orders: (7-1-93)

- a. 1) Its own orders, notices, rules, certificates and permits, and 2) those of any other regulatory agency, state or federal; (7-1-93)
- b. 1) matters of common knowledge, 2) technical, financial, or scientific facts established and published in accepted authorities or in the Commission's specialized knowledge, and 3) matters judicially noticeable; and (7-1-93)
- c. Data contained in periodic reports of regulated utilities ~~or carriers~~ filed with the Commission or federal regulatory agencies. (7-1-93)()

02. Procedure For Taking Official Notice. When officially noting on its own motion matters described in Rule 263.01.b.(2) or 263.01.c. or adjudicative facts under Rule 263.01.b.(3) of this rule, the Commission will give the parties appropriate opportunity to respond or refute such matters noticed. Unless otherwise agreed by the parties and approved by the presiding officer, parties requesting the Commission to take official notice of documents must submit those documents to the Commission in the manner prescribed for documents in Rule 262. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

267. EXHIBITS (Rule 267).

01. Exhibit Numbers. Exhibit numbers are assigned to the parties before hearing according to Rule 230. (7-1-93)

02. Form Of Exhibits. ~~Public~~ Exhibits offered at hearing must ordinarily be typed or printed on eight and one half by eleven inch (8 1/2" x 11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. Exhibits that are trade secrets, confidential information or otherwise exempt from public review shall be printed on any colored paper other than white. A copy of each documentary exhibit must be furnished to each party present, to the reporter, and to each Commissioner or hearing examiner, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. (~~7-1-93~~)(____)

03. Timely Filing Of Exhibits. Exhibits offered as part of a party's direct case (except exhibits offered on redirect examination) must be timely filed. Exhibits filed pursuant to any order, notice or rule requiring their filing before hearing are timely filed. Otherwise, exhibits must be distributed or made available to all parties long enough before their introduction into evidence to allow the parties a reasonable opportunity to review them and to prepare to examine their substance, except those exhibits that update exhibits previously timely filed may be filed so long as fair opportunity is afforded other parties to examine the sponsoring witnesses about the updated material. (7-1-93)

04. Objection--Admission. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. (7-1-93)

05. Labeling Of Exhibits. All exhibits accompanying prepared testimony, exhibits introduced during direct examination of a party's witnesses, and, to the extent practicable, all other exhibits introduced at hearing must label the exhibit number, case number, party and witness sponsoring the exhibit, and any subdivisions within the exhibit, such as separate schedules or charts. Examples of labeling required by this rule are:

Exhibit No. 101
Case No. XXX-X-XX-XX
P. Engineer, Staff
Schedule 1, p. 1 of 3

Exhibit No. 507
Case No. XXX-X-XX-XX
L.Accountant, ABC Company

Exhibits prepared for the proceeding must contain this labelling on each page of the exhibit. Exhibits reproducing previously existing documents may contain a cover page with this labelling, but need not be labelled on each page. (7-1-93)

06. Sources For Exhibits. Exhibits prepared from data in workpapers, answers to discovery, periodicals, reports or other documentable sources of information must contain a statement of sources. Examples of the statements of sources required by this rule are: (7-1-93)

P. Engineer, Workpapers
to First Tab A, pages 1-47

Answer of XYZ Utility
Production Request of ABC

Company, Question 13

Moody's Public Utility
Manual p. 402a 1993 Vol. 1, p. 606

XYZ Utility, FERC Form 1 (1993)

Exhibits especially prepared for introduction into evidence in a proceeding (i.e., exhibits not otherwise prepared or in existence) should be descriptively titled to show their contents and purpose. (7-1-93)

07. Certain Exhibits Require Presiding Officer's Approval. Neither motion pictures, slides, opaque projections, video tapes, audio tapes nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without prior approval of the presiding officer. Writing, sketching and drawing on blackboards or other similar surfaces by witnesses presenting testimony do not constitute an exhibit or evidence in the proceeding unless the writing, sketching or drawing is reproduced, photographed, or otherwise preserved for the record. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

282. THE COMMISSION SECRETARY'S OFFICIAL FILE (Rule 282).

01. Documents In File. The Commission Secretary's official file for a proceeding is the public file maintained by the Commission Secretary. This file includes all documents filed with regard to a proceeding, whether filed by parties or other persons, and includes (but is not limited to) pleadings, discovery and related materials, briefs, proposed orders, statements of position, correspondence concerning the proceeding directed to the Commission, a Commissioner, or the Commission Secretary (whether by parties or persons not parties), prepared testimony and exhibits, workpapers, transcripts, exhibits presented at hearing, orders, notices, press releases, and other matters pertaining to or related to a proceeding and included in the public files of that proceeding by the Commission Secretary. (7-1-93)

02. Public Records. Except as provided in Rules 26, 67, and 2343, and 287, which refer to statutory exemptions from disclosure, all material in the Commission Secretary's Official File is subject to inspection, examination and copying under Section 9-338, Idaho Code. In particular, information obtained in an application for a certificate or permit issued by this Commission inquiring into a person's fitness to be granted or to retain a certificate or permit is not exempted from examination or copying under Section 9-340C(459), Idaho Code, but may be exempted under other statutes. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

287. SEALED TRANSCRIPTS (Rule 287).

At the direction of the Commission or the presiding officer, the reporter shall prepare a separate transcript volume(s) of closed proceedings involving trade secrets, confidential information or other matters exempt from public disclosure. The reporter shall file the separate transcript volume(s) under seal. Sealed transcripts shall be separately stored in a secure location with limited access and safeguarded from unauthorized disclosure. (____)

~~287~~ -- 300. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

331. PETITIONS AND CROSS-PETITIONS FOR RECONSIDERATION (Rule 331).

01. Petition For Reconsideration. Within twenty-one (21) days after the service date of issuance of any final order ~~or rule~~, any person interested in a final order or ~~rule~~ any issue decided in a final order of the Commission may petition for reconsideration. Petitions for reconsideration must set forth specifically the ground or grounds why the petitioner contends that the order or ~~rule~~ any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted. See Section 61-626, Idaho Code. (7-1-93)()

02. Cross-Petition For Reconsideration. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration in response to any issues raised in the petition for reconsideration. Cross-petitions for reconsideration must set forth specifically the ground or grounds why the cross-petitioner contends that the order ~~or rule~~ is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument that the cross-petitioner will offer if reconsideration is granted. See Section 61-626, Idaho Code. (7-1-93)()

03. Methods Of Reconsideration Requested. The petition or cross-petition must state whether the petitioner or cross-petitioner requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories. (7-1-93)

04. Timely Filing--Mailbox Rules. A petition for reconsideration is timely within the meaning of Section 61-626, Idaho Code, if it is filed with the Commission or postmarked no later than twenty-one (21) days after the date of service of the final order. ~~Whenever a petition for reconsideration is not personally filed with the Commission Secretary within twenty one (21) days of the date of service of the final order or is not mailed at least three (3) days before that date, on the day the petition for reconsideration is mailed, the petitioner should notify the Commission Secretary and all other parties by telephone that the petition for reconsideration has been mailed. Whenever a petition for reconsideration is mailed, rather than personally delivered, and it is not postmarked within eighteen (18) days from the date of service of the final order, the petitioner should notify the Commission Secretary and all other parties by telephone that the petition for reconsideration has been mailed.~~ A cross-petition for reconsideration is timely filed within the meaning of Section 61-626, Idaho Code, if it is filed with the Commission or postmarked no later than seven (7) days after the petition for reconsideration to which it responds is received in the Office of the Commission Secretary. ~~Whenever a cross-petition for reconsideration is not personally filed with the Commission Secretary within seven (7) days of the date of receipt of the petition for reconsideration by the Commission Secretary or is not mailed at least three (3) days before that date, on the day the cross-petition for reconsideration is mailed, the cross-petitioner should notify the Commission Secretary and all other parties by telephone that the cross-petition for reconsideration has been mailed. Whenever a cross-petition for reconsideration is mailed, rather than personally delivered, and is not postmarked within four (4) days from the date of receipt of the petition for reconsideration by the Commission Secretary, the cross-petitioner should notify the Commission Secretary and all other parties by telephone that the cross-petition for reconsideration has been mailed.~~ (7-1-93)()

05. Answers To Petitions For Reconsideration. Answers to petitions for reconsideration (pleadings that disagree with a petition for reconsideration, but do not ask for affirmative relief from the Commission's orders) must be filed according to the procedures for cross-petitions for reconsideration. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

343. PREPARATION OF APPELLATE RECORD (Rule 343).

The Commission by order may correct the title of an appeal to properly designate all parties as appellants, cross-appellants, respondents, or cross-respondents and to omit those designations for parties before the Commission who are not parties on appeal. All requests for a transcript on appeal must be served on the reporter and on the Commission Secretary. Reporter's fees under Idaho Appellate Rule 24(e~~c~~) should be paid directly to the reporter, not to the Commission Secretary. The Secretary's fees under Idaho Appellate Rule 27(b) for preparation of the agency's record are the same fees provided in that rule for the clerk of the district court to charge for preparation of the clerk's record. (7-1-93)()

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.21.02 - INFORMATION TO CUSTOMERS OF GAS, ELECTRIC, AND WATER PUBLIC UTILITIES

DOCKET NO. 31-2102-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-502 and 61-601, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Request for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The Commission proposes to amend its rule that requires utilities make available brief written summaries of testimony to be offered at "all Commission hearings". The Commission proposes to relax the requirement that summaries be prepared for all hearings. The rule contemplates that parties may request that the Commission dispense with the preparation of summaries on a case-by-case basis. The Commission also proposes to clarify the requirements of this rule. If a utility is requesting a rate increase, its summary shall address the utility's need for additional revenue, the dollar amount requested, and the proposed percentage increase or decrease for each major customer group. Intervenors in Commission cases shall also be required to make brief written summaries available.

The Commission also proposes to amend the rule to reflect the occasional practice of requiring oral presentations or briefings prior to the beginning of a public hearing. The Commission has found that these informal and off-the-record presentations prior to the beginning of a hearing provides the public with a greater understanding of the issues that will arise during the hearing. Written summaries and oral presentations are to be provided solely for the convenience of the public attending the hearing. Such summaries or presentations will not be allowed as evidence or form the basis for cross-examination of any witness.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312.

DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules.

All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before October 27, 1999. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 20th day of August 1999.

Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762

Street Address for Express Mail:
472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-2102-9901

105. SUMMARY OF POSITION(S) AND TESTIMONY (Rule 105).

~~At all Commission hearings, the~~ Each utility shall make available to the public at all Commission hearings a brief written summary of the ~~requested rate change~~ utility's position(s) and ~~the~~ testimony filed ~~on behalf of the utility~~ in the case under consideration except when the Commission has determined that a summary is not necessary. If the utility is requesting a rate increase, its summary shall address the utility's need for additional revenue, the total dollar amount requested, and the proposed percentage increase or decrease in rates for each major customer class. The Commission Staff and intervenors shall also provide a brief summary of ~~its~~ their recommendations and the testimony filed ~~by the Staff~~ in the case under consideration. The Commission may also require that an oral presentation or briefing be provided to the public prior to the beginning of the hearing. These summaries and presentations are provided solely for the convenience of the ~~reader~~ public and will not be allowed as evidence or form the basis for cross-examination of any witness.

(7-1-93)()

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

**31.41.01 - CUSTOMER RELATIONS RULES FOR TELEPHONE CORPORATIONS PROVIDING
LOCAL EXCHANGE OR INTRASTATE MTS/WATS SERVICE IN IDAHO SUBJECT
TO CUSTOMER SERVICE REGULATION BY THE IDAHO PUBLIC UTILITIES
COMMISSION UNDER THE PUBLIC UTILITIES LAW OR THE
TELECOMMUNICATIONS ACT OF 1988**

(THE TELEPHONE CUSTOMER RELATIONS RULES)

DOCKET NO. 31-4101-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-502, 61-503, 61-507, 62-604, 62-605, and 62-616, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Request for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The Commission's Telephone Customer Relations Subsections 105.02 sets out the methodology for calculating the amount of deposits that a local exchange company may collect when billing for long-distance telephone service. In calculating that portion of a deposit attributed to long distance charges, a local exchange company has two alternatives. If the company has no usage history of long distance service for that particular customer, the company may ask for a deposit equal to two months' estimated charges for long distance service. If the local exchange company has usage history, then the company may ask for a deposit equal to two months of the average long distance charges over the customer's most recent 12-month billing period. In comparison, the Commission's Rule 110 allows long distance companies that perform their own billing to ask a customer for a "reasonable deposit" in circumstances where deposits are permitted to be collected. The Commission is proposing to amend Subsection 105.02 to eliminate the two different standards for calculating deposits attributable to long distance service.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312.

DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules.

All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before October 27, 1999. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 18th day of August 1999.

Myrna J. Walters
Commission Secretary

Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762

Street Address for Express Mail:

472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-4101-9901

105. AMOUNT OF DEPOSIT--LECS (Rule 105).

01. Local Exchange Service. A deposit allowed pursuant to Rule 101 as a condition of service by a local exchange company for applicants or customers shall not exceed two (2) months' charges for local exchange service. Additional deposits for damage or other reasons independent of usage may be in reasonable amounts.

(7-1-93)

02. MTS Billed By The LEC. In addition to a deposit allowed pursuant to Rule 105.01, a local exchange company providing or billing for message telecommunications service (MTS) may ask for a reasonable deposit equal to two (2) months' estimated charges for MTS that it bills if the applicant or customer has no previous usage history, or two (2) months' average charges for MTS that it bills as reflected by the customer's past usage over the most recent twelve (12) month period. Deposits for customers expected to take service for short periods of time (e.g., political campaigns, conventions, fairs) may be based on expected usage during the time in service.

(7-1-93)()

03. Monitoring Deposits Based On MTS Usage. The deposit may be monitored for as long as the deposit is required and may be increased when MTS usage billed by the LEC in a one-month period exceeds by fifty dollars (\$50) or more the portion of the customer's deposit covering one month's MTS usage.

(7-1-93)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
31.41.02 - INFORMATION TO CUSTOMERS OF TELEPHONE COMPANIES

DOCKET NO. 31-4102-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-502 and 61-601, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Request for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The Commission proposes to amend rule that requires utilities make available brief written summaries of testimony to be offered at "all Commission hearings". The Commission proposes to relax the requirement that summaries be prepared for all hearings. The rule contemplates that parties may request that the Commission dispense with the preparation of summaries on a case-by-case basis. The Commission also proposes to clarify the requirements of this rule. If a utility is requesting a rate increase, its summary shall address the utility's need for additional revenue, the dollar amount requested, and the proposed percentage increase or decrease for each major customer group. Intervenors in Commission cases shall also be required to make brief written summaries available.

The Commission also proposes to amend the rule to reflect the occasional practice of requiring oral presentations or briefings prior to the beginning of a public hearing. The Commission has found that these informal and off-the-record presentations prior to the beginning of a hearing provides the public with a greater understanding of the issues that will arise during the hearing. Written summaries and oral presentations are to be provided solely for the convenience of the public attending the hearing. Such summaries or presentations will not be allowed as evidence or form the basis for cross-examination of any witness.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312.

DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules.

All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before October 27, 1999. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 23rd day of August 1999.

Barbara Barrows
Assistant Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762

Street Address for Express Mail:
472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-4102-9901

103. SUMMARY OF TESTIMONY (Rule 103).

At all Commission hearings in which a telephone company is sponsoring testimony, the telephone company shall make available to the public a brief written summary of the company's position(s) and ~~the~~ testimony filed ~~on behalf of the company~~ in the case under consideration except when the Commission has determined that a summary is not necessary. If the telephone company is requesting a rate increase, its summary shall address the company's need for additional revenue, the total dollar amount requested, and the proposed percentage increase or decrease in rates for the most commonly used residential and small business services. The Commission Staff and intervenors shall also provide a brief summary of ~~its~~ their recommendations and the testimony filed ~~by the Staff~~ in the case under consideration. The Commission may also require that an oral presentation or briefing be provided to the public prior to the beginning of the hearing. These summaries and presentations are provided solely for the convenience of the public and will not be allowed as evidence or form the basis for cross-examination of any witness. (7-1-93)()

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
31.42.01 - RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE
REGULATION OF THE IDAHO PUBLIC UTILITIES COMMISSION
UNDER THE TELECOMMUNICATIONS ACT OF 1988

(THE TITLE 62 TELEPHONE CORPORATION RULES)

DOCKET NO. 31-4201-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 62-304, 62-602, 62-610, 62-610F, 62-619, and 62-1303, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Request for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The Commission is proposing to amend Rule 202 of the Title 62 Telephone Corporation Rules to allow it to serve copies of Order and Notices electronically at the request of the company to be served. Long-distance telephone companies will be required to provide their electronic mailing addresses, if they have such addresses.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because of the non-substantive nature of many of the changes.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312.

DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules.

All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before October 27, 1999. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 23rd day of August 1999.

Barbara Barrows
Assistant Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762

Street Address for Express Mail:

472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-4201-9901

202. INFORMATION TO BE INCLUDED IN NOTICE TO COMMISSION (Rule 202).

01. Notice To Be Filed. All telephone corporations described in Section 62-604(1)(a), Idaho Code, are required by Section 62-604(1)(b), Idaho Code, to file a notice with this Commission before offering telecommunications services intrastate in Idaho. This notice must be filed by all telephone corporations, except mutual nonprofit or cooperative corporations, that did not on January 1, 1988, hold a certificate of public convenience and necessity issued by the Commission and that do not provide basic exchange service. Telephone corporations that must file this notice include MTS or WATS companies, resellers of MTS or WATS services, operator service providers, etc., not already certified by the Commission under Idaho Code Title 61, but this sentence does not exclude other categories of telephone corporations from this filing requirement. (7-1-93)

02. Contents Of Notice. The notice must contain the following information: (7-1-93)

a. The name of the telephone corporation and the business name of the telephone corporation if it does business under an assumed business name; (7-1-93)

b. The United States and electronic (if available) mailing addresses of the principal place of business of the telephone corporation, and, if there is a principal place of business in Idaho, the addresses of the principal place of business in Idaho; (7-1-93)(____)

c. An agent in Idaho for service of process by the Commission in the state of Idaho including the agent's United States and electronic (if available) mailing addresses; (7-1-93)(____)

d. A description of the telecommunication services offered by the telephone corporation and a map of the area(s) served by the telephone corporation or in which the telephone corporation offers or intends to offer service; (7-1-93)

e. Address(es) and toll-free telephone number(s) for personnel responsible for handling consumer inquiries, complaints, etc., by the public; and (7-1-93)

f. Name(s), United States mail and electronic (if available) address(es), and telephone number(s) of person(s) designated as a contact for the Commission Staff in resolving consumer complaints, responding to consumer inquiries, and answering matters concerning rates and price lists or tariffs. These notices must be updated at least annually, between December 1 and December 31 each year, and whenever there is a change in the telephone corporation's name, address, or agent for service of process. The Commission Secretary will provide forms for these notices. (7-1-93)(____)

03. Service. Notices, orders, rules, complaints and other documents issued by the Commission may be served by United States or electronic mail on the agent for service of process listed pursuant to Rule 202.042.c. of this rule. This service constitutes due and timely notice to the telephone corporation, and no further service is necessary to bind the telephone corporation. Telephone corporations obligated by statute to file the notice required by Rule 202.02 of this rule, but failing to do so, are bound by the Commission's motions, orders, rules, complaints and other documents upon their filing with the Commission Secretary. (7-1-93)(____)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.46.01 - UNIVERSAL SERVICE FUND RULES

DOCKET NO. 31-4601-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than October 20, 1999.

The hearing site will be accessible to persons with disabilities. Request for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

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

The present rule seems to be inconsistent with Section 62-610, Idaho Code, by implying that the Commission must revise rates for one-party single-line residence and business service for Universal Service Fund recipients downward to equal the new statewide average in order for the participating companies to continue to receive funding.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Cheri C. Copsey, Deputy Attorney General at (208) 334-0314.

DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules.

All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before October 27, 1999. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 18th August 1999.

Myrna J. Walters
Commission Secretary

Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
FAX: (208) 334-3762

Street Address for Express Mail:
472 West Washington Street
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-4601-9901

106. APPLICATIONS FOR FUNDS--ORDERS FOR FUNDING (Rule 106).

01. Eligibility. Pursuant to 62-610, Idaho Code, a telephone corporation that provides local exchange

service and access service for MTS/WATS providers may apply for disbursement from the USF if: (7-1-93)

a. Its average residence and business rates for local exchange service for one-party, single-line services exceed one hundred twenty-five percent (125%) of the weighted statewide average rates for one-party, single-line services for residence and business lines, respectively; and (7-1-93)

b. Its average rates per minute for MTS/WATS access services exceed one hundred percent (100%) of the weighted statewide average rate for the same or similar MTS/WATS access services. (7-1-93)

02. Continuation Of Eligibility. ~~In order to continue receiving USF funding after the first year of eligibility, each telephone company's must revise its rates to meet the thresholds for funding eligibility (threshold rate) based on the newly calculated statewide average rates as calculated annually by the Administrator pursuant to Rule 302. The average rate for one-party single-line residence and business service and for MTS/WATS access service shall be calculated individually and compared to the threshold rate based on the newly calculated statewide average and shall be revised to equal the threshold rate if as calculated annually by the Administrator pursuant to Rule 302. In order to continue receiving USF funding after the first year of eligibility, the rate shall be revised to equal or exceed the threshold rate, if a company's average for one-party single-line residence or business service or its rate for MTS/WATS access service is below the threshold rate and if:~~ (4-26-95)()

a. The difference in the company's current average rate and the statewide average threshold rate is greater than three percent (3%), and (4-26-95)

b. The difference in the annual revenue associated with the company's current rate and the revenue associated with the statewide average threshold rate is over six thousand dollars (\$6,000). (4-26-95)

03. Form Of Application. An application for initial USF funding or changes in USF funding may be made in a general rate case or as otherwise allowed by the Commission. Applications must quantify the USF funding sought and the proposed rates to be charged for one-party, single-line residence and business services and for MTS/WATS access services, indicating how USF funding will benefit the rates for these services. Applications must comply with the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (4-26-95)

04. Changes To Funding On Commission's Own Motion. The Commission on its own motion may by order change a telephone company's funding from the USF: (4-26-95)

a. In connection with any proceeding affecting the telephone company's residual revenue requirement; (7-1-93)

b. In connection with a recalculation of the statewide average rates for one-party, single-line residence and business rates and MTS/WATS access services and those recalculations' effect on the threshold for eligibility for funding; (7-1-93)

c. In connection with redetermination of the percentage of the residual revenue requirement that should be met by the USF; or (7-1-93)

d. As otherwise provided by order. No order altering a telephone company's funding from the USF will be issued without notice that USF funding is at issue and appropriate opportunity to be heard in person or in writing. (7-1-93)

05. Order For Disbursement. If the Commission finds that an applicant is eligible for USF disbursements, it may issue an order directing the USF to meet between seventy-five percent (75%) and one hundred percent (100%) of the telephone corporation's residual revenue requirement as defined in Section 62-610(4), Idaho Code. See Rule 005.10. Disbursements from the USF shall be made monthly in one twelfth (1/12) of the annual disbursements ordered by the Commission. (4-26-95)

IDAPA 33 - REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections Idaho Code, 54-2027, 54-2029(A), 54-2029A(E).

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Time: Thursday, October 28, 1999, at 1:30 p.m.

**Place: The Idaho Real Estate Commission
633 North Fourth Street
Boise, Idaho 83720**

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 rulemaking:

The bi-annual licensing fees will be increased by twenty dollars (\$20), to two hundred twenty dollars (\$220). The Commission finds the increase is necessary to meet increased costs in agency's regular and necessary operations.

Also, the required amount of errors and omissions insurance coverage for independently-obtained "firm" policies will be lowered, from a minimum annual aggregate of two million dollars (\$2,000,000) to an annual aggregate of one million dollars (\$1,000,000). The Commission finds that lowering the minimum to \$1,000,000 will be adequate to protect the public and will make independently-obtained insurance more affordable to brokerage companies. Many other states set one million dollar (\$1,000,000) as the minimum coverage for firms.

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

The bi-annual licensing fees for real estate brokers, associate brokers, and salespersons will be increased by twenty dollars (\$20), that is, from two hundred dollars (\$200) to two hundred twenty dollars (\$220).

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because input was received through other means, i.e., the numerous public hearings held on the Commission's proposed legislation. Time and financial constraints render negotiated rulemaking here impractical.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232; or Kim Coster, (208) 334-3285 ext. 235.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 1999.

DATED this 24th day of August, 1999.

Donna M. Jones
Executive Director
Idaho Real Estate Commission
633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
Phone/Fax: (208) 334-3285/Fax: (208) 334-2050

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-9901

101. APPLICATION FOR SALESMAN LICENSURE.

An initial salesman's license shall be issued to an applicant upon meeting all of the requirements. (Previously Rule 2,2,0) (7-1-93)

01. Application Deadline. The applicant shall have a period of three (3) months after the date of taking and passing the examination in which to initiate the license by making proper application, meeting the education requirements and all other license requirements and paying the license fee. Failure to apply for the initial license within this three (3) month period will require the applicant to submit another examination application and fee and pass the examination again. (Previously Rule 2,2,1) (3-20-97)

02. High School Graduation Or Equivalency Certificate. Proof of graduation from an accredited high school or a High School Equivalency Certificate must be submitted with the license application. (Previously Rule 2,2,2) (7-1-93)

03. Prelicense Education. The salesman license applicant shall successfully complete Commission approved courses in "Essentials of Real Estate," plus "Real Estate Practices" prior to applying for a license. Such courses need not be completed prior to taking the written license examination. Proof of successful completion of the required education shall be submitted with the license application. Commission approved courses, commonly known as "Essentials of Real Estate" and "Practices of Real Estate," must have been successfully completed within a five (5) year period immediately preceding the receipt date of the application. Each course must consist of at least forty-five (45) classroom hours, for a total of ninety (90) classroom hours, in subjects outlined in Section 54-2029, Idaho Code. The Commission may in its discretion waive such five (5) year period. Courses consisting of the same number of classroom hours as Idaho courses in "Essentials" and "Practices" which are completed out of state, may be approved for salesman applicants providing the subjects outlined in Section 54-2029, Idaho Code, are included. Study of the provisions of the law and rules pertaining to the state in which the course is taken may be accepted in lieu of a study of the provisions of this act and rules. (Previously Rule 2,2,3) (7-1-93)

04. Fees. The fees for an initial salesman license shall be two hundred ~~and twenty~~ dollars (\$200) which includes the twenty dollars (\$20) ~~fee~~ prescribed in Section 54-2035A, Idaho Code. (Previously Rule 2,2,4) (~~7-1-98~~)()

05. Limited To One Broker. A sales associate may be licensed under and associated with only one (1) broker at a time. (Previously Rule 2,2,5) (7-1-93)

06. Supervision, Effective Date, Incomplete Application. A broker shall not allow any person to act as a sales associate representing said broker unless that person and the designated broker have first received final approval of the sales associate's application for licensure from the Commission. A broker is required to make application to the Commission on the proper form when licensing a sales associate. The effective date of the newly issued license shall be the date the properly completed forms and fees are received at and approved by the Commission. The newly issued license will be mailed to the broker's office. Any incomplete forms or lack of proper fees shall result in the documents being returned to the applicant for correction and no license will be issued until properly submitted. All licenses, original, changed and renewed must be signed by the licensee to be valid. (3-20-97)

07. Fingerprints. Effective August 1, 1992, every applicant for a real estate salesperson license shall be fingerprinted by a duly authorized law enforcement agency and said fingerprints shall be filed with the Idaho Real Estate Commission for the purpose of determining whether the qualifications as set forth in Idaho Code are fulfilled. These fingerprints may be forwarded to the Federal Bureau of Investigation, Identification Division, and/or the Department of Law Enforcement of the state of Idaho for processing. The fee charged for these services must be paid by the applicant. (Previously Rule 2,2,7) (3-20-97)

08. Errors And Omissions Insurance. Effective December 31, 1993, every applicant for a real estate

salesman's license shall, as a condition of licensure, carry errors and omissions insurance in accordance with Section 54-2029A, Idaho Code, and with these rules. (12-31-93)

102. APPLICATION FOR BROKER LICENSURE.

An initial broker's license shall be issued to an applicant upon meeting all of the following requirements. (Previously Rule 2,3,0) (7-1-93)

01. Application Deadline. The applicant shall have a period of three (3) months after the date of taking and passing the examination in which to initiate the license by making proper application, meeting the education requirements, and paying the license fee. Failure to apply for the initial license within this three (3) month period will require the applicant to submit another examination application and fee and pass the examination again. (Previously Rule 2,3,1) (7-1-93)

02. High School Graduation Or Equivalency Certificate. Proof of graduation from an accredited high school or a High School Equivalency Certificate must be submitted with the license application. (Previously Rule 2,3,2) (7-1-93)

03. Prelicense Education. Proof that the required education in real estate courses has been successfully completed by the applicant must be submitted with the license application. Broker applicants shall provide proof of successful completion of a minimum of four (4) courses consisting of a total of at least ninety (90) classroom hours of approved real estate courses in addition to the "Essentials" and "Practices" courses required for a salesman's license. Note: A broker applicant who has maintained a salesman's license, originally issued prior to January 1, 1989, is exempt from the salesman's prelicense "Practices" course. All courses must have been completed within a five (5) year period immediately preceding the receipt date of the application. The Commission may in its discretion waive such five (5) year period. Approved courses must be comprised of twenty (20) or more classroom hours each. A list of certified courses will be available from the Commission office. (Previously Rule 2,3,3) (7-1-93)

04. Experience And Experience Waivers. The broker license applicant must have active license experience as a salesman for at least two (2) years within five (5) years prior to the application date, except, the Commission may waive all or part of the two (2) year requirement based on education and/or experience in a related industry, as prescribed in subsection B(2) of Section 54-2029, Idaho Code. (Previously Rule 2,3,4) (7-1-93)

05. Report Of Listings And Sales. The broker license applicant may be required to furnish a report of listings and sales accomplished by the applicant during at least two (2) within the last five (5) years of licensure immediately prior to the application date. This list is to be certified correct by the broker or brokers with whom the applicant has been associated. (Previously Rule 2,3,5) (3-20-97)

06. Fees. The fees for an initial broker's or associate broker's license ~~is~~ shall be two hundred and twenty dollars (\$200), which includes the twenty dollars (\$20) fee prescribed in Section 54-2035A, Idaho Code. (Previously Rule 2,3,6) (~~7-1-98~~)()

07. Business Name. A broker shall not conduct business under any name other than the one in which the license is issued. Current licenses of the broker and all associates licensed with the broker shall be prominently displayed in the office designated as the place of business on the application or change of address form, whichever is latest. No other location may be used as an office until proper notice is acknowledged by the Commission. An individual may not be licensed as designated broker for more than one (1) corporation unless all corporations conduct business from the same main office location. (Previously Rule 2,3,7) (3-20-97)

08. Same Address As Other Broker. More than one (1) individually licensed broker may operate an office at the same address. Each broker shall operate under a business name which clearly identifies the broker as an individual within the group of brokers. (Previously Rule 2,3,8) (7-1-93)

09. Fingerprints. Effective August 1, 1992, every applicant for a real estate broker license shall be fingerprinted by a duly authorized law enforcement agency and said fingerprints shall be filed with the Commission for the purpose of determining whether the qualifications as set forth in Idaho Code are fulfilled. These fingerprints may be forwarded to the Federal Bureau of Investigation, Identification Division, and/or the Department of Law Enforcement of the state of Idaho for processing. The fee charged for these services must be paid by the

applicant. (Previously Rule 2,3,9)

(3-20-97)

10. Errors And Omissions Insurance. Effective December 31, 1993, every applicant for a real estate broker's license shall, as a condition of licensure, carry errors and omissions insurance in accordance with Section 54-2029A, Idaho Code, and with these rules. (12-31-93)

(BREAK IN CONTINUITY OF SECTIONS)

106. LICENSE TERM AND APPLICATION FOR LICENSE RENEWAL.

Any license issued shall be valid up to and including the second consecutive birthmonth of the licensee, but not for more than the license term as established by law. (Previously Rule 2,7,0) (7-1-93)

01. Renewal Date. The license shall be renewed on or before the first day of the month following the birthmonth of the licensee or the license will expire. (Previously Rule 2,7,1) (7-1-93)

02. Fees. The fees for renewal ~~is shall be~~ two hundred ~~and twenty~~ dollars (\$20~~20~~) which includes the twenty dollars (\$20) ~~fee~~ prescribed in Section 54-2035A, Idaho Code. (Previously Rule 2,7,2) (~~7-1-98~~)()

03. Application Form. License renewal application shall be made on a form prescribed by the Commission. (Previously Rule 2,7,3) (7-1-93)

04. Evidence Of Continuing Education (CE). Active license renewal applicants shall provide evidence of having successfully met the continuing education requirements or its equivalent as prescribed in subsections G., H., I., and J. of Section 54-2029, Idaho Code. (Previously Rule 2,7,4) (7-1-93)

05. Continuing Education Challenge Examination. An exemption from the continuing education requirement may be obtained by submitting evidence with the renewal application showing that the applicant successfully completed an approved written challenge examination administered by an approved entity. Any such examination must be approved in advance by the Commission. (Previously Rule 2,7,5) (7-1-93)

06. Continuing Education Extension. A ninety (90) day extension of time for completing the continuing education requirements may be obtained by submitting evidence as prescribed in subsection I. of Section 54-2029, Idaho Code, together with the regular renewal application. The Commission may extend an otherwise expired license if the applicant has met the other renewal requirements and can reasonably be expected to be able to meet the continuing education requirements within the extended period. (Previously Rule 2,7,6) (7-1-93)

07. Failure To Meet Continuing Education Extension. The Commission will not extend any active license beyond ninety (90) days from its specified expiration date until compliance with the continuing education requirements has been met. Failure to satisfy the continuing education requirements within the ninety (90) day extension period shall result in the automatic inactivation of the license. (Previously Rule 2,7,7) (7-1-93)

08. Continuing Education Extension And License Expiration Date. Any license issued after such an extension has been granted shall be dated effective as of the prior license expiration date. (Previously Rule 2,7,8) (7-1-93)

09. Late Renewal And Fee. The Commission may accept a request for a late renewal which shall not exceed one (1) year from the renewal date of the license, in which case, a late fee in the amount of fifteen dollars (\$15) shall be charged. Any person who fails to renew a license shall not practice as a licensee until properly relicensed. (Previously Rule 2,7,9) (7-1-93)

10. Errors And Omissions Insurance. Effective December 31, 1993, every applicant for license renewal on active status shall, as a condition of renewal, carry errors and omissions insurance in accordance with Section 54-2029A, Idaho Code and these rules. (12-31-93)

(BREAK IN CONTINUITY OF SECTIONS)

119. INDEPENDENTLY OBTAINED ERRORS AND OMISSIONS INSURANCE.

Licenses may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules. (7-1-96)

01. "Independently Obtained" Insurance Defined. The term "independently obtained" insurance shall mean a policy of errors and omissions insurance issued to each individual licensee or issued to the firm with which the licensee is affiliated and which shall provide, at a minimum, all of the following terms and conditions: (7-1-96)

a. Covers all activities contemplated under Chapter 20, Title 54, Idaho Code, under such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Department of Insurance, and which are contained in a policy of errors and omissions insurance which has been approved by the Idaho Department of Insurance; (12-31-93)

b. If an "individual" policy specifies not less than one hundred thousand dollars (\$100,000) limit liability coverage for each occurrence, not including costs of investigation and defense; (7-1-96)

c. If a "firm" policy specifies not less than five hundred thousand dollars (\$500,000) limit liability coverage for each occurrence, not including costs of investigation and defense; (7-1-96)

d. If an "individual" policy, an annual aggregate limit of not less than three hundred thousand dollars (\$300,000), not including costs of investigation and defense; (7-1-96)

e. If a "firm" policy, an annual aggregate limit of not less than ~~two~~ one million dollars (\$~~2~~1,000,000), not including costs of investigation and defense; (~~7-1-96~~)()

f. If an "individual" policy, the minimum coverage limits specified in this subsection shall be available to each licensee; (7-1-96)

g. If a "firm" policy, the minimum coverage limits specified in this Subsection shall apply to the firm; (7-1-96)

h. An extended reporting period per insured of at least ninety (90) days following termination of the policy period; (12-31-93)

i. No policy of errors and omissions insurance shall be deemed "independently obtained" for purposes of this rule unless the insurance company specifically agrees in writing that it will not terminate, cancel, lapse, fail or refuse to renew or modify such policy without the company first providing the Commission and the licensee with thirty (30) days' written notice; (7-1-96)

j. Contains a policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent and which provided for continuous coverage during said policy period, or, if an annually renewable policy, a statement of the policy period and, in either case, the agreement of the insurance carrier that it will not modify, terminate, cancel, lapse or not renew the policy without first providing the Commission and licensee thirty (30) days written notice; and (7-1-96)

k. Prior acts coverage shall be offered to licensees with continuous past coverage. (12-31-93)

02. Approval By Department Of Insurance. For the purposes of these rules and the fulfillment of the licensees' obligations under Idaho Real Estate License Law, approval by the Idaho Department of Insurance of a policy of independently obtained errors and omissions insurance covering the licensee shall create a presumption that

the terms and conditions of said policy meet the standards and practices in the insurance industry with respect to such policies, and that said policy meets the requirements of the law and rules of the Idaho Department of Insurance with respect to such policies of insurance. Approval by the Department of Insurance, however, does not create any presumption of equivalency in coverage as required by Idaho Real Estate License Law and these rules. (12-31-93)

03. Carrier Issuing Independent Policy. A carrier issuing an independent policy shall meet all of the requirements of a qualified carrier set forth in Subsections 118.01.a. through 118.01.c. and shall maintain an A.M. Best Company rating of B+ or better and an A.M. Best Financial Size Category of Class VI or higher. (7-1-96)

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9902
NOTICE OF PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

RULE 260 - Income from Idaho Sources is being amended to change rule references to the Income Tax Administrative Rules relating to Idaho source income.

RULE 262 - Idaho Compensation - In general is being renumbered to have rules concerning Idaho compensation in the same area of the Income Tax Administrative Rules. Section 63-3026A(3), Idaho Code.

RULE 271 - Idaho Compensation - Stock Options is being promulgated to clarify how Idaho source income is determined when an individual exercises stock options. Section 63-3026A(3), Idaho Code.

No fee applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is of a general application rather than applicable to identifiable groups or interests.

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 October 27, 1999.

DATED this 25th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-9902

260. INCOME FROM IDAHO SOURCES (Rule 260).

Section 63-3026A(3), Idaho Code. 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 ~~266~~²⁷⁵ of these rules.

(~~7-1-99~~)()

(BREAK IN CONTINUITY OF SECTIONS)

~~262.~~ (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~267. -- 296.~~ (RESERVED).

~~262~~²⁷⁰. IDAHO COMPENSATION IN GENERAL (Rule ~~262~~²⁷⁰).

Section 63-3026A(3).

(~~3-20-97~~)()

01. In General. If an individual performs personal services, either as an employee, agent, independent contractor or otherwise, both within and without Idaho, the portion of his total compensation that constitutes Idaho source income is determined by multiplying that total compensation by the Idaho compensation percentage.

(3-20-97)

02. Definitions.

(3-20-97)

a. The Idaho compensation percentage is the percentage computed by dividing Idaho work days by total work days.

(3-20-97)

b. The term Idaho work days means the total number of days the taxpayer provided personal services in Idaho for a particular employer or principal during the calendar year.

(3-20-97)

c. Total work days means the total number of days the taxpayer provided personal services for that employer or principal both within and without Idaho during the calendar year. For example, a taxpayer working a five (5) day work week may assume total work days of two hundred sixty (260) less any vacation, holidays, sick leave days and other days off.

(3-20-97)

d. Total compensation means all salary, wages, commissions, contract payments, and other compensation for services, including sick leave pay, holiday pay and vacation pay, that is taxable pursuant to the Idaho Income Tax Act if earned by a resident of Idaho.

(3-20-97)

03. Work Days. Work days include only those days the taxpayer actually performs personal services for the benefit of the employer or principal. Vacation days, sick leave days, holidays, and other days off from work are considered nonwork days whether compensated or not. Total work days must equal Idaho work days plus non-Idaho work days. The taxpayer has the burden of establishing non-Idaho work days. Documentation establishing non-Idaho work days may be required to support the Idaho compensation percentage used by the taxpayer.

(3-20-97)

04. Multiple Employers. If a taxpayer performs personal services both within and without Idaho for more than one (1) employer or principal, he shall determine an Idaho compensation percentage separately for each employer or principal.

(3-20-97)

05. Alternative Method. If the Idaho compensation percentage does not fairly represent the extent of the taxpayer's personal service activities in Idaho, the taxpayer may submit an alternative method. For example, working hours may be a more appropriate measure than work days in some cases. (3-20-97)

a. The taxpayer shall fully explain the alternative method in a statement attached to his Idaho individual income tax return. (3-20-97)

b. The alternative method may be used in lieu of the method in Subsection 26270.01 unless the Tax Commission expressly denies its use. (3-20-97)()

271. IDAHO COMPENSATION -- STOCK OPTIONS (Rule 271). ()
Section 63-3026A(3), Idaho Code. ()

01. In General. The granting of stock options is considered to be compensation for services. Although considered as compensation, in some circumstances the taxpayer may report the compensation on his federal income tax return as capital gain income. The character of the income from the granting of stock options and the timing of reporting it for federal income tax purposes shall apply in computing Idaho taxable income. ()

02. Definitions. For purposes of this rule: ()

a. Work days, Idaho work days, and total work days are defined in Rule 270 of these rules. ()

b. Compensable period shall mean the period that begins at the date the stock option is granted and ends at the earlier of the date the stock option becomes vested or the date the employee's services terminate. ()

c. Statutory stock options are options governed by specific Internal Revenue Code sections that impose restrictions on both the employer and the employee. Statutory stock options include incentive stock options and options issued pursuant to employee stock purchase plans. ()

d. Nonstatutory stock options are options that do not meet the Internal Revenue Code requirements to qualify as statutory stock options or are granted pursuant to a plan or offering that does not qualify. ()

03. Compensation For Future Services. The granting of stock options shall be presumed to be intended as compensation for future services. The party alleging otherwise shall bear the burden of proving that the stock options were intended for services rendered before the date of grant. ()

04. Statutory Stock Options. ()

a. Compensation. Compensation is realized at the date the option is exercised, but not taxable until the income or gain is recognized for federal income tax purposes. If a taxpayer reports a capital gain for federal income tax purposes from statutory stock options, the amount of Idaho source compensation shall also be reported as capital gain income for Idaho income tax purposes. Idaho source compensation shall be determined as follows: ()

i. Compensation is equal to the portion of the gain that equals the difference between the option price and the fair market value of the stock at the date the option was exercised. Compensation shall be limited to the gain actually recognized if the stock is sold for less than its fair market value at the time the option was exercised. No compensation shall be reported if the stock is sold at a loss. ()

ii. Compensation for services performed in Idaho shall equal the compensation determined in Subsection 271.04.a.i., multiplied by the ratio of Idaho work days to total work days during the compensable period. ()

b. Investment Income. Appreciation in the value of the stock after the date the option was exercised shall be reported as investment income and sourced to the taxpayer's domicile at the date the stock was sold. ()

05. Nonstatutory Stock Options. ()

a. Compensation. Compensation is recognized at the date the stock option is exercised. The amount of Idaho source compensation related to the stock option is determined as follows: ()

i. Compensation for federal income tax purposes is equal to the difference between the option price and the fair market value of the stock at the date the option was exercised. ()

ii. Compensation for services performed in Idaho shall equal the compensation determined in Subsection 271.05.a.i., multiplied by the ratio of Idaho work days to total work days during the compensable period. ()

b. Investment Income. Appreciation or depreciation in the value of the stock after the date the option was exercised shall be reported as investment income and sourced to the taxpayer's domicile at the date the stock was sold. ()

272. -- 299. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9904
NOTICE OF PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

The Property Tax Administrative Rules Appendix is being amended by deleting items that are no longer current. The equation relating to Property Tax Rule 964 is being deleted from the appendix because it is now incorporated in the rule. Chart 4 relating to Property Tax Rule 415 is no longer valid for calculating railcar reporting requirements and is being deleted.

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 rulemaking was not conducted because the proposed change is a non-substantive change.

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 rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-9904

CHART 4

(1)	(2)	(3)	(4)	(5)	(6)	(7)
R.R. Co.	Miles Co. P Cars were propelled Reported by R.R.	% Each R.R. Co. (Col. 2 Col. 2 Tot.	Assessed Val. Car Co. P	Assessed Val. allocated to R.R. Trackage (Col 3 x Col 4)	Miles Track Over Which Cars were Propelled	Rate per mi. Assessed val. (Col. 5 Col 6)
A	10,421,050	44.27%	\$120,000	\$ 45,155	650	\$69.469
B	8,520,800	36.19%	120,000	36,194	830	44.475
C	4,600,250	19.54%	120,000	19,931	370	53.868
	23,542,100	100.00%		\$102,000	1,850	

EQUATION

$$BLV_{y+1} = (1/2 \times (T_{n+1} + T_n)) + 1 \times (BLV_y)$$

T_n

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

IDAPA 35 - STATE TAX COMMISSION
35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES
DOCKET NO. 35-0201-9902
NOTICE OF PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

Section 63-3045, Idaho Code, provides for the calculation of the rate of interest due for the next calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund. The rate of interest, rounded to the nearest whole number, is two percent (2%) plus the rate determined under Section 1274(d), Internal Revenue Code, by the secretary of the treasury of the United States as the mid-term federal rate as it applies on October 15 of the immediately preceding year. Rule 310 is updated to add the interest rate applicable for 2000.

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 rulemaking 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 rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 25th day of August, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-9902

310. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID (Rule 310).

Section 63-3045, Idaho Code.

(3-20-97)

01. July 1, 1981, Through December 31, 1993. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of the period from July 1, 1981, through December 31, 1993, subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is twelve percent (12%) simple interest. (3-20-97)

02. Calendar Year 1994. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1994 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 93-64. (3-20-97)

03. Calendar Year 1995. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1995 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 94-61. (3-20-97)

04. Calendar Year 1996. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1996 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 95-67. (3-20-97)

05. Calendar Year 1997. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1997 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 96-49. (3-20-97)

06. Calendar Year 1998. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1998 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 97-41. (3-19-99)

07. Calendar Year 1999. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1999 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 98-50. (7-1-99)()

08. Calendar Year 2000. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2000 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 99-41. ()

IDAPA 36 - IDAHO BOARD OF TAX APPEALS
36.01.01 - IDAHO BOARD OF TAX APPEALS RULES
DOCKET NO. 36-0101-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 63-3808, 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 October 20, 1999.

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 hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: the Board of Tax Appeals Rules have been updated to reflect: the requirements and recommendations of the Idaho Administrative Procedures Act; changes in the recodification of Title 63; recent legislation affecting the Board of Tax Appeals operations; and to record the procedures relating to most contested case proceedings before the agency.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: not applicable

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the formatting type changes and the noncontroversial nature of proposed procedural rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Susan Renfro at 208/334-3354.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

Dated this 9th day of August, 1999.

Susan G. Renfro
Director and Clerk to the Board
Board of Tax Appeals
Phone 208/334-3354

3380 Americana Terrace Suite 110
P.O. Box 83720
Boise, ID 83720-0088
FAX 208/334-4060

THE FOLLOWING IS THE TEXT OF DOCKET NO. 36-0101-9901

000. ~~009.~~ (RESERVED) LEGAL AUTHORITY.

In accordance with Section 63-3808, Idaho Code, the Idaho Board of Tax Appeals shall promulgate rules implementing the provisions of the Idaho Statutes relating to the Board of Tax Appeals, Chapter 38, Title 63, and Chapter 52, Title 67, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 36.01.01, "Idaho Board of Tax Appeals Rules". ()

02. Scope. These rules shall govern all procedures before the Idaho Board of Tax Appeals. ()

002. WRITTEN INTERPRETATIONS.
The Board does not have written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.
There is no provision for administrative appeal before the Board under this chapter. Board decisions are appealable to the district court as provided by law. ()

004. PUBLIC RECORDS ACT.
The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code. Except as provided by Section 125, all materials filed with the Board pursuant to these rules and all materials issued by the Board pursuant to these rules are public documents subject to inspection, examination and copying. ()

005. DEFINITIONS AND ABBREVIATION.
As used in this chapter: ()

01. Appellant. Means any party, person, natural or otherwise, or governmental subdivision or agency appealing to the Idaho Board of Tax Appeals. ()

02. Board. Means the Idaho Board of Tax Appeals, board members, presiding officer, or hearing officer as the context may dictate whenever it occurs in this chapter. ()

03. Case File. Means the official record maintained by the board regarding an appeal. The case file is a file folder(s) containing the documentary record including submissions from the parties, plus any recordings of hearings. ()

04. Comparable Sales. Means recently sold properties that are similar in important respects to the property being appraised. ()

05. De Novo. Means the board will decide questions of fact and of law based on the evidence and legal arguments presented in the proceedings before the Board. Parties will need to be prepared to present all exhibits, testimony and argument presented previously to the county board of equalization or the State Tax Commission, or in any other proceedings involving the tax dispute. New evidence and argument may also be presented. ()

06. Findings Of fact And Conclusions Of Law. Means concise statements of the determinations made as to contested issues of fact, and statements of the applicable law as determined by the Board which are applicable to the findings of fact. ()

07. Intervenor. Means any party voluntarily intervening in an appeal who meets the qualifications and requirements for intervention under Section 085. ()

08. Parcel. Means each separate property ownership as represented by the county assessment rolls. ()

09. Party. Means any person, natural or otherwise, or governmental subdivision or agency entitled to or appearing before the Board in any proceedings of the Board. ()

10. Presiding Officer Or Hearing Officer. Means any member of the Board, or any person who is assigned to conduct a conference or hearing by the Board. The presiding officer shall have authority as provided by Section 106. ()

11. Respondent. Means any party answering or otherwise responding to an appeal. ()

12. Subject Property. Means the property being appraised. ()

13. Substantive Issue. Means an issue where a substantive right, interest or privilege of any party is involved that may be prejudiced as opposed to minor or mere procedural matters dealt with by the Board. ()

14. BTA. Means Idaho Board of Tax Appeals. ()

15. BOE. Means County Board of Equalization. ()

16. STC. Means Idaho State Tax Commission. ()

0406. -- 019. (RESERVED).

0420. PROCEDURE GOVERNED.

01. Procedure. These rules shall govern all practice and procedure before the Board of Tax Appeals of the State of Idaho, hereinafter referred to in these rules as the Board. Regular proceedings shall be governed by Sections 001 through ~~027~~159 and shall be conducted in conformity with the Administrative Procedure Act set out in Chapter 52, Title 67, of the Idaho Code. Proceedings in the small claims division of the Board shall be governed by Sections ~~050~~160 through ~~054~~170. (7-1-93)()

02. Purpose. The purpose for the law providing for the establishment of the Idaho Board of Tax Appeals is to provide an independent, fair, expeditious, and less expensive opportunity for taxpayers and other parties to appeal from most tax related decisions of county boards of equalization and the State Tax Commission. ()

021. LIBERAL CONSTRUCTION.

These rules will be liberally construed to secure just, speedy, and economical determination of all issues presented to the Board. ()

022. CONSOLIDATION OF APPEALS.

The Board may consolidate two (2) or more appeals in any one (1) hearing where it appears that the issues are substantially the same and that the rights of the parties will not be prejudiced by such procedure. Where two (2) or more appeals are consolidated for hearing, the presiding officer shall determine the order in which all the parties shall introduce their evidence and which party or parties shall open and close. (7-1-93)

022. -- 024. (RESERVED).

0425. ORGANIZATION AND OFFICE.

01. Office. The principal office of the Board shall be at Boise, Idaho, and shall be open each day for the transaction of business, Saturdays, Sundays, and legal holidays excepted. The Board's mailing address, unless otherwise indicated, will be Idaho Board of Tax Appeals, ~~Statehouse~~ P.O. Box 83720, Boise, Idaho, 83720-0088. The Board's street address is 3380 Americana Terrace Suite 110, Boise, Idaho, 83706. The Board's telephone number is 208-334-3354 and its FAX number is 208-334-4060. (7-1-93)()

02. Chairman. The Chairman of the Board shall serve as the administrative officer. (7-1-93)()

a. **Election.** The Chairman shall be elected annually by the board members in consideration of experience with the Board and the member's availability to serve and support the Board's administrative duties. ()

b. **Power.** The Chairman shall oversee the issuance of acknowledgment letters, notices of hearing, notices of show cause hearings, and is authorized to perform all other procedural duties such as issuing orders on nonsubstantive rulings without a formal meeting of the Board. The Chairman shall not issue any substantive orders in any case, except upon a roll call vote of the board members where a majority concurs in the result. ()

0286. -- 0429. (RESERVED).

04230. APPEARANCE AND PRACTICE BEFORE THE BOARD.

01. Regular All Proceedings. The right to appear and practice before the Board shall be limited to the following classes of persons: (7-1-93)()

a01. Natural Persons. ~~Taxpayers Parties~~ who are natural persons representing themselves; (7-1-93)()

b02. Authorized Persons. Duly authorized directors, officers or designated full-time salaried employees of corporations representing the corporations of which they are, respectively, directors, officers or employees; (7-1-93)()

e03. Authorized Representation. Duly authorized ~~P~~partners, joint venturers, designated full-time salaried employees, or trustees representing their respective partnerships, joint ventures or trusts; (7-1-93)()

e04. Authorized Attorneys. Attorneys duly authorized, who are qualified and entitled to practice in the courts of the state of Idaho; (7-1-93)()

e05. Officers Or Employees. Public officer or designated employees when representing the agency of which they are an officer or employee; (7-1-93)

f06. Board Approved Power Of Attorney. ~~A taxpayer who is physically or mentally incapable of representing himself party~~ may designate a representative in writing, ~~with the approval of the Board.~~ through a Board approved power of attorney; (7-1-93)()

07. Intervention. Parties entitled to intervene under Section 085. ()

02. Small Claims Proceedings. ~~The right to appear before the small claims division of the Board shall be limited to the following classes of persons:~~ (7-1-93)

a. ~~All persons entitled to practice before the Board in regular proceedings.~~ (7-1-93)

b. ~~Public officials in their official capacity.~~ (7-1-93)

e. ~~Certified public accountants and licensed public accountants.~~ (7-1-93)

d. ~~Any other person designated by a taxpayer with the approval of the Board.~~ (7-1-93)

031. -- 034. (RESERVED).

035. CONDUCT.
A party to an appeal, or representative, shall conduct themselves in all proceedings before the Board in an ethical, respectful, and courteous manner. ()

036. ENFORCEMENT.
The Board and each party to an appeal are responsible for the efficient, just, and speedy conduct of the formal hearing and other proceedings before the Board. Board members or the assigned hearing officer may impose sanctions on a party for repeated delays, the failure to comply with a subpoena, discovery order, discovery procedure abuses, and any other matter regarding conduct of the appeal. In imposing sanctions, the Board shall be guided by the practices of the courts of this state in imposing sanctions for similar offences in civil proceedings. Board sanctions shall include, but not be limited to, dismissal of an appeal or the granting of default judgment. ()

037. EX PARTE COMMUNICATIONS.
Unless required for the disposition of ex parte matters specifically authorized by statute, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the proceeding, with

any party or representative, except upon notice and opportunity for all parties to participate in the communication. ()

038. -- 039. (RESERVED).

01340. PARTIES.

All ~~persons~~ parties appealing to the Idaho Board of Tax Appeals shall be ~~styled known as~~ "Appellant". The party or agency answering said appeal shall be ~~styled known as~~ "Respondent". Parties intervening in an appeal shall be ~~styled known as~~ "Intervenor". (7-1-93)()

041. -- 044. (RESERVED).

0445. NOTICE OF APPEAL -- CONTENTS.

01. Contents. All appeals shall be in writing and shall contain clear and concise statements of the matters that lay a foundation for the relief that may be granted by the Idaho Board of Tax Appeals. All appeals ~~should~~ shall allege necessary facts to establish jurisdiction of the Board to hear said appeal. (7-1-93)()

01. Appeals. All appeals shall contain: ()

a. Appellant's full name; ()

b. Current mailing address; ()

c. Tax year(s) being appealed; and ()

d. The telephone number where the appellant can be reached during normal daytime business hours. ()

02. Appeal Filed By An Attorney Or Representative. If any appeal is filed by an attorney or other representative, the pleading shall contain: ()

a. The attorney's or representative's name, address, telephone number; and ()

b. For attorneys, the Idaho State Bar License number. Representatives shall include a power of attorney from the appellant. ()

03. Board Must Be Informed Of Any Changes In Address Or Phone Number. Parties and representatives must keep the Board informed of any changes in address or telephone number. ()

046. NOTICE OF APPEAL -- BOE APPEALS.

01. Separate Notice. The party filing the appeal shall substantially complete one (1) Appeal Form approved by the Board, or a separate notice of appeal, for any parcel/assessment of property for which an appeal is brought. Blank Appeal Forms shall be provided by the Board to each county auditor annually by May 1. ()

02. Contents BOE Appeals. In the case of appeals brought under Section 63-2240511, Idaho Code, the notice of appeal ~~should~~ shall substantially contain: ()

a. ~~a~~ A legal description of the property ~~of on~~ which the appellant is appealing the valuation; ()

b. ~~a~~ A summary of the findings and rulings of the county commissioners of the county in which said property is located sitting as a board of equalization and when available a copy of the final decision of the county board of equalization; ()

c. ~~a~~ A summary of the objections to the findings of the board of equalization and the basis of said

objections by the appellant- to include a clear declaration of the market value alleged by the appellant, and in the case of a property tax exemption claim, the code section(s) involved and a summary of the factual basis supporting why exempt status should be granted or denied; ()

d. ~~The notice of appeal should also include a~~ An attached copy of the county's final tax assessment ~~statement~~ notice for the year in question on the property that is the subject of the appeal. In the event such tax assessment ~~statement~~ notice is not available, the appellant should set out in his appeal the reason for his failure to provide said ~~statement~~ notice; and ()

e. A statement that the appellant or qualified representative has read the notice of appeal and believes the contents to be true, followed by the person's signature, and the signature of their attorney or representative, if any. ()

03. Time Limit And Filing Place. Appeals brought under Section 63-2210511, Idaho Code, must be filed within thirty (30) days after mailing of notice of a decision of the board of county commissioners sitting as a board of equalization or pronouncement of a decision if this is announced at a hearing. Notice of such appeal, stating the grounds therefor, must be filed in duplicate with the county auditor in the county in which the property assessment originated. Appeals filed under Section 63-2210511, Idaho Code, cannot be perfected by filing them directly with the Idaho Board of Tax Appeals. ~~A suggested form for notice of appeal is annexed to these rules as exhibit A.~~ Appeals not timely filed as provided by statute and Section 046 shall be dismissed. (7-1-93)()

047. NOTICE OF APPEAL -- STC APPEALS.

~~b01.~~ **Section 63-3049, Idaho Code.** In appeals brought under Section 63-3049, Idaho Code, the notice of appeal should include a copy of the redetermination by the State Tax Commission appealed from, ~~and~~ a summary of the objections of the appellant to said redetermination, and a summary of the basis for said objections. If the amount in dispute is different from the redetermination or deficiency determination decision, then a statement of the amount in dispute shall be included with the notice of appeal. In the event that a copy of the redetermination or decision appealed from cannot be included in the appeal, the appellant should set out his reason for failing to include a copy of said redetermination or decision. Appeals brought under Section 63-3049, Idaho Code, must be filed with the Board within ~~thirty~~ ninety-one (91) days after the receipt of notice of the decision of the State Tax Commission denying in whole or in part any protest of the taxpayer. (7-1-93)()

~~e02.~~ **Section 63-3632, Idaho Code.** In appeals brought under Section 63-3632, Idaho Code, the notice of appeal should include a summary of the decision by the State Tax Commission from which the appellant is appealing, a copy of said decision and a summary of the appellant's objections to said decision, together with his basis for said objections. Appeals brought under Section 63-3632, Idaho Code, must be filed with the Board within thirty (30) days of the date on which notice of redetermination or decision is mailed to or served upon the taxpayer. (7-1-93)()

048. NOTICE OF APPEAL -- DEFECTIVE APPEALS.

~~02.~~ ~~Defective Appeals--~~Amendment or Dismissal. Upon the filing of any notice of appeal it will be inspected by the Board and if found to be materially defective or not substantially in compliance with the requirements of this chapter ~~insufficient~~ the Board may dismiss such appeal or require its amendment. After notice from the Board, the appellant shall have fourteen (14) days to amend and perfect such appeal. If a notice of appeal fails to set out allegations alleging jurisdiction of the Board, or if such allegations are disputed, the Board may require a separate hearing and may hear evidence on the questions of the Board's jurisdiction, or the Board may require proof of jurisdiction at the hearing of the appeal on its merits. (7-1-93)()

049. NOTICE OF APPEAL -- ACKNOWLEDGMENT LETTER.

The Board will acknowledge receipt of a notice of appeal. When a perfected appeal has been filed, the Board shall provide the appellant with a written acknowledgment of the appeal within fourteen (14) days of receipt of appeal in BTA office. ()

050. NOTICE OF APPEAL -- RESPONSE.

A respondent or intervenor may file with the Board a response/answer to a notice of appeal. If filed, the party filing

the response shall file the original with the Board at least ten (10) business days prior to hearing and must serve a copy thereof upon all other parties in accordance with the provisions of this chapter. ()

051. NOTICE OF APPEAL -- FILING.

041. ~~Filing And Publication.~~ Notices of appeal to the Board from Idaho State Tax Commission decisions and any other papers required to be filed with the Board shall be deemed filed upon actual receipt by the clerk of the Board or, if mailed, such papers shall be deemed filed as of the federal post office postmark date. Postage meters do not designate the mailing date. Papers, including notice of appeal, required to be filed with the county auditor shall be deemed filed upon actual receipt by the county auditor or, if mailed, such notice shall be deemed filed as of the federal post office postmark date. Postage meters do not designate the mailing date. ()

02. County Auditor. Upon receiving a notice of appeal to the Board under Section 63-2210511, Idaho Code, the county auditor in the county where the notice of appeal is filed shall forward said notice of appeal to the Board, together with any available exhibits or other evidence considered by the BOE including a copy of the written appeal to the BOE and a copy of the minutes of the meeting(s) of the county board of equalization dealing with said appeal, or, in the event that no minutes are available, the auditor shall submit to the Board a certified statement to the effect that no such minutes are available. The minutes shall include at a minimum: (7-1-93)()

- a. The full name of persons appearing before the Board of Equalization in the appeal. ()
- b. Clear identification of the parcel(s)/assessment(s) appealed. ()
- c. The decision made or action taken by the BOE indicating clearly the value or exempt status decided for each parcel/assessment considered. ()
- d. A summary of the basis for any decision made or action taken by the BOE. ()

052. -- 054. (RESERVED).

055. --999. ~~(RESERVED)~~ CONSOLIDATION -- HEARINGS AND DECISIONS.

01. Appeals And Hearings. Whenever it shall appear to the Board or presiding officer that two (2) or more ad valorem cases from the same county or different counties involve the same or substantially similar issues as well as the same or similar property classes or subclasses, such as assessment categories, or where the same or similar issues exist in other tax type cases, the Board or presiding officer may issue a written or verbal order consolidating the cases for hearing. There shall be no consolidation of cases where the rights of any party would be prejudiced by such procedure. Two (2) or more parties to appeals may also request in writing that cases be consolidated under the same criteria listed above. The Board or presiding officer in issuing a consolidation order in ad valorem appeals shall consider: whether the parcels are contiguous, any response given to a consolidation request, and any other matters deemed appropriate in determining the disposition of the matter. In a consolidated hearing the presiding officer determines the order of the proceeding. ()

02. Decisions. The Board may at its discretion issue a written decision in a consolidated format. ()

056. -- 059. (RESERVED).

060. PLEADINGS.

03- ~~Pleadings.~~ Pleadings before the Idaho Board of Tax Appeals shall be styled after those provided in the Idaho Rules of Civil Procedure. All pleadings, letters, petitions, briefs, notices, and other documents shall be on white, eight and one-half inches by eleven inches (8-1/2 x 11) paper, legibly written, printed, or typewritten on one (1) side only and include the current mailing address and telephone number and be signed by the appropriate authorized party or any representative of record submitting the same. In any case before the Board, (The Board may require responsive pleadings from the opposing party in order to clarify the issues raised on appeal. Parties may also file responsive pleadings whenever they feel such pleadings are necessary to clarify the issues raised on appeal, whether

required by the Board or not.

(7-1-93)()

061. SERVICE OF DOCUMENTS.

~~05. Service Of Documents:~~ All notices, pleadings, exhibits, papers, orders, and decisions, and all other documents of any kind submitted to the Board shall be served upon all other parties, counsel, or their parties' representatives of record. Service by regular mail of such documents will be considered adequate service. If service is made by mail the papers shall be deposited in the post office properly addressed to the person to whom they are being served, with postage prepaid. Proof of such service must be filed with the Board. An affidavit or certificate of service, or acknowledgment of service will be considered adequate proof of service. Decisions or orders of the Board shall be served upon both the party and party's counsel or representative of record, if any. (7-1-93)()

062. -- 064. (RESERVED).

065. COMPUTATION OF TIME.

~~06. Computation Of Time:~~ In computing any period of time prescribed or allowed by these rules or by any applicable statute, except where contrary to other applicable statutes, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included in the count unless it is a holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. (7-1-93)()

066. FILING OF DOCUMENTS.

All documents filed with the Board shall be filed with the clerk of the Board and filed at its Boise office address. Unless otherwise indicated by the Board, one (1) copy shall be filed. ()

067. -- 069. (RESERVED).

01570. PREHEARING CONFERENCES.

~~01. Subject Of Conferences. In cases where an appeal is taken before the Board of Tax Appeals~~ The Board may, if in its discretion it is desirable, direct the appellant, and the respondent, and any intervenor to appear before it to consider: (7-1-93)()

- a. Any and all matters that can be agreed upon. (7-1-93)
- b. Formulating or simplifying the issues. ()
- ~~b~~c. Stipulations which will avoid unnecessary proof. (7-1-93)
- d. Preliminary motions to be made prior to the hearing. (7-1-93)
- ~~d~~e. At said conference Requiring respondent and appellant ~~may be required~~ to furnish to each other and the Board a list of all witnesses to be called by the parties at the hearing. (7-1-93)()
- f. The limitation of the number of expert or lay witnesses and the disclosure of the identity of persons having knowledge of relevant facts and who may be called as a witness. ()
- g. The scheduling of discovery, hearings, or other time sensitive matters. ()
- h. Discussing settlement. ()
- i. Fair hearing procedures. ()
- ~~e~~j. Such other matters that may expedite orderly and speedy conduct as will aid in the disposition of the controversy. (7-1-93)()

02. Failure To Appear. Failure of either party to appear at the time and place appointed by the Board under ~~this Rule~~ Section 070 may result in a dismissal of that party's appeal or the granting of said appeal as the case may be. (7-1-93)()

03. Prehearing Order. The Board or its designate may prepare or require the preparation of an order reciting the findings and action taken at such conference. Such order ~~may~~ shall supersede the pleadings and control the subsequent course of the proceeding, unless modified by the Board to prevent manifest injustice. (7-1-93)()

04. Determination Upon Results Of Conference. If, after the prehearing conference provided for in ~~this Rule~~ Section 070, and after appropriate notice to the parties, the Board determines that there is sufficient evidence and stipulation upon which it can make a decision, it may vacate the hearing previously set and determine the appeal upon such evidence and stipulations. (7-1-93)()

071. -- 074. (RESERVED).

02075. MEMORANDUMS, BRIEFS AND DISCOVERY.

01. Requests For Briefs. Regardless of whether or not a prehearing conference has been held, the Board or presiding officer may request briefs from the parties either prior to the hearing of the evidence or after said hearing ~~as the Board shall designate~~. (7-1-93)()

02. Discovery -- Written Permission. Parties to a pending appeal may engage in discovery if they obtain prior written permission from the Board. The application for discovery must be filed within twenty (20) days of the mailing date of the Board's notice of appeal acknowledgment letter. Discovery shall be completed at least ten (10) days prior to scheduled hearing. Service upon other parties is required at the same time as filing with the Board in accordance with the requirements of this chapter. The application for permission should contain a short plain statement of the reason discovery is useful to the preparation of the appeal and describe the intended discovery. (7-1-93)()

076. -- 079. (RESERVED).

080. ADVANCE SUBMISSION OF EVIDENCE REQUIRED.

01. Advance Submission Required. All available or known evidence shall be disclosed to, and a filing made, with the Board and all other parties at least ten (10) days prior to a formal hearing in any appeal before the Board. In the event that the existence of a proposed exhibit is discovered less than ten (10) days before the date of hearing, the party discovering the same shall immediately notify all other parties of the existence of the exhibit, serve a complete, legible and accurate copy of the exhibit upon all other parties and the parties' representatives and a copy for the Board, and as part of the filing of the Board's copy a notice of service to the other persons must be included. At hearing a party offering an exhibit or other evidence not produced ten (10) days prior to the hearing will be required to establish good grounds for failure to discover and disclose the existence of the exhibit earlier. The Board may waive part or all of Section 080 in the interest of justice. ()

02. Size -- Length -- Numbering. Size of exhibits shall conform to eight and one-half inches by eleven inches (8-1/2 x 11) where possible and copied on one (1) side only, except that maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper or medium customarily used for them. If an exhibit is longer than five (5) pages, a summary shall also be provided at the same time. Each party shall number and mark exhibits sequentially starting with "1". Subsequent exhibits that are later inserted in the existing sequence shall be marked as "1B," "1C," and so forth. The presiding officer will mark exhibits for the Board in the following fashion, "A-1" for appellant's first exhibit, and "R-1," "R-2," and so forth for respondent's exhibits. ()

03. Comparable Sales Evidence. In appeals involving property valuation each party shall include, when available, the following information in filings required by Section 080 and provide other parties a complete copy of the same as required by this chapter: ()

a. Specific property location, legal description or parcel number, and street address; ()

- b. Sale date; ()
- c. The names of the seller and buyer involved in the sale transaction; ()
- d. Full sale price or specific consideration exchanged for the property; ()
- e. Terms of sale to include a summary statement of the financing involved and the private interest in the property transferred; ()
- f. A summary description of the physical and functional characteristics of any land, improvements to land, and personal property included in the sale and how these comparable characteristics compare to the subject property; ()
- g. An area map clearly indicating the location of the subject property and the location of each comparable sale being offered as evidence of value; and ()
- h. Where possible a photograph or photographs of each comparable sale property. ()

04. Documentary Evidence. A complete, legible, and accurate copy shall be filed with the Board and other parties of any written evidence, photographic or videotaped evidence, and all other evidence or exhibits, with the source and intended purpose clearly indicated on the evidence or clearly stated in accompanying materials. ()

05. Testimony. For expert or other testimony, the substance of the testimony, including a summary of all facts or opinions that may be testified to, shall be disclosed in writing along with the full names of planned or potential witnesses that may be called. ()

06. Amendments To Evidence. Evidence of comparable sales, listed in the notice of appeal/response, which are subsequently changed, shall conform to the requirements of Section 080. ()

07. Service. An acknowledgment of service or certificate of mailing for all other parties as provided by Section 061 shall be filed with the Board together with the advance submission of documentary evidence as required in Subsection 080.01. ()

08. Failure To Comply. If the required disclosure of Section 080 is not fully or substantially complied with, such evidence may be excluded from consideration by the Board or dismissal or default judgment may be ordered in accordance with Section 036. ()

081. -- 084. (RESERVED).

02485. INTERVENTION.

01. Intervention Of Right. Upon timely application made in writing no later than ~~five~~ ten (5)10 days prior to the hearing of an appeal, anyone shall be permitted to intervene in an appeal: (7-1-93)()

- a. When a statute confers an unconditional right to intervene; (7-1-93)
- b. When the applicant claims in writing an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties. (7-1-93)()

c. In any appeal in which it is not a party the Idaho State Tax Commission may intervene as a matter of right. (7-1-93)

02. Permissive Intervention. Upon timely application made in writing no later than ~~five~~ ten (5)10 days

prior to the date set for hearing of an appeal anyone may be permitted to intervene in an action: (7-1-93)()

a. When a statute confers a conditional right to intervene; or (7-1-93)

b. In appeals brought under Section 63-22-0511, Idaho Code, when an applicant can show in writing that he is a person aggrieved by the decision or that he is a taxpayer of the county in which said appeal was brought; or (7-1-93)()

c. When an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or a state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency, upon timely application in writing, may be permitted to intervene in the action. In exercising this discretion the Board shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties. (7-1-93)()

086. -- 099. (RESERVED).

023100. FAIR HEARING.

01. Hearing Opportunity. In any case appealed to the Board, all parties shall be afforded an opportunity for a fair hearing after notice of hearing is provided. Opportunity shall be afforded all parties to present evidence and argument. ()

02. Purpose Of Hearing. The Board's goal in conducting hearings shall be the acquisition of sufficient, accurate evidence to support a fair and just determination. ()

03. Notice Of Hearing -- Mailing. Notice of place, date, and hour of all hearings shall be mailed at least twenty (20) days before the date set for hearing. ()

04. Setting Of Hearing Date. In all instances where a hearing is deemed necessary by the Board, the Board will schedule a time and place each party may appear and offer evidence and arguments in support of his position. Notice of said hearing shall include: (7-1-93)()

05. Telephonic Hearing. The Board may conduct telephonic hearings where each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. ()

06. Notice Of Hearing. The notice of said hearing shall include: (7-1-93)()

a. A statement of the time, place and nature of the hearing; (7-1-93)

b. A statement of the legal authority and jurisdiction under which the hearing is to be held; (7-1-93)

c. A reference to the particular sections of the statutes and rules involved concerning the Board's legal authority to conduct the hearing; (7-1-93)()

d. The name of the hearing officer who will conduct the hearing; ()

e. A short and ~~plain~~ simple statement of the matters asserted or the issues involved. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application a more definite and detailed statement shall be furnished. (7-1-93)()

101. FAILURE TO APPEAR -- DEFAULT OR DISMISSAL -- SETTING ASIDE -- APPEARANCES.

021. ~~Failure To Appear~~ Default Or Dismissal. Failure of either party to appear at the time and place appointed by the Board ~~under this Rule~~ may result in a dismissal of that ~~party's~~ appeal or of the appellant's appeal. (7-1-93)()

02. Setting Aside. Within ten (10) days after service of a default or dismissal order under Section 101, the party against whom the order was entered may file a written objection requesting that the order be vacated and stating the specific grounds relied upon. The objection must be served on all other parties to the appeal and their representatives in accordance with the requirements of this chapter. The Board may, for good cause, set aside an entry of dismissal, default, or final order. ()

03. Waiver Of Parties' Appearance. Upon written stipulation of both parties that no facts are at issue, an appeal may be submitted to the Board with or without oral argument. However, the Board in its discretion may require appearance for argument or the collection of evidence. ()

102. -- 104. (RESERVED).

105. INFORMAL DISPOSITION.

Any action may be dismissed by the Board by stipulation, agreed written settlement, consent order, or default. For good cause shown and upon written motion made within ten (10) days of entry of a Board order, the Board may set aside such entry, judgment, or order. ()

106. PRESIDING OFFICER.

03. Presiding Officer. Any member(s) of the Board or assigned hearing officer(s) may preside at the hearing and shall have power to: (7-1-93)()

a01. Oath Or Affirmation. Administer oaths or affirmations, call a party or other person present at hearing as a witness, examine witnesses and receive evidence. (7-1-93)()

b02. Depositions. Take or cause depositions to be taken. (7-1-93)

e03. Hearing. Regulate the course of the hearing and maintain an orderly proceeding. (7-1-93)()

d04. Motions. Dispose of the procedural requests, motions or similar matters. (7-1-93)

e05. Certification By Board. Make decisions or proposals for decisions (subject to certification by the entire Board or a majority of the Board). (7-1-93)()

f06. Record. Develop a full and accurate record and certify the record of said appeal on behalf of the Board. (7-1-93)()

g07. Other Action. Take any other appropriate action reasonable in under the premises circumstances. (7-1-93)()

107. PROCEDURE AND TESTIMONY.

041. Preliminary Procedure. The presiding officer shall call the proceeding for hearing and proceed to take the appearances and act upon any pending motion or motions. Parties may then make opening statements as they may desire. (7-1-93)

052. Testimony. All testimony to be considered by the Board in formal hearings, except matters noticed officially or entered by stipulation at hearings or prehearing conference, shall be sworn testimony taken only on oath or affirmation. (7-1-93)()

063. Order Of Procedure. The appellant shall go forward to present his case first with the respondent and any intervenor then presenting such matters as he deems proper; provided, however, the order of presentation provided in this Section 107 shall have no bearing as to the party's burden of persuasion or proof. Parties may then make closing statements as they may desire in the same order as the presentation of evidence. The presiding officer may require that the parties submit briefs in addition to, or in lieu of, closing arguments. A maximum of two (2) weeks shall be allowed to submit these briefs. The presiding officer may prescribe a different procedure than herein

provided if he deems it proper ~~in the premises.~~ (7-1-93)()

04. Presentation Of Evidence. Evidence may be presented in the following order: ()

a. Evidence is presented by appellant. ()

b. Evidence is presented by any intervening or opposing party. ()

c. Rebuttal evidence is presented by appellant. ()

d. Surrebuttal evidence is presented by any intervening or opposing party. ()

05. Examination Of Witnesses. With regard to any witness who testifies, the following examination may be conducted: ()

a. Direct examination conducted by the party who called the witness. ()

b. Cross-examination by any intervening or opposing party. ()

c. Redirect examination by the party who called the witness. ()

d. Recross-examination by any intervening or opposing party. ()

e. Examination by the hearing officer. ()

108. -- 109. (RESERVED).

110. STIPULATIONS.

07- Stipulations. With the approval of the presiding officer the parties may stipulate as to any fact at issue, either by written stipulation or introduced in evidence as an exhibit or by oral statement shown upon the hearing record. Any such stipulation shall be binding upon all parties so stipulating and may be regarded by the Board as evidence at the hearing. The Board, however, may require evidence of the facts stipulated, notwithstanding the stipulation of the parties. (7-1-93)()

111. CONTINUANCE -- EXTENSIONS OF TIME.

01. Continuances. A continuance may be ordered by the Board upon filing of a timely and written request/motion containing the stipulated agreement and signature of all parties to the appeal. The request/motion shall clearly and convincingly show good cause and contain the specific time extension requested. ()

02. Consideration. Continuances shall be generally disfavored by the Board. The Board shall grant, or require on its own initiative, a continuance only when unusual and highly pressing circumstances are present. In no instance shall an extension cause a delay in proceedings for more than three (3) months. In no instance shall a second continuance be granted. ()

112. -- 114. (RESERVED).

115. OFFICIAL NOTICE.

08- Official Notice. The Board may take official notice of judicially cognizable facts. In addition, the Board may take notice of ~~generally recognized,~~ technical, financial, or scientific facts within the Board's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed. Parties shall be given a reasonable opportunity to object, review, examine, and rebut or contest the document. The Board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. (7-1-93)()

116. OPEN HEARINGS AND DELIBERATIONS.

091. ~~Open Hearings~~ Public Hearings. All hearings conducted by the Board shall be open to the public except where confidential evidence is being taken under a protective order. (7-1-93)()

02. ~~Closed Deliberations.~~ After hearing and the close of the record, the Board may recess to closed deliberations for the limited purpose of deciding the matter before it. ()

117. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE.

401. ~~Rules Of Evidence.~~ Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence as applied in non-jury civil cases in the district courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder, may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their serious affairs. The Board shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially any part of the evidence may be received in written form. The presiding officer shall rule on the admissibility of all evidence and may grant exceptions to the requirements of Section 117 in the interest of justice. Such ruling may be reviewed by the Board in determining the matter on its merits. Any evidence ruling may be deferred to the entire Board by the presiding ~~member officer~~ or taken under advisement by the presiding ~~member officer~~. The presiding ~~member officer~~ may receive evidence subject to a motion to strike at the conclusion of the hearing. (7-1-93)()

402. ~~Objections And Exceptions.~~ Where objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly at the time the evidence is offered. Formal exceptions to rulings are unnecessary and need not be taken. (7-1-93)()

403. ~~Offer Of Proof.~~ An Offer of Proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained. In any event where the presiding ~~member officer~~ rules evidence inadmissible, the party seeking to introduce such evidence must make an Offer of Proof regarding it in order to have such evidence considered by the Board. (7-1-93)()

43. ~~Sales Data.~~ ~~In all appeals brought under Section 63-2210, Idaho Code, in which comparable sales are used as a basis for proving the market value of property, the Board may require the party offering evidence of comparable sales to provide the Board with a list of comparable sales relied upon by said party together with the terms of the sale, size of the property involved and the dates upon which the sales were transacted. Such compilation shall also be served upon the opposing party and each of the matters concerning such sales shall be deemed admitted by the opposing party unless, within a period of not more than ten days after the service thereof, the opposing party files with the Board and serves upon the opposing party a sworn statement denying specifically matters regarding said sales or setting forth in detail the reasons why he cannot truthfully admit or deny the genuineness of the compilation provided by the party requesting admission of said evidence. In all appeals brought under Section 63-2210, Idaho Code, in which comparable sales are used as a basis for proving the market value of property, the Board may also require the party offering such evidence to provide the Board with a map of the immediate area surrounding the subject property noting comparable sales and their dates, and further noting whether said property is bare land or improved property.~~ (7-1-93)

118. EXHIBITS.

The Board shall keep all original exhibits in its care and custody unless otherwise provided by law. Exhibits will be marked by the presiding officer indicating the sponsoring and offering party. ()

119. -- 124. (RESERVED).

125. CONFIDENTIALITY -- PROTECTIVE ORDERS.

The decisions and record in appeals before the Board are public records unless otherwise provided by Title 9, Chapter 3, Idaho Code, or a protective order, consistent with Title 9, Chapter 3, Idaho Code, is issued by the Board requiring that specified parts of the record be kept confidential. A party may file a motion for a protective order showing legal cause why specific information in the record, or likely to become part of the record through discovery or evidence

obtained at hearing, should remain confidential. The motion must be in the form of a sworn affidavit. The taxpayer requesting a protective order must serve a copy of the request on all other parties and the parties' representatives in accordance with the requirements of this chapter. If any other party opposes the request for a protective order, the party must file a written opposition within ten (10) days of the date of service of the request. ()

126. -- 134. (RESERVED).

135. SCOPE OF APPEAL IN AD VALOREM APPEALS.

~~14. Scope Of Appeal In Ad Valorem Appeals.~~ In all appeals brought under Section 63-2210511, Idaho Code, in which the appellant appeals only the value or exempt status established by the board of equalization upon either the land or the improvements on the land, the Board shall have jurisdiction to determine the value or exempt status upon one or the other is appealed. The Board shall have the power to increase or decrease the value of property in market value appeals regardless of which party appealed. If the Board finds that a property classification is in error, it shall determine the correct classification. (7-1-93)()

136. -- 139. (RESERVED).

~~024~~**140. DECISIONS AND ORDERS.**

01. Submission For A Decision. The proceeding shall stand submitted for decision by the Board after taking of evidence, the filing of briefs or the presentation of oral arguments as may have been prescribed by the Board or the presiding member officer unless otherwise specifically provided. ~~Provided, however, that if less than the entire Board hears the appeal pursuant to Section 63-3809, Idaho Code, any decision may be certified for consideration by the entire Board either at a hearing or upon a transcript of the hearing held by said member or members and recorded in any suitable manner.~~ (7-1-93)()

02. Post Hearing Evidence. Unless requested by the Board, no posthearing evidence will be accepted unless such evidence was in existence at the time of hearing, is new evidence rather than supportive or cumulative evidence, and could not reasonably have been anticipated or discovered prior to hearing. ()

023. Proposed Orders. When a case stands submitted for final decision on the merits the Board may, in its discretion, request proposed findings of fact and conclusions of law from each party. (7-1-93)

04. Decisions. Board decisions are binding only for the tax year or years at issue. In connection with any appeal the Board may sustain, reverse, or modify any decision being appealed. A recommended decision or substantive order shall become final when signed by at least two (2) board members. Any member who dissents or concurs may state their reasons. ()

05. Evaluation Of Evidence. The Board may use its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it. ()

036. Service Of Orders. Parties shall be notified by mail of any decision or order. Copies of the decision or order shall be served on all parties and the parties' representatives of record. (7-1-93)()

047. Public Inspection. Decisions and orders of the Board shall be open to public inspection. (7-1-93)

058. Decision Of Board. A decision of the Board will be based on the evidence and stipulations made by the parties; when no dispute of facts exists, the decision will be based on conclusions of law made by the Board. The Board shall hear and determine appeals as de novo proceedings. Decisions shall contain separately stated findings of fact and conclusions of law upon which the Board's determination is based. The Board may, within the limits of its powers, grant or deny the appeal in whole or in part. (7-1-93)()

141. -- 144. (RESERVED).

~~025~~**145. RECONSIDERATIONS -- REHEARINGS.**

01. Time For Filing. A party adversely affected by a decision of the Board may move for reconsideration or rehearing within ten (10) days of the time the decision of the Board is mailed to him. Motions for reconsideration or rehearing shall, as to form and content, conform to the requirements of Section ~~014045~~. The petition must file a supporting brief making a strong showing of good cause why reconsideration or a rehearing should be granted. In a motion for rehearing where the presentation of additional evidence is planned, the motion shall include the reason why such evidence was not presented previously. Filing and service thereof shall conform to the requirements set forth in ~~Subsections 014.04045 and 014.05046~~. ~~The rehearing officer will be designated by the chairman of the Board.~~ If the party requesting rehearing so requests, the matter may be determined by the entire Board. If a rehearing by the entire Board is requested and granted it will be conducted at a regular meeting in Boise or a meeting convened for that purpose at Boise or such other place as may be designated by the chairman of the Board. (7-1-93)()

02. Consideration. Reconsideration or rehearing may be granted or ordered on the Board's own motion if, in reaching the decision, the Board or presiding officer has overlooked or misconceived some material fact or proposition of law; misconceived a material question in the case; applied law in the ruling that has subsequently changed; or a party is found to have been denied the opportunity for a fair hearing. ()

03. Procedure For Reconsideration. Reconsideration is based on the record, unless the Board allows additional evidence and argument. ()

024. Procedure At Rehearing. Rehearings will be conducted in accordance with the procedure at regular hearings, subject to the discretion of the Board or the presiding ~~member~~ officer. (7-1-93)()

035. Answer To Motion For Reconsideration Or Rehearing. Within ten (10) days after a motion for reconsideration or rehearing is filed, any party to the proceeding may file an answer in support of or in opposition to said motion. A copy of the answer must be served on other parties and the representatives of record for such parties. (7-1-93)()

06. Disposition. A petition for reconsideration or rehearing shall be deemed denied if, within twenty (20) days from the date the petition is received by the Board, no response is made by the Board. ()

146. -- 150. (RESERVED).

026151. RECORD.

01. Content. The record shall consist of the original documents, correspondence between the Board and parties, pleadings and papers or photocopies of the originals of said documents, correspondence, photographs, pleadings and papers which have become a part of the official file and a transcript of the hearing, if any. Photocopies of all original documents may be substituted for the originals unless specifically objected to by a party to the proceedings. (7-1-93)()

02. Transcript. The official transcript of the hearing will be taken by means of electronic tape recorder ~~or stenographic notes or both as decided by the Board~~. Any party desiring the taking of stenographic notes by a qualified court reporter must request such within ten (10) days before the date set for hearing and must submit to the Board or presiding officer the name of the qualified reporter who is available on the date set for hearing. The party requesting the reporter shall bear the expense of the reporter's fees and if the reporter's transcript is deemed by the Board or presiding ~~member~~ officer the official transcript of the hearing, the party requesting the reporter shall furnish the Board a transcript free of charge. (7-1-93)()

03. Cost Of Transcript. ~~In the event any party desires a copy of the transcript taken at the hearing, the Board shall provide a certified copy of said transcript to the party so requesting at the cost of two dollars (\$2) per page. Uncertified tapes of the transcript will be provided at the cost of ten dollars (\$10) per forty-five (45) minute tape.~~ (7-1-93)()

152. -- 154. (RESERVED).

027155. SUBPOENAS.

01. Form And Purpose. Every subpoena shall be prepared by the requesting party or at the Board's own motion and shall state the name of the Board and the title of the action, and shall command each person to whom it is directed to attend and give testimony and/or produce the books, papers, documents, or tangible things designated therein at the time and place therein specified. A subpoena may be used for the purpose of discovery or for the purpose of presenting evidence at a formal hearing. (7-1-93)()

02. Issuance To Parties. Upon written application of parties, attorneys or other representative authorized to practice before the Board for any party in a proceeding, including a showing of relevance and the reasonable scope of the testimony or evidence sought, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The Board may issue subpoenas to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought. (7-1-93)()

03. Service. Service shall be the responsibility of the requesting party. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering him on demand the fees for one (1) day's attendance and the mileage allowed by law to a witness in civil cases in the district court. (7-1-93)()

04. Fees. Witnesses summoned pursuant to subpoena shall be paid by the party at whose instance they appear the same fees and mileage allowed by law to a witness in civil cases in the district court. (7-1-93)

05. Proof Of Service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the Board. (7-1-93)

06. Quashing. Upon motion made promptly, at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the Board may: (7-1-93)

a. Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or (7-1-93)

b. Condition denial of the motion upon just and reasonable conditions. (7-1-93)

07. Enforcement. If any witness shall fail to properly respond to a subpoena, the Board may petition the district court in and for the county in which the proceeding is pending setting forth the issuance of the subpoena, its proper service and the basis upon which the Board alleges that the witness failed to respond. (7-1-93)

08. Geographical Scope. Such attendance of witnesses and such production of evidence may be required from any place in the state of Idaho at any designated place of hearing. (7-1-93)

156. -- 159. (RESERVED).

050160. PROCEDURE FOR SMALL CLAIMS PROCEEDINGS.

The following rules shall govern practice and procedure before the Board in all proceedings not held pursuant to the Administrative Procedure Act as regular proceedings. (7-1-93)

051161. INCORPORATION OF RULES FOR REGULAR PROCEEDINGS.

The following rules which are applicable to regular proceedings shall also apply to proceedings before the small claims division: Section 0420, Procedure Governed; Section 041025, Organization and Office; Section 042030, Appearance and Practice Before the Board; Section 043040, Parties; Section 04045, Notice of Appeal; Section 02075, Memorandum and Briefs; Section 022055, Consolidation of Appeals; Section 026151, Record; Section 027155, Subpoenas. (7-1-93)()

052162. ELECTION.

Written notice of election to proceed in the small claims division shall be filed with the Board within twenty (20) days

of the date of mailing of the Board's acknowledgment letter pursuant to Section 049 upon which notice that the Board has received his appeal is mailed to or served upon appellant. (7-1-93)(____)

163. -- 164. (RESERVED).

053165. SMALL CLAIMS HEARING.

Incorporation of Rules for Regular Hearings. The following rules which are applicable to regular hearings shall also apply to hearings before the small claims division: ~~Subsection 023.01100, Setting of Fair Hearing Date; Subsection 023.02101, Failure to Appear; Subsection 023.03106, Presiding Officer; Subsection 023.04107, Preliminary Procedure and Testimony; Subsection 023.06, Order of Procedure; Subsection 023.07110, Stipulations; Subsection 023.09116, Open Hearings and Deliberations; Subsection 023.14135, Scope of Appeal in Ad Valorem Appeals.~~ (7-1-93)(____)

166. -- 169. (RESERVED).

054170. SMALL CLAIMS DECISIONS.

01. Decision Of Board. A decision will be based on the evidence and stipulations made by the parties and shall consist of a simple statement identifying the prevailing party and the relief, if any, to be granted. The Board may, within the limits of its powers, grant or deny the appeal in whole or in part. (7-1-93)

02. Service Of Orders. Parties shall be notified by mail of any decision or order. Copies of the decision or order shall be served on all parties. (7-1-93)

03. Public Inspection. Decisions and orders shall be open to public inspection. (7-1-93)

170. -- 999. (RESERVED).

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
37.01.01 - RULES OF PROCEDURE OF THE IDAHO DEPARTMENT OF WATER RESOURCES
DOCKET NO. 37-0101-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 42-1701A(1), 42-1734(19), 42-1805(8), 67-2356, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Date: October 21, 1999
Time: 1:00 p.m.
Place: Idaho Department of Water Resources
2nd Floor Conference Rooms A & B
1301 N. Orchard Street
Boise, Idaho 83706

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 rulemaking:

The primary propose of this proposed rulemaking is to amend the Rules of Procedure for the Department of Water Resources to add authority for the filing of documents by electronic means including the use of electronic signatures. This rulemaking is required to implement the provisions of the Idaho Electronic Signature and Filing Act approved by the Legislature in 1998. The department is taking this action to promote the delivery and use of on-line services by people doing business with the department.

The department is using this rulemaking as an opportunity to make other needed amendments to its Rules of Procedure. The proposed changes update department address information; make language clarification changes; add a provision allowing for additional time after service by mail; authorize receipt of payments by credit card; clarify when answers are required to be filed to pleadings; require advance notice to appear as a public witness; describe the authority of hearing officers; address ex parte communications; address the procedures for authorizing discovery and seeking sanctions; address conduct at hearings; provide for notice of default for failure to attend hearings or to provide requested information; and provide requirements for the contents of department orders.

FEE SUMMARY: The rulemaking does not impose or increase any fee or charge.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule changes and because affected interests will have an opportunity to be heard at the scheduled hearing and through the submission of written comments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Deputy Attorneys General Phillip J. Rassier or Sara Denniston at (208) 327-7920.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 5, 1999.

DATED this 25th day of August, 1999.

Karl J. Dreher
Director
1301 N. Orchard St.
P.O. Box 83720
Boise, Idaho 83720-0098
Phone: (208) 327-7910
Fax: (208) 327-7866

THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0101-9901

000. LEGAL AUTHORITY (Rule 0).

This chapter is adopted under the legal authority of Sections 42-1701A(1), 42-1734-A(19), 42-1805(8), 67-2356 and 67- 5206(5), Idaho Code. (7-1-93)()

001. TITLE AND SCOPE (Rule 1).

01. Title. The title of this chapter is "Rules of Procedure of the Idaho Department of Water Resources". ()

02. Scope. This chapter contains the rules of procedure which shall govern contested case proceedings before the Department of Water Resources and the Water Resource Board of the state of Idaho. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

005. DEFINITIONS (Rule 5).

As used in this chapter: (7-1-93)

01. Administrative Code. The Idaho administrative code established in Chapter 52, Title 67, Idaho Code. (7-1-93)

02. Agency. The Department of Water Resources or the Water Resource Board acting within their respective authority to make rules or to determine contested cases. (7-1-93)

03. Agency Action. Agency action means: (7-1-93)

a. The whole or part of a rule or order; (7-1-93)

b. The failure to issue a rule or order; or (7-1-93)

c. An agency's performance of, or failure to perform, any duty placed on it by law. (7-1-93)

04. Agency Head. An individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. (7-1-93)

05. Board. The Idaho Water Resource Board. (7-1-93)

06. Bulletin. The Idaho administrative bulletin established in Chapter 52, Title 67, Idaho Code. (7-1-93)

- 07. Contested Case.** A proceeding which results in the issuance of an order. (7-1-93)
- 08. Coordinator.** The Administrative Rules Coordinator Prescribed in Section 67-5202, Idaho Code. (7-1-93)
- 09. Department.** The Idaho Department of Water Resources. (7-1-93)
- 10. Director.** The agency head of the Idaho Department of Water Resources. (7-1-93)
- 11. Document.** Any proclamation, executive order, notice, rule or statement of policy of an agency. (7-1-93)
- 12. Electronically Signed Communication.** A message that has been processed by a computer in such a manner that ties the message to the individual that signed the message in accordance with Rules 306 through 311 of these rules. ()
- 123. License.** The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. (7-1-93)
- 134. Official Text.** The text of a document issued, prescribed, or promulgated by an agency in accordance with this chapter, and is the only legally enforceable text of such document. (7-1-93)
- 145. Order.** An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (7-1-93)
- 156. Party.** Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (7-1-93)
- 167. Person.** Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. For purposes of electronic signature rules, a human being or any organization capable of signing a document, either legally or as a matter of fact. (~~7-1-93~~)()
- 178. Provision Of Law.** The whole or a part of the state or federal constitution, or of any state or federal:
- a. Statute; or (7-1-93)
 - b. Rule or decision of the court. (7-1-93)
- 189. Publish.** To bring before the public by publication in the bulletin or administrative code, or as otherwise specifically provided by law. (7-1-93)
- 1920. Rule.** The whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of Chapter 52, Title 67, Idaho Code, and that implements, interprets, or prescribes: (7-1-93)
- a. Law or policy, or (7-1-93)
 - b. The procedure or practice requirements of an agency. The term includes the amendment, repeal, or suspension of an existing rule, but does not include: (7-1-93)
 - i. Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; (7-1-93)
 - ii. Declaratory rulings issued pursuant to Section 67-5232, Idaho Code; (7-1-93)

- iii. Intra-agency memoranda; or (7-1-93)
- iv. Any written statements given by an agency which pertain to an interpretation of a rule or to the documentation of compliance with a rule. (7-1-93)

201. Rulemaking. The process for formulation, adoption, amendment or repeal of a rule. (7-1-93)

22. Signer. A person who signs a communication, including an electronically signed communication with the use of an acceptable technology to uniquely link the message with the person sending it. ()

006. CITATION (Rule 6).

The official citation of this chapter is IDAPA 37.01.021,000 et seq. For example, this section's citation is IDAPA 37.01.021,006. In documents submitted to the agency or issued by the agency, these rules may be cited as Procedure Rule plus action number less leading zeroes. For example, this rule may be cited as Procedure Rule 6. (7-1-93)()

007. OFFICE--OFFICE HOURS--MAILING ADDRESS AND STREET ADDRESS (Rule 7).

01. State Office. The mailing address of the state office of the Idaho Department of Water Resources and the office of the Idaho Water Resource Board are located at 1301 N. Orchard St. is P.O. Box 83720, Boise, Idaho 83706-2237 83720-0098; the telephone number is (208) 327-7900; and the FACSIMILE MACHINE number is (208) 327-7866. Documents may be filed at the state office during regular business hours of 8:00 am to 5:00 pm Monday through Friday. (7-1-93)()

02. Regional Offices. The Department of Water Resources has four regional offices located in Coeur d'Alene, Boise, Twin Falls and Idaho Falls at which documents may be filed, as appropriate, in rulemakings or contested cases: (7-1-93)

a. Northern Region. Department of Water Resources, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho 83814-2615; telephone number (208) 769-1450; FACSIMILE MACHINE number (208) 769-1454. (7-1-93)

b. Western Region. Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705-5082; telephone number (208) 334-2190; FACSIMILE MACHINE number (208) 334-2348. (7-1-93)

c. Southern Region. Department of Water Resources, 222 Shoshone St. East 1341 Fillmore St., Suite 200, Twin Falls, Idaho 83301-6405 83380; telephone number (208) 736-3033; FACSIMILE MACHINE number (208) 736-3037. (7-1-93)()

d. Eastern Region. Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718; telephone number (208) 525-7161; FACSIMILE MACHINE number (208) 525-7177. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

052. LIBERAL CONSTRUCTION (Rule 52).

The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless prohibited by statute, the agency may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest. Unless required by statute, or otherwise provided by these rules, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

055. SERVICE BY AGENCY (Rule 55).

Unless otherwise provided by statute or these rules, the officer designated by the agency to serve rules, notices, complaints, and orders issued by the agency may serve these documents by regular mail or by certified mail, return receipt requested, to a party's last known mailing address or by personal service. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail, or the Statehouse mail; if the party is a State employee or State agency. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

057. ADDITIONAL TIME AFTER SERVICE BY MAIL (Rule 57).

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, three (3) days shall be added to the prescribed period. This rule, however, shall not extend the time for filing a petition for reconsideration of a final order before the agency, or the time for filing an appeal with the district court from a final decision of the agency. (____)

0578. FEES AND REMITTANCES (Rule 587).

If submitted by mail, fees and remittances to the agency ~~must~~ may be paid by money order, bank draft or check payable to agency. Remittances in currency or coin, submitted by mail, are strongly discouraged and are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. The agency may, upon the completion of necessary arrangements, accept the payment of fees and remittances by credit card. Filings required to be accompanied by a fee shall not be complete until the fee is paid. (7-1-93)(____)

0589. -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

202. REPRESENTATION OF PARTIES AT HEARING (Rule 202).

01. Appearances And Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (7-1-93)

a. Natural Person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, or family member, or by a next friend if the person lacks full legal capacity to act for himself or herself. (7-1-93)(____)

b. A partnership may be represented by a partner, duly authorized employee, or attorney. (7-1-93)

c. A corporation may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

e. A state, federal or tribal governmental entity or agency may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

02. Representatives. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

270. ANSWERS--DEFINED--FORM AND CONTENTS--TIME FOR FILING (Rule 270).

All pleadings responding to the allegations or requests of applications or claims or appeals, complaints, petitions, ~~protests~~, or motions are called "answers". (7-1-93)()

01. Answers To Pleadings Other Than Motions. Answers to applications, claims, ~~or~~ appeals, complaints, ~~or~~ petitions when required to be filed by provision of statute, rule, or ~~protests~~ order must be filed and served on all parties of record within twenty-one (21) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or a motion to dismiss is made within twenty-one (21) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent pursuant to Rule 700. Answers to applications or claims, complaints, ~~or~~ petitions, ~~or~~ ~~protests~~ must admit or deny each material allegation of the applications or claims, complaint, ~~or~~ petition ~~or~~ protest. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. (7-1-93)()

02. Answers To Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion within fourteen (14) days of the filing of the motion. ~~The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The time to file an answer to a motion may be enlarged or shortened by the presiding officer with or without the request of a party.~~ The presiding officer may act upon a prehearing motion under Rule 565. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

300. FILING DOCUMENTS WITH THE AGENCY--NUMBER OF COPIES--FACSIMILE TRANSMISSION (FAX) - ELECTRONICALLY SIGNED DOCUMENTS (Rule 300).

An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX). Whenever any document is filed by FAX, the original must be mailed by United States mail or physically delivered to the agency the next working day. A document required to be accompanied by a filing fee shall not be filed with the agency until the fee is received. The Department will accept electronic signatures and electronically signed communications complying with the requirements of Rules 306 through 311 and Sections 67-2351 through 67-2357, Idaho Code, for all communications, filings and transactions with the Department. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

306. ELECTRONICALLY SIGNED COMMUNICATIONS (Rule 306).

The Department will accept electronic signatures and electronically signed communications complying with the requirements of Rules 306 through 311 and Sections 67-2351 through 67-2357, Idaho Code, for all communications, filings and transactions with the Department. For an electronic signature to be valid for use by the Department, it must be created by a technology that is accepted for use by the Department. ()

307. CRITERIA FOR ACCEPTABLE ELECTRONIC SIGNATURE TECHNOLOGY (Rule 307).

For an electronic signature technology to be accepted for use by the Department, it must comply with the following criteria: ()

01. Statutory Criteria. An acceptable electronic signature technology must be capable of creating signatures that conform to the requirements set forth in Section 67-2354, Idaho Code: ()

a. It is unique to the person using it; ()

b. It is capable of verification; and ()

c. It conforms to the applicable rules promulgated by the Department pursuant to Section 67-2356, Idaho Code. ()

02. Additional Criteria. An electronic signature technology acceptable to the Department also must be capable of creating a signature that satisfies the following additional criteria: ()

a. It is under the sole control of the person using it; ()

b. It is linked to the data in such a manner that if the data are changed, the electronic signature is invalidated; and ()

c. It meets International Standards Organization ISO X.509 standard. ()

308. PUBLIC KEY CRYPTOGRAPHY (Rule 308).

The technology known as Public Key Cryptography is an accepted technology for use by the Department, provided that the electronic signature is created consistent with the provisions in these rules. ()

01. Terminology. For purposes of Rules 306 through 311, and unless the context expressly indicates otherwise, the following terms shall have the meanings here ascribed to them: ()

a. Approved certification authority. The Certification Authority authorized and accepted by the State of Idaho to issue certificates for electronic signature transactions involving the State; ()

b. Asymmetric cryptosystem. A computer algorithm or series of algorithms that utilize(s) two (2) different keys with the following characteristics: ()

i. Identifies the certification authority issuing it; ()

ii. One (1) key verifies a given message; and ()

iii. The keys have the property that, knowing one (1) key, it is computationally infeasible to discover the other key. ()

c. Certificate. A computer-based record that: ()

i. Identifies the certification authority issuing it; ()

ii. Names or identifies its subscriber; ()

iii. Contains the subscriber's public key; ()

iv. Is electronically signed by the Certification Authority issuing or amending it; and ()

v. Conforms to widely-used industry standards. ()

d. Certification Authority. A person or entity that issues a certificate, or in the case of certain

certification processes, certifies amendments to an existing certificate: ()

e. Electronic Message. An electronic representation of information intended to serve as a written communication with the Department; ()

f. Electronically Signed Communication. A message that has been processed by a computer in such a manner that ties the message to the individual that signed the message; ()

g. Key Pair. A private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify an electronic signature that the private key creates; ()

h. Private Key. The key of a key pair used to create an electronic signature; ()

i. Proof of Identification. The document or documents presented to a Certification Authority to establish the identity of a subscriber; ()

j. Public Key. The key of a pair used to verify an electronic signature; ()

k. Subscriber. A person who: ()

i. Is the subject listed in a certificate; ()

ii. Accepts the certificate; and ()

iii. Holds a private key which corresponds to a public key listed in that certificate. ()

l. Technology. The computer hardware or software-based method or process used to create electronic signatures. ()

02. Electronic Signature To Be Unique. Section 67-2354, Idaho Code, requires that an electronic signature be "unique to the person using it". A public key-based electronic signature may be considered unique to the person using it if: ()

a. The private key used to create the signature on the document is known only to the signer; ()

b. The electronic signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetrical cryptosystem and the signer's private key; ()

c. Although not all electronically signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and ()

d. It is computationally infeasible to derive the private key from knowledge of the public key. ()

03. Signature Capable Of Verification. Section 67-2354, Idaho Code, requires that an electronic signature be "capable of verification". A public-key based electronic signature is capable of verification: ()

a. If the acceptor of the electronically signed document can verify the document was electronically signed by using the signer's public key; ()

b. If a certificate is a required component of a transaction, the certificate was valid; and ()

c. If a certificate is a required component of a transaction, the issuing Certification Authority identifies which, if any, form(s) of proof of identification it required of the signer prior to issuing the certificate.

()

04. Electronic Signature Must Meet ISO X.509 Standards. The electronic signature must meet International Standards Organization ISO X.509 standards. ()

05. Approved Certification Authority. The Department shall only accept certificates from an Approved Certification Authority. ()

309. CRITERIA FOR ACCEPTING AN ELECTRONIC SIGNATURE (Rule 309).
The following criteria shall be used in determining the acceptability of electronic signatures: ()

01. Level Of Security Used To Identify The Signer. Prior to accepting an electronic signature, the Department shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted. ()

02. Level Of Security Used To Transmit The Signature. Prior to accepting an electronic signature, the Department shall ensure that the level of security used to transmit the signature is sufficient for the transaction being conducted. ()

03. Certificate Format Used By The Signer. If a certificate is a required component of an electronic signature transaction, the Department shall ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of the Department. ()

310. RETENTION OF CERTIFICATES (Rule 310).
All electronically signed messages received by the Department in accordance with this rule, as well as any information resources necessary to permit access to the message and to verify the electronic signature, shall be retained by the Department as necessary to comply with applicable law pertaining to records retention requirements for that message. ()

311. ELECTRONIC SIGNATURE REPUDIATION (Rule 311).
It is the responsibility of the rightful holder of the private key to maintain the private key's security. Repudiation of an electronically signed and transmitted message may only occur by the determination of a court of competent jurisdiction that the private key of the rightful holder was compromised through no fault of the rightful holder and without knowledge on the part of the rightful holder. It is the legal prerequisite for a claim of repudiation that the repudiator have filed a notice of revocation with the Certification Authority prior to making the claim of repudiation. ()

30612. -- 349. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

352. TIMELY FILING OF PETITIONS TO INTERVENE (Rule 352).
Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing, or by the date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenor who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (7-1-93)()

353. GRANTING PETITIONS TO INTERVENE (Rule 353).
If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the

proceeding.

(7-1-93)()

354. ORDERS GRANTING INTERVENTION--OPPOSITION (Rule 354).

No order granting a petition to intervene will be acted upon ~~fewer~~ sooner than seven (7) days after its filing, except in a hearing in which any party may be heard. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene.

(7-1-93)()

355. PUBLIC WITNESSES (Rule 355).

Persons not parties and not called by a party who testify at hearing are called "public witnesses". Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to Rules 557 and 559, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Rule 528 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties. A person intending to present public witness testimony shall provide five (5) days notice prior to the hearing. If the notice is not given, the public testimony will be allowed only at the discretion of the presiding officer.

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

413. SCOPE OF AUTHORITY OF HEARING OFFICERS (Rule 413).

The scope of hearing officers' authority may be restricted in the appointment by the agency.

(7-1-93)

01. Scope Of Authority. Unless the agency otherwise provides, hearing, officers have the standard scope of authority, which is:

(7-1-93)

a. Authority to schedule cases assigned to the hearing officer, including authority to issue notices of default, of prehearing conference and of hearing, or to provide for the use of informal procedure, as appropriate;

(7-1-93)()

b. Authority to schedule and compel discovery, when discovery is authorized before the agency, and to require advance filing of expert testimony, when authorized before the agency;

(7-1-93)

c. Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, rule on dispositive motions upon completion of the applicant's or petitioner's case in chief, and otherwise oversee the orderly presentations of the parties at hearing; and

(7-1-93)()

d. Authority to issue a written decision of the hearing officer, including a narrative of the proceedings before the hearing officer and findings of fact, conclusions of law, and recommended or preliminary orders by the hearing officer, following the submission of evidence through stipulation of the parties, affidavits, exhibits, or hearing testimony.

(7-1-93)()

02. Limitation. The hearing officer's scope of authority may be limited from the standard scope, either in general, or for a specific proceeding. For example, the hearing officer's authority could be limited to scope in Rule Subsection 413.01.c. (giving the officer authority only to conduct hearing), with the agency retaining all other authority. Hearing officers can be given authority with regard to the agency's rules as provided in Rule 416.

(7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

417. EX PARTE COMMUNICATIONS (Rule 417).

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. A party to a contested agency proceeding shall not communicate directly or indirectly with the presiding officer or the agency head regarding any substantive issue in the contested case. However, ~~w~~When a presiding officer or the agency head becomes aware of an ~~written~~ ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer or agency head shall place a copy or written summary of the communication in the file for the case and order the party providing the ~~written~~ communication to serve a copy of the ~~written~~ communication or written summary upon all parties of record. Repeated violations of this rule shall be cause for the presiding officer to dismiss an action or to dismiss a party from an action. Written communications from a party showing service upon all other parties are not ex parte communications.

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

510. PURPOSES OF PREHEARING CONFERENCES (Rule 510).

The presiding officer, or an employee of the agency, may by order or notice issued to all parties convene a prehearing conference in a contested case for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery (when discovery is allowed), arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

513. ORDERS RESULTING FROM PREHEARING CONFERENCE (Rule 513).

The presiding officer, or an employee of the agency, may issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause.

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

521. WHEN DISCOVERY AUTHORIZED (Rule 521).

No party before the agency is entitled to engage in discovery unless the party moves ~~to compel for an order~~ authorizing discovery and the agency issues an order ~~directing that~~ authorizing the ~~requested~~ requested discovery ~~be answered,~~ or upon agreement of all parties to the discovery that discovery may be conducted. The presiding officer shall provide a schedule for discovery in the order ~~compelling~~ authorizing discovery, but the order ~~compelling~~ authorizing and scheduling discovery need not conform to the timetables of the Idaho Rules of Civil Procedure. The agency or agency staff may conduct statutory inspection, examination, investigation, etc., at any time without filing a motion to ~~compel~~ authorize discovery.

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

528. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS (Rule 528).

Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection under Rule 527, and objections to discovery must be filed and served as provided in the order ~~compelling~~ authorizing discovery. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

531. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (Rule 531).

The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery, including the sanctions listed in paragraphs (A), (B), and (C) of Rule 37(b)(2) of the Idaho Rules of Civil Procedure. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

551. FACILITIES AT OR FOR HEARING AND A.D.A. REQUIREMENTS (Rule 551).

All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act in order to participate in or understand the hearing, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the hearing that the request must be made. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

553. CONDUCT AT HEARINGS (Rule 553).

All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearings. The presiding officer may exclude persons from the hearing who refuse to conduct themselves in a respectful manner. Disruptive conduct that is serious in nature shall be cause for dismissal of a proceeding or dismissal of a party from the proceeding. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

565. PROCEDURE ON PREHEARING MOTIONS (Rule 565).

The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. ~~If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. Unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) joining in, answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the last motion or joinder pursuant to the requirements of the previous sentence in which to respond.~~ (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

700. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR OR RESPOND (Rule 700).

If an applicant or claimant or appellant, petitioner, protestant, complainant, or moving party fails to appear at the time and place set for hearing, or prehearing conference, on an application or claim or appeal, petition, complaint, or motion, or fails to respond to a written information inquiry, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing or prehearing conference, or to respond to the information inquiry. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

712. CONTENTS OF ORDERS (Rule 712).

Pursuant to Section 67-5248, Idaho Code, an order that determines the legal rights or interests of one (1) or more parties must be in writing and shall include the following: ()

01. Findings Of Fact And Conclusions Of Law. An order shall contain a reasoned statement in support of the decision. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts of record supporting the findings. Findings of fact must be based exclusively on the evidence in the record of the contested case and on matters officially noticed in that proceeding. ()

02. Statement Of Available Procedure. An order shall contain a statement of the available procedures and applicable time limits for seeking reconsideration or other administrative relief. ()

~~7123.~~ -- 719. (RESERVED).

720. RECOMMENDED ORDERS (Rule 720).

01. Recommended Orders - Definition. Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. (7-1-93)

02. Contents Of Recommended Orders. Every recommended order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

b. Within ~~twenty-one~~ fourteen (14) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position with the agency head or designee on any issue in the proceeding. If no party files exceptions to the recommended order with the agency head or designee, the agency head or designee will issue a final order within fifty-six (56) days after: (7-1-93)()

i. The last day a timely petition for reconsideration could have been filed with the hearing officer: ()

- ii. The service date of a denial of a petition for reconsideration by the hearing officer; or ()
- iii. The failure within twenty-one (21) days to grant or deny a petition for reconsideration by the hearing officer. ()

c. Written briefs in support of or taking exceptions to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have twenty-one (21) days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

730. PRELIMINARY ORDERS (Rule 730).

01. Preliminary Orders - Definition. Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head (or the agency head's designee) pursuant to Section 67-5245, Idaho Code. (7-1-93)

02. Contents Of Preliminary Order. Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a petition for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

b. Within ~~twenty-one~~ fourteen (21) days after: ()

i. The service date of this preliminary order; ()

ii. The service date of the denial of a petition for reconsideration from this preliminary order; or ()

iii. The failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency. (7-1-93)()

c. If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion. (7-1-93)

d. If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (7-1-93)

e. Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department or the Board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing. ()

ef. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

- i. A hearing was held; (7-1-93)
- ii. The final agency action was taken; (7-1-93)
- iii. The party seeking review of the order resides; or (7-1-93)
- iv. The real property or personal property that was the subject of the agency action is located. (7-1-93)

fg. This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

740. FINAL ORDERS (Rule 740).

01. Final Order - Definition. Final orders are preliminary orders that have become final under Rule 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the agency head pursuant to Section 67-5246, Idaho Code, or emergency orders, including cease and desist or show cause orders, issued by the agency head pursuant to Section 67-5247, Idaho Code. (7-1-93)

02. Content Of Final Order. Every final order issued by the agency head must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a final order of the agency. Any party may file a petition for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. (7-1-93)

b. Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department or the Board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing. ()

b.c. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

- i. A hearing was held; (7-1-93)
- ii. The final agency action was taken; (7-1-93)
- iii. The party seeking review of the order resides; or (7-1-93)
- iv. The real property or personal property that was the subject of the agency action is located. (7-1-93)

ed. An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

791. NOTICE OF APPEAL (Rule 791).

The notice of appeal must be filed ~~with the agency and~~ with the district court and served on the agency and all parties. (7-1-93)()

01. Filing Appeal. Pursuant to Section 67-5272, Idaho Code, appeals may be filed in the ~~D~~istrict ~~C~~court of the county in which: (7-1-93)()

- a. The hearing was held; (7-1-93)
- b. The final agency action was taken; (7-1-93)
- c. The party seeking review of the agency action resides; or (7-1-93)
- d. The real property or personal property that was the subject of the agency is located. (7-1-93)

02. Filing Deadline. Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final order in a contested case must be filed within twenty-eight (28) days: (7-1-93)

- a. Of the service date of the final order; (7-1-93)
- b. Of the denial of the petition for reconsideration; or (7-1-93)
- c. The failure within twenty-one (21) days to grant or deny the petition for reconsideration. (7-1-93)

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.03.10 - WELL DRILLER'S LICENSING RULES

DOCKET NO. 37-0310-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 42-238, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rule-making will be held as follows: October 28, 1999, 8:30 p.m., Idaho Department of Water Resources, 1301 North Orchard St., Conference Room A & B, 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 rulemaking: This chapter is being repealed in its entirety. It will be replaced with another chapter being promulgated in Docket No. 37-0310-9902.

FEE SUMMARY: This rulemaking does not propose to impose or increase fees or charges.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rules were of specific interest to the well drillers. The Department met with the Idaho Ground Water Association's Board and general membership representing licensed well drillers in the state to discuss proposed rule changes. The Department also met consistently with the Well Drillers Advisory Committee appointed by the Director to draft these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Slifka at (208) 327-7887.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 5, 1999.

DATED this 25th day of August 1999.

Karl J. Dreher
Director
Idaho Department of Water Resources
1301 North Orchard St.
Boise, Idaho 83706
Phone: (208) 327-7910
Fax: (208) 327-7866

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.03.10 - WELL DRILLER LICENSING RULES

DOCKET NO. 37-0310-9902

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 42-238, Idaho Code.

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

October 28, 1999, 8:30 p.m.
Idaho Department of Water Resources
1301 North Orchard St., Conference Room A & B
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 rulemaking: Rules are proposed to comply with legislative code changes in the Idaho Code Title 42, Chapter 2 (42-238) effective July 1997. The proposed rules are intended to apply statewide.

FEE SUMMARY: This rule-making does not propose to impose or increase fees or charges.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rules were of specific interest to the well drillers. The Department met with the Idaho Ground Water Association's Board and general membership representing licensed well drillers in the state to discuss proposed rule changes. The Department also met consistently with the Well Drillers Advisory Committee appointed by the Director to draft these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Slifka at (208) 327-7887.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 5, 1999.

DATED this 25th day of August, 1999.

Karl J. Dreher
Director
Idaho Department of Water Resources
1301 North Orchard St.
Boise, Idaho 83706
Phone: (208) 327-7910
Fax: (208) 327-7866

THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0310-9902

IDAPA 37
TITLE 03
Chapter 10

WELL DRILLER LICENSING RULES

000. LEGAL AUTHORITY (Rule 0).

The Idaho Water Resource Board adopts these rules under the authority provided by Section 42-238, Idaho Code.

()

001. TITLE AND SCOPE (Rule 1).

01. Title. The title of this chapter is "Well Driller Licensing Rules".

()

02. Scope. These rules establish the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells.

()

002. WRITTEN INTERPRETATION (Rule 2).

As described in Section 67-5201, Idaho Code, the Department of Water Resources may have written statements that pertain to the interpretation of these rules. If available, such statements can be inspected and copied at cost at the Idaho Department of Water Resources, 1301 North Orchard Street, Boise, Idaho 83706.

()

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative and judicial review may be taken pursuant to Section 42-1701A, Idaho Code, and IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources".

()

004. OTHER AUTHORITIES REMAIN APPLICABLE (Rule 5).

Nothing in these rules shall limit the director's authority to take alternative or additional actions relating to the licensing of well drillers and permitting of operators as provided by Idaho law.

()

005. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

Unless the context otherwise requires, the following definitions govern these rules.

()

01. Abandonment. Filling, plugging or otherwise rendering a well to a condition that it cannot be used to produce or dispose of water or other fluids and it is not a conduit for waste or contamination of ground water.

()

02. Adequate Supervision. Inspection and observation of each drilling operation and the associated drilling site by the licensed driller that has responsible charge during the critical phases of drilling to assure compliance with well construction standards and drilling permit conditions.

()

03. Applicant. An individual that submits to the department a complete application for a license or operator's permit or a company that submits a complete application for a license.

()

04. Area Of Drilling Concern. An area designated by the director in accordance with Section 42-238, Idaho Code, within which special drilling procedures and equipment are needed to prevent waste or contamination of the ground water.

()

05. Auxiliary Equipment. Powered equipment, other than the drill rig, used for grouting, installing or advancing casing, welding casings and screens, and other tasks necessary for drilling a well.

()

- 06. Board.** The Idaho Water Resource Board. ()
- 07. Bond.** A cash or surety bond obtained by a licensed driller or company payable to the director to provide funding for abandonment or repair should the driller fail to comply with well construction standards, and to allow information to be collected concerning the drilling of the well if the driller fails to submit a timely, accurate driller's report. ()
- 08. Company.** A firm, co-partnership, corporation or association licensed in accordance with these rules to drill or contract to drill wells. ()
- 09. Compliance History.** An applicant's record of compliance with the laws and rules of Idaho and other states relating to drilling of wells. The record includes, but is not limited to, the applicant's record of obtaining and complying with drilling permits; filing accurate and complete well driller's reports on time; adhering to well construction standards and other rules relating to drilling; and the number, nature and resolution of violations of laws, rules and conditions on licenses, operator's permits and drilling permits. ()
- 10. Continuing Education.** Education or training pertinent to the drilling industry and the construction, modification or abandonment of wells. ()
- 11. Continuing Education Committee (CEC).** A committee appointed by the director to review and approve activities acceptable for continuing education credit. ()
- 12. Credit Unit.** The unit of measurement for continuing education requirements. ()
- 13. Critical Phases Of Drilling.** Drilling tasks that require the added experience of a licensed driller to assure completion of the well in accordance with the well construction standards and conditions of drilling permits. These tasks include, but are not limited to, placement of required casings and seals, testing of casings and seals, and resolving problems such as casing or joint failures, heaving formations, lost circulation, and encountering high pressure or high temperature water. ()
- 14. Department.** The Idaho Department of Water Resources. ()
- 15. Director.** The director of the Idaho Department of Water Resources or his duly authorized representative. ()
- 16. Drilling Or Well Drilling.** The act of constructing a new well, or modifying, changing the construction, or abandoning an existing well. A non-licensed driller may perform an abandonment if the director first approves a waiver. ()
- 17. Driller Helper.** An individual assisting a driller or operator on the drilling site whose duties do not include operating the drill rig or auxiliary equipment. ()
- 18. Drilling Permit.** Authorization by the department to drill a well as provided in Section 42-235, Idaho Code. ()
- 19. Drilling Site.** The location of the drill rig and immediate area where the drill rig and auxiliary equipment are set up to drill a well. ()
- 20. License.** A certificate issued by the director to an individual or a company upon meeting the requirements of Section 42-238, Idaho Code, and these rules authorizing the drilling of wells permitted in accordance with Section 42-235, Idaho Code. ()
- 21. Licensed Driller.** An individual having a license to drill wells in the state of Idaho. ()
- 22. Modify.** To deepen a well, increase or decrease the diameter of the casing or the well bore, install a

liner, place a screen, perforate existing casing or liners, alter the seal between the casing and the well bore, or alter the well to not meet well construction standards. ()

23. Operator. An individual holding either a class I or class II operator's permit issued in accordance with these rules. ()

24. Operator's Permit. A certificate issued by the director upon meeting the requirements of Section 42-238, Idaho Code, and these rules allowing the holder to operate a drill rig as provided in these rules. ()

25. Principal Driller. A licensed driller in responsible charge of a company's drilling activities, which has been designated the principal driller by the company with the department. ()

26. Responsible Charge. The responsibility for direction and control of a drilling operation to meet the requirements of these rules including, but not limited to, the following activities: ()

- a. Contracting to drill a well; ()
- b. Siting a well; ()
- c. Setting up drilling equipment at the drilling site; ()
- d. Drilling operations; ()
- e. Testing the adequacy of casing and seal; and ()
- f. Drilling site cleanup. ()

27. Well. An artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below land surface by which ground water of any temperature is sought or obtained. The depth of a well is determined by measuring the maximum vertical distance between the land surface and the deepest portion of the well. Any water encountered in the well is considered to be obtained for the purpose of these rules. Well also means any waste disposal and injection well as defined by Section 42-3902, Idaho Code. ()

28. Well Construction Standards. IDAPA 37.03.09, "Well Construction Standards Rules," adopted by the board. ()

29. Well Driller's Report Or Driller's Report. A report required by Section 42-238, Idaho Code, describing drilling of the well and supplying information required on forms provided by the department. ()

30. Well Log. A diary maintained at the drilling site on forms acceptable to the department to record the daily progress and nature of drilling operations and that describe, in particular, pertinent geologic conditions, any problems encountered and methods used to resolve them. ()

31. Well Rig Or Drill Rig. Any power-driven percussion, rotary, boring, digging, jetting, or augering machine used in the drilling of a well. ()

011. -- 019. (RESERVED).

020. APPLICABILITY OF LICENSING REQUIREMENTS (Rule 20).

01. Licensing Requirements. A well shall only be drilled by or under the responsible charge of a licensed driller except that a property owner, who is not licensed, can construct a well on his property for his own use without the aid of power-driven mechanical equipment. ()

02. Driller To Have Responsible Charge Of Other Workers. A licensed driller shall have responsible charge of all others engaged in a well drilling operation. ()

03. Operators To Have Permits. An individual assisting a licensed driller whose duties include operation of a drill rig or auxiliary equipment shall possess an operator's permit as provided in these rules. If the driller is not present at the well site at all times that drilling operations are being conducted, one or more of those operating the equipment in the driller's absence shall have a class II operator's permit. The driller shall provide adequate supervision of class II operators. An individual having a class I operator permit shall be supervised by a licensed driller or a class II operator at all times when operating the drill rig or auxiliary equipment. ()

04. Driller Helper Exempted. An individual whose duties at the drilling site do not include operation of the drill rig or auxiliary equipment at any time is not required to have either a driller's license or an operator's permit. ()

05. Company To Be Licensed. No company shall drill or contract to drill a well or wells unless the company has been issued a license and has employed a principal driller as described in accordance with these rules. ()

021. CONSTRUCTION AND USE OF HOLES THAT ARE NOT WELLS (Rule 21).

01. When A License Is Not Required. A person drilling a hole that does not meet the definition of a well does not need a driller's license or operator's permit. ()

02. Holes Not Defined As Wells. The following list describes the types of holes that are not wells for purposes of these rules: ()

a. Holes with total depth less than eighteen (18) feet. ()

b. Holes for collecting soil or rock samples, determining geologic properties, or mineral exploration or extraction, including gravel pits. ()

c. Holes for oil and gas exploration for which a permit has been issued pursuant to Section 47-320, Idaho Code. ()

d. Holes for constructing building foundations or de-watering building or dam foundation excavations. ()

e. Holes for the installation of standpipes or piezometers to monitor the saturation of dam embankments or foundations or to measure uplift forces on buildings, dams and other structures. ()

03. Converting A Hole Not Constructed As A Well For Use As A Well. A hole that was not constructed as a well by or under the responsible charge of a driller, if subsequently converted to obtain water, to monitor water quantity or quality, or to dispose of water or other fluids, shall be reconstructed by a driller to comply with well construction standards and drilling permit conditions. The owner shall obtain a drilling permit, a water right or other approval if needed, and have the hole inspected and modified by a licensed driller as necessary to meet well construction standards. The driller shall file a driller's report for the well. ()

022. -- 029. (RESERVED).

030. OBTAINING A LICENSE FOR AN INDIVIDUAL DRILLER (Rule 30).

01. Application Requirements. An individual desiring a license shall file with the department a completed application on a form provided by the department accompanied by the following: ()

a. The application fee required by Section 42-238, Idaho Code. ()

b. Written documentation of drilling experience, compliance history, and the names and addresses of three (3) references to confirm the applicant's drilling experience. ()

c. A list of all drill rigs used by or under the responsible charge of the applicant providing the make,

model, type and other information required by the director. ()

d. The names and addresses of all licensed drillers and permitted operators that will work under the responsible charge of the applicant. ()

e. Documentation from a certifier qualified by the American Welding Society (AWS) or other organization acceptable to the director, affirming passage of a welding test. The test shall demonstrate competency in welding a horizontal V-butt joint connecting two sections of cylindrical pipe of not less than six (6) inches in diameter with a minimum wall thickness of twenty-five hundredths (.25) inch. The weld shall fully penetrate the casing thickness and shall be cut into representative sections for visual inspection by the certifier. All of the above shall be done in the presence of the certifier. ()

02. Experience Requirements. ()

a. An applicant shall have a minimum of thirty (30) months of drilling experience. An applicant will be credited with one (1) month of drilling experience for each one hundred sixty (160) hours of employment as a driller or operator, or the equivalent, as determined by the director. Experience drilling monitoring wells, geothermal wells or other cased wells will be credited as experience by the director if the equipment and drilling methods are applicable to water well construction. The director may accept up to six (6) months of verifiable experience as a driller helper as experience for purposes of this rule. ()

b. An applicant for driller's license shall submit evidence to establish that the applicant, as an operator or driller, has drilled at least ten (10) wells. Evidence of this experience can be demonstrated by the submission of driller's reports bearing the applicant's signature, well reports upon which the driller having responsible charge attests that the applicant drilled the wells or other documentation acceptable to the director. ()

c. Twelve (12) of the thirty (30) months drilling experience must have occurred within the five (5) year period immediately preceding the filing of the application. ()

d. Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twelve (12) months of drilling experience. The director will determine the number of months of classroom study, up to twelve (12), to be credited as experience. ()

03. Examination. An applicant determined by the director to have adequate experience and an acceptable compliance history, as confirmed by references acceptable to the director, is eligible to take a written examination. The examination may include separate sections and shall test the applicant's knowledge of the following: ()

a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. ()

b. Land description by government lot, quarter-quarter, section, township and range. ()

c. Geologic material identification including the use of correct terminology in describing the geologic material. ()

d. Well construction principles relating to the proper design, construction, development, and abandonment of wells. ()

e. The occurrence, nature, and movement of ground water. ()

f. The use of various types of drill rigs and auxiliary equipment. ()

031. OBTAINING A LICENSE FOR A COMPANY (Rule 31).

01. Application Requirements. A company shall file with the department a complete application for a

company license upon a form provided by the department to be accompanied by the following: ()

- a. The application fee required by Section 42-238, Idaho Code. ()
- b. The names and addresses of three (3) disinterested persons whom the department can contact for information regarding the company's past well drilling operations, if any, and related business activities. ()
- c. A complete record of the compliance history of the company and the owners and employees of the company. ()
- d. Designation of a principal driller who shall be a full time employee of the company and shall drill wells only for the company. A licensed driller who renders only occasional, part-time or consulting drilling services to or for a company may not be designated as the principal driller. ()
- e. The names and addresses of drillers and operators presently employed or anticipated to be employed by the company. ()
- f. A list of all drill rigs and other related equipment owned or used by the company providing the make, model, type and other information required by the director. ()

02. Company Name. The name of the company shall be different from any company name recorded at the department or with the Idaho Secretary of State's office. A name may not be chosen which has been used within the past five (5) years unless it is by the same licensed driller or company that previously held the name or the applicant can document a right to use the name. In making a final determination of issuing a license under a particular name, the director shall have discretion to determine if a company name is unique and will not be confused with the identity of another licensed driller or company. ()

03. Application Processing. Applications received under this rule will be processed in accordance with Rule 31. ()

032. OBTAINING AN OPERATOR'S PERMIT (Rule 32).

01. Application For Class I Operator's Permit. A licensed driller or company proposing to employ a class I operator shall submit a completed application on a form provided by the director. The application shall:()

- a. Be accompanied by the fee required by Section 42-238, Idaho Code. ()
- b. Be signed by the individual seeking the operator's permit and the licensed driller or principal driller of the company proposing to employ the operator. ()

02. Application For Class II Operator's Permit. A licensed driller or company proposing to employ an individual who does not currently hold a class II operator's permit shall submit an application which shall include: ()

- a. A completed application on a form provided by the department. ()
- b. The fee required by Section 42-238, Idaho Code. No fee is required if the applicant is presently permitted as a class I operator, but the expiration date of the permit when converted to a class II operator's permit will remain as originally issued. ()
- c. A listing of ten (10) or more wells on which the applicant worked as a class I operator or equivalent. ()
- d. Documentation from a certifier qualified by the American Welding Society (AWS), or other organization acceptable to the director, affirming passage of a welding test. The test shall demonstrate competency in welding a horizontal V-butt joint connecting two (2) sections of cylindrical pipe of not less than six (6) inches in

diameter with a minimum wall thickness of twenty-five hundredths (.25) of an inch. The weld shall fully penetrate the casing thickness and shall be cut into representative sections for visual inspection by the certifier. All of the above shall be done in the presence of the certifier. ()

03. Written Examination. An examination is not required for a class I operator's permit. An otherwise qualified applicant for a class II operator's permit shall obtain a satisfactory score on an examination as provided in Rule 32. The examination may be comprised of separate sections and shall test the applicant's knowledge of the following: ()

a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. ()

b. Land description by government lot, quarter-quarter, section, township, and range. ()

c. Geologic material identification including the use of correct terminology in describing geologic material. ()

d. Well drilling principles relating to proper design, construction, development, and abandonment of wells. ()

e. The occurrence, nature, and movement of ground water. ()

04. Operator Drills Only For Licensed Driller Or Company. An operator shall only drill for the licensed driller or company approved by the director. If an operator changes employment to another licensed driller or company, an application for an operator's permit shall be filed as provided in this rule. The director may waive the examination requirement if the operator has a history of complying with these rules and the well construction standards. ()

05. Processing An Application For Operator's Permit. The department will process an application for operator's permit in accordance with Rule 31. ()

033. PROCESSING APPLICATION FOR LICENSE OR OPERATOR'S PERMIT (Rule 33).

01. Incomplete Application. If an application is incomplete, not properly signed, or does not include the information required by these rules, the department will advise the applicant in writing of the deficiency. If the deficiencies are not satisfied within one hundred twenty (120) days of receipt of the application, the application and supporting documents will be returned to the applicant. The application fee is not refundable. ()

02. Issuance Of License. If the director, upon review of the application, determines that an applicant for license is qualified and the driller has subsequently taken and passed an examination, a notice will be sent to the applicant requesting a bond in an amount determined by the director be filed with the department. Upon receipt of a satisfactory bond, the director will issue a license to the applicant. ()

03. Issuance Of Operator's Permits. If the director determines that an applicant is qualified and has passed an examination, if required, the department will mail a notice and operator's permit card to the principal driller on behalf of the applicant. ()

04. Compliance History. If the director determines that the applicant has exhibited an unacceptable compliance history, the director may deny the license or permit, refuse to issue for a specified time, or issue with conditions, including but not limited to an increased bond amount. The director may only consider the applicant's compliance history for the five (5) year period immediately preceding the application being filed. ()

05. License Or Operator's Permit Issued With Conditions Or Denial Of License Or Operator's Permit. The director may issue a license or operator's permit with specific conditions or limitations based on factors such as the applicant's compliance history, experience, the probable location of the applicant's drilling activities, the

nature or type of wells the applicant has constructed, and the type of equipment used by the applicant. If the director determines that the applicant is not qualified, the director will deny the application. Notice of a denied application or a conditioned license or operator's permit will be given to the applicant in accordance with IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources". ()

034. EXAMINATION PROCEDURES (RULE 34).

01. Written Examination. Written examinations will be offered at department offices on the first Monday of each month. If the first Monday is a legal holiday, written examination will be offered on the first Tuesday. Re-examination may be taken at a regularly scheduled examination date during a following month and shall be scheduled with the department office originally testing the applicant. ()

02. Oral Examination. Successful passage of an oral examination may satisfy all or a part of the written testing requirements under the following circumstances: ()

a. The applicant requests an oral rather than a written examination and shows cause acceptable to the director why the examination should be oral rather than written. Applicants desiring to take the examination orally shall request that an oral examination be scheduled allowing at least fifteen (15) days to set an examination date. ()

b. The director determines that because of the applicant's compliance history, additional testing is needed to determine the applicant's qualifications. ()

03. Examination Scoring. The applicant shall pass each section of the examination with a score of seventy percent (70%) or higher. ()

04. Assistance Must Be Authorized. The use of written materials, equipment or other individuals to assist an applicant during an examination is prohibited unless specifically authorized by the department. An applicant receiving unauthorized assistance during an examination may be disqualified and the application may be rejected. An application filed by a disqualified applicant will not be processed for a period of up to one (1) year from the time of disqualification. ()

035. EXPIRATION AND RENEWAL OF LICENSE (Rule 35).

01. Expiration Of Licenses. All licenses shall expire on March 31 during the second year after issuance. ()

02. Renewal Application. A license may be renewed by submitting a license renewal application including the following: ()

a. A completed application on a form provided by the department. An application to renew a license for an individual licensed driller shall be signed by the individual and an application to renew a license for a company shall be signed by the principal driller. ()

b. The renewal fee required by Section 42-238, Idaho Code. ()

c. A new bond or continuation certificate for an existing bond covering the licensed driller or company. ()

d. If the application is for renewal of a license held by an individual, the application shall include verification that the applicant has obtained the required continuing education credits. ()

03. Continuing Education Requirements. Eight (8) credit units are required for renewal of a license for an individual for the licensing period beginning April 1, 2001. Sixteen (16) credit units are required for renewal of a license for an individual for any licensing period beginning on or after April 1, 2002. ()

036. EXPIRATION AND RENEWAL OF AN OPERATOR'S PERMIT (Rule 36).

01. Expiration Of Operator's Permits. Class I and class II operator's permits shall expire on March 31 of the same year that the license of the licensed driller and company employing the operator expires. ()

02. Renewal Application. An operator's permit may be renewed by submitting to the department an application for renewal including the following: ()

a. A completed application on a form provided by the department. The operator seeking renewal and the driller under whose responsible charge the operator works shall sign the form. ()

b. The renewal fee required by Section 42-238, Idaho Code. ()

c. For renewal of a class II operator's permit, verification of the required continuing education credit units. ()

03. Continuing Education Required For Renewals. Eight credit units are required for renewal of a class II operator's permit for the two (2) year licensing period beginning April 1, 2001. Sixteen (16) credit units are required for renewal of a class II operator's permit for a licensing period beginning on or after April 1, 2002. ()

04. Processing An Application For Renewal. An application for renewal will be processed in accordance with Rule 35. ()

037. PROCESSING APPLICATION TO RENEW LICENSE OR OPERATOR'S PERMIT (RULE 37).

01. Processing Applications For Renewal. Applications for renewal will be processed in the order received by the department. The department shall receive a complete application for renewal no later than March 15 to assure that the license or operator's permit will remain in force without interruption. If the director determines that the application is complete and the applicant is qualified, the license or operator's permit will be renewed for the period ending on March 31 of the second year after approval of the renewal. ()

02. Regulatory Compliance Required For Renewals. A license or operator's permit will not be renewed if the applicant has not submitted all required driller's reports, applications for drilling permits, fees, agreed civil penalties, has not complied with all orders requiring repair or abandonment of improperly constructed wells or is not otherwise in compliance with Sections 42-235 and 42-238, Idaho Code, and the applicable rules. ()

03. Compliance History. If the director determines that the applicant has exhibited an unacceptable compliance history, the director may deny renewal, refuse renewal for a specified time, or renew with conditions, including but not limited to an increased bond amount. Up to five (5) years of the most recent licensed or permitted history may be considered to determine compliance. ()

04. Renewal Of Expired Licenses Or Operator's Permits. A license or an operator's permit which has expired or otherwise not been in effect for a period not exceeding three (3) years shall be renewed in accordance with the requirements of Rule 34 or Rule 41, as appropriate. An applicant for renewal shall provide verification of earned credit units required for the entire period since the license or class II operator's permit was last issued. If a license or operator's permit has been expired or otherwise not effective for a period of more than three (3) years, an application for a new license shall be submitted in accordance with Rule 30 for an individual license, Rule 31 for a company or Rule 32 for an operator's permit. The director may waive the examination requirement if the applicant has been previously licensed or permitted in the state of Idaho. ()

05. Reuse Of Identification Numbers. The identification number assigned to a license by the department will not be reused if the license has been expired or otherwise not in effect for three (3) years or more except, at the director's discretion, the number may be reissued to the original owner. ()

06. Condition Or Denial Of An Application For Renewal. If the director determines that the applicant has not or cannot fully comply with these rules, a license or operator's permit may be issued with conditions. If the director determines that the applicant is not qualified, the director will deny the application. Notice

of a denied application or a conditioned license will be given as provided in IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources". ()

038. -- 049. (RESERVED).

050. DUTIES AND RESPONSIBILITIES OF DRILLERS, COMPANIES AND OPERATORS (Rule 50).

01. Licensed Drillers And Principal Drillers. All licensed drillers and principal drillers shall: ()

a. Allow drilling only by those authorized by and under the supervision required by these rules and according to any conditions of the license or permit. ()

b. Complete each well in compliance with well construction standards and drilling permit conditions before removing the drill rig from the drilling site. ()

c. Have a valid cash or surety bond in effect, as defined in Rule 60. ()

d. Have the license number displayed in a conspicuous place on the drill rig using a metal identification plate provided by the department or other permanent marking approved by the director. The displayed license number shall represent the company or individual driller license under which the well is being drilled. One plate will be issued upon initial licensure with replacement and additional plates available for a fee. ()

e. Keep current the department's list of operators and drillers employed by the licensed driller or company, including current addresses for the company, drillers, and operators. The licensed driller or principal driller shall be held responsible for all drilling activity of a driller or operator under their supervision until such notification has been submitted in writing to the department that the driller or operator is no longer employed by the licensed driller or company. ()

f. Have at the drilling site the driller's license and drilling permit or other written authorization from the director to drill the well. ()

g. Only accept drilling work for which the driller has the training, experience, and equipment to complete in accordance with applicable well construction standards. ()

h. Only drill wells in contaminated areas identified by the department or in areas of drilling concern so designated by the department with specific written authorization of the director. Verbal authorizations to drill and pre-approved drilling permits (start cards) do not authorize drilling in these areas. ()

i. Only drill a public drinking water supply well, as defined in IDAPA 16.01.08, "Idaho Rules for Public Drinking Water Systems," low temperature geothermal resource or geothermal resource well with specific written authorization from the director. Verbal authorizations and pre-approved permits (start cards) are not authorized for these uses. ()

j. Maintain a well log at the drilling site on a form acceptable to the department bearing the initials of the driller or operator recording information during the work shift. The well log shall be available for review by department personnel at the well site. The following information shall be recorded: ()

i. Borehole lithology; ()

ii. Water bearing zones; ()

iii. Static water levels; ()

iv. Bottom hole temperature; ()

v. Casing and sealing placement status; and ()

- vi. A description of problems encountered and the remedies used to resolve them. ()
- vii. The driller shall retain the well log for at least one (1) year after the driller's report is submitted to the department. ()
- k. Submit driller's reports, acceptable to the director, on forms approved by the department within thirty (30) days following removal of the drill rig from the drilling site at completion of the well. Driller's reports shall be prepared from information recorded on the well log. Driller's reports returned to the driller due to deficiencies must be corrected and returned to the department within thirty (30) days of mailing by the department. ()

l. Attach a well tag supplied by the department to every well drilled for which a drilling permit is required. The tag shall be affixed permanently to the casing by a method approved by the Director prior to removing the well rig from the drilling site. ()

m. Cause all drilling activity under the supervision of the driller to cease when the driller's license expires, becomes invalid, or is suspended or revoked. ()

02. Companies. Companies shall: ()

a. Have a principal driller designated with the department at all times. ()

b. The company and the principal driller shall notify the department within ten (10) days of the principal driller leaving employment with the company. The company's license shall immediately become void and of no effect when the principal driller leaves employment with the company and shall remain so until the department has been notified in writing that a new principal driller has been employed and designated by the company. Failure to designate a principal driller within ninety (90) days of the departure of the designated principal driller is cause for the director to take action to cancel the company's license. ()

c. Maintain a bond in force at all time as required in Rule 60. ()

03. Operators. Operators shall: ()

a. Have in their possession a valid operator's permit while drilling wells. ()

b. Only drill wells as authorized by the operator's permit. ()

c. Maintain a complete and accurate well log at the drilling site. ()

d. Co-sign with the driller a driller's report upon completion of the well. ()

051. -- 059. (RESERVED).

060. BONDING (Rule 60).

01. Bonding Requirements. Each licensed driller or company shall submit a surety bond or cash bond in an amount determined by the director for each driller employed by the company, payable to the director for the licensing period. ()

a. A company shall have a bond, which covers the drilling activities of each driller, operator and helper employed by the company. Each licensed driller shall have a separate bond if not covered by a company bond. If the licensed driller drills wells as an individual and not for a company, a separate bond must be filed with the director. ()

b. Drillers proposing to drill wells in an area of drilling concern, monitoring wells, public water supply wells, or wells to obtain or likely to encounter water with a bottom hole temperature greater than eighty-five (85) degrees Fahrenheit, shall submit an upgraded bond, in an amount determined by the director, at the time the

drilling permit application is processed. Drillers anticipating drilling such wells may, instead, submit adequate bonding at the time of driller license application or renewal. ()

c. The amount of the bond, as determined by the director, will be based on the applicant's compliance history, the size and depth of wells the applicant proposes to construct and is authorized to drill, the complexity and cost of the wells, the resource to be recovered, the area of operation of the applicant, the number of drillers and operators employed by a company, and other relevant factors. A company bond shall be for no less than an amount calculated by the total number of drillers employed from the company multiplied by the minimum bond amount specified by code. ()

d. All bonds and continuation certificates must be on forms provided or approved by the department. ()

02. Cash Bonds. ()

a. Acceptable Cash Bonds. Cash bonds shall be in a separate account readily accessible to the director for use as provided in these rules. The director will review cash bond proposals made by an applicant. Cash bonds shall be retained in financial institutions within the state of Idaho unless waived by the director. ()

b. Retention. The director will hold cash bonds for two (2) years from the date the driller requests that the bond be released unless replaced by another bond or the director determines that all wells drilled by the driller satisfy well construction standards. The release of a cash bond must be requested in writing. ()

03. License Void Without Bond. If the issuing company cancels a bond, the bond expires or otherwise becomes non-effective during the term of a license, the license shall immediately become void and of no further effect until an adequate replacement bond is received by the department. ()

061. -- 069. (RESERVED).

070. CONTINUING EDUCATION (RULE 70).

01. Requirements. Every licensed driller and permitted operator shall have earned at the time of license or permit renewal the credit units required by these rules. The credit units shall have been obtained during the licensing period preceding the application for renewal except that up to five (5) surplus credit units may be carried forward from the previous licensing period. ()

02. Earning Credit Units. A credit unit is earned for each hour the applicant devotes to attendance at workshops, seminars, short courses and other educational opportunities devoted to drilling or related subjects acceptable to the director. The Continuing Education Committee (CEC) provided for in these rules will recommend other acceptable educational activities for approval by the director. These may include completion of college courses, correspondence courses, videotaped courses, active participation in professional organizations, and other endeavors such as authoring appropriate publications. ()

03. Record Keeping. Documentation to support credit units claimed is the responsibility of the licensed driller and permitted operator. Records required include but are not limited to: ()

a. A log showing the type of activity claimed, sponsoring organization, duration, instructor's name, and credit units. ()

b. Attendance verification records in the form of completion certificates or other documents providing evidence of attendance. ()

04. Submittal And Maintenance Of Records. Copies of continuing education records for the preceding license period shall be submitted with applications to renew licenses or permits. These records shall be maintained for a period of three (3) years and shall be available for review by the department at the request of the director or the CEC. ()

05. Insufficient Credit Units. If at the time of renewal, the applicant is unable to provide verification of the required credit units, the director will deny renewal of the driller's license or operator's permit, except as otherwise provided in the following: ()

a. The director may withhold action on an application for renewal for a period not to exceed ninety (90) days to allow the applicant to provide verification of the required credit units. The applicant is not authorized to drill until the verification is provided and the renewal is issued. ()

b. The director may exempt an applicant from all or part of the continuing education requirements if the applicant served on active duty in the armed forces of the United States for one hundred twenty (120) consecutive days or more during the licensing period prior to filing the application for renewal; or the applicant suffered physical disability, serious illness, or other extenuating circumstances that prevented the applicant from earning the required units. ()

c. A licensed driller or operator who has chosen to allow his license or permit to expire or otherwise become of no effect shall be exempt from continuing education requirements unless an application for renewal is filed less than three (3) years after the license or permit expired or otherwise became of no effect. ()

06. Out-Of-State Residents. The continuing education requirements for a non-resident applicant for a license or operator's permit shall be the same as for resident applicants. ()

071. CONTINUING EDUCATION COMMITTEE (CEC) (Rule 71).
The CEC shall be organized and administered as follows: ()

01. Purpose And Duties. The CEC shall provide recommendations to the director concerning the amount and nature of continuing education required to maintain and improve driller and operator competency. The CEC shall provide recommendations to the director concerning the credit value to be assigned to continuing education opportunities. The CEC shall also encourage driller association(s) and the education and professional communities to make additional opportunities available. The director shall determine the value for all activities submitted to fulfill continuing education requirements. ()

02. Committee Membership. The membership of the CEC shall be selected by the director from nominations provided by state driller association(s) and others. The CEC membership shall include: ()

a. Three (3) individuals holding or who have held an Idaho well driller's license, at least two (2) of which shall hold a currently valid license. ()

b. One (1) individual from the department. ()

c. One (1) individual from either the higher education community or a consulting firm involved in designing wells. ()

03. Terms. The committee members will be appointed to serve a term of two (2) years, but may serve no more than six (6) years in any given ten (10) year period. ()

04. Reimbursement. Travel and per diem expenses for members attending official meetings of the CEC will be paid in accordance with department policy. The department will establish meeting dates and locations for the CEC. ()

072. -- 079. (RESERVED).

080. DRILLER'S ADVISORY COMMITTEE (Rule 80).

01. Selection And Duties. The director may appoint a driller's advisory committee from the list of drillers holding valid licenses. The director will determine the term of appointment for members of the committee. The committee shall provide recommendations and suggestions concerning revision of these rules, the minimum standards for well construction, and other matters regarding well drilling. The committee members shall serve on a

voluntary basis without compensation. The department will hold at least one (1) meeting of the advisory committee per year and will hold additional meetings as needed. ()

02. Reimbursement. Travel costs shall be paid to members of the advisory committee for travel and per diem and for costs associated with attendance of advisory committee meetings held by the department. Reimbursement shall be based on existing department policy covering travel and per diem expenses. ()

081. -- 089. (RESERVED).

090. ENFORCEMENT (Rule 90).

01. Violations. Violations of these rules or Sections 42-235 or 42-238, Idaho Code, will be enforced as provided in Sections 42-238 and 42-1701B, Idaho Code. ()

02. Enforcement Policy. An administrative policy providing guidelines for enforcement shall be published and maintained by department staff. A copy of the enforcement guidelines is available upon request at no charge. ()

091. -- 999. (RESERVED).

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.02.72 - RULES GOVERNING ADMINISTRATIVE LICENSE SUSPENSIONS

DOCKET NO. 39-0272-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 18-8002A, Idaho Code.

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

This rule-making authorizes law enforcement agencies to develop and use their own probable cause affidavits or an equivalent document in place of the department's affidavit, so long as it contains the elements required by Section 18-8002A, Idaho Code.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the July 7, 1999, Idaho Administrative Bulletin, Volume 99-7, page 228.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jane Caviness, at (208)332-7830.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
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IDAPA 39
TITLE 02
Chapter 72

RULES GOVERNING ADMINISTRATIVE LICENSE SUSPENSIONS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, page 228.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.02.80 - RULES GOVERNING MOTOR CARRIER FINANCIAL RESPONSIBILITY

DOCKET NO. 39-0280-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective July 1, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-1233(5), 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.

House Bill 335aa amends existing law to transfer regulatory authority over motor carriers operating within the state of Idaho from the Idaho Public Utilities Commission to the Idaho Transportation Department and the Department of Law Enforcement. This promulgation, in accordance with Section 67-5203, Idaho Code, complies with the Legislative intent of House Bill 335aa by transferring the authority of the affected chapters of rules from the Idaho Public Utilities Commission to the Idaho Transportation Department.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999, Idaho Administrative Bulletin, Volume 99-6, pages 45 through 47.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Herb Kinney, at (208)334-8608.

DATED this 23rd day of August, 1999.

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IDAPA 39
TITLE 03
Chapter 08

RULES GOVERNING MOTOR CARRIER FINANCIAL RESPONSIBILITY

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 45 through 47.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption**

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.08 - RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD
SUSPENSION AXLES AND OTHER AUXILIARY AXLES

DOCKET NO. 39-0308-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective October 1, 1997, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-1001, Idaho Code.

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

The proposed amendment will allow Port of Entry inspectors to weigh prequalified variable load suspension axles if they have reason to believe that the axle is overweight or is not carrying sufficient weight for the group of axles. The amendment was recommended by the U.S. Attorney and the Federal Office of Motor Carrier.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 54 through 55.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steven Parry, at (208)334-8814.

DATED this 23rd day of August, 1999.

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IDAPA 39
TITLE 03
Chapter 08

RULES GOVERNING PREQUALIFICATION OF VARIABLE LOAD
SUSPENSION AXLES AND OTHER AUXILIARY AXLES

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 54 through 55.

This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.09 - RULES GOVERNING OVERLEGAL PERMITS - GENERAL
CONDITIONS AND REQUIREMENTS

DOCKET NO. 39-0309-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rule modifies permit requirements to eliminate need for permit when only crossing over state highway.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 58 through 59.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
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IDAPA 39
TITLE 03
Chapter 09

RULES GOVERNING OVERLEGAL PERMITS - GENERAL CONDITIONS AND REQUIREMENTS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 58 through 59.

This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.10 - RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED

DOCKET NO. 39-0310-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rule modifies permit requirements to allow a wrecker to tow a non-disabled vehicle to the point of disablement, to replace the disable vehicle.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 62 through 64.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

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IDAPA 39
TITLE 03
Chapter 10

RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 62 through 64.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY
AND TRAVEL RESTRICTIONS

DOCKET NO. 39-0311-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rule modifies hazardous travel restrictions to apply consistently to all vehicles and removing carrier option to apply restriction. Increases maximum length allowed on Interstate for 24-hour travel from 115 feet to 120.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 67 through 69.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39
TITLE 03
Chapter 11

RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 67 through 69.

This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS

DOCKET NO. 39-0312-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rulemaking reorganizes and provides technical corrections to the text of the rule. ("Special Permit" to "Overlegal Permit" and "Escort Vehicle" to "Pilot/Escort Vehicle".) Revises and standardizes certain operating requirements. Revises requirements for flagging, lighting, and signing to make them uniform with requirements of other states.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 72 through 78.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
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IDAPA 39
TITLE 03
Chapter 12

RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 72 through 78.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.13 - RULES GOVERNING OVERWEIGHT PERMITS
DOCKET NO. 39-0313-9901
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rulemaking provides clarification of the following: Vehicles hauling or towing non-reducible loads are not required to register for the maximum legal weight to be eligible for an overweight permit; Current procedures for the issuance of overlegal permits in excess of routine weight allowances which may require an analysis taking up to 24 working hours; All permitted non-reducible vehicles and/or loads pay the same fee whether registered or not.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 81 through 83.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39
TITLE 03
Chapter 13

RULES GOVERNING OVERWEIGHT PERMITS

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 81 through 83.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE
VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rulemaking eliminates permit type, which is no longer requested. At request of industry, the rule clarifies that 9-foot wide trailers may haul non-reducible loads smaller than 9-feet wide on a regular basis. Private carriers, such as custom harvesters, moving from one farm to another, must be permitted.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 88 through 91.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39
TITLE 03
Chapter 16

RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 88 through 91.

This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,
MODULAR BUILDINGS, AND OFFICE TRAILERS

DOCKET NO. 39-0317-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rulemaking reduces insurance requirement from \$500,000 to \$300,000 for someone transporting their own manufactured home. It also deletes lighting requirement for daylight hours and adds lighting requirements for movements after dark.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 94 through 97.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
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Idaho Transportation Department
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Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39
TITLE 03
Chapter 17

RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,
MODULAR BUILDINGS, AND OFFICE TRAILERS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 94 through 97.

This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.18 - RULES GOVERNING OVERLEGAL PERMITS FOR
RELOCATION OF BUILDINGS OR HOUSES

DOCKET NO. 39-0318-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rulemaking reduces the insurance requirement from \$500,000 to \$300,000 for someone relocating their own building. It also clarifies that utility companies must be contacted by permittee when load exceeds 17 feet high.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 100 through 102.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
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Idaho Transportation Department
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Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39
TITLE 03
Chapter 18

RULES GOVERNING OVERLEGAL PERMITS FOR RELOCATION OF BUILDINGS OR HOUSES

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 100 through 102.

This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.19 - RULES GOVERNING ANNUAL OVERLEGAL PERMITS

DOCKET NO. 39-0319-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rulemaking specifies that annual permits cannot exceed a gross weight of 200,000 lbs and that a vehicle configuration cannot operate on less axles than the number of axles stated on the permit but can operate on more axles. It also specifies that carriers can operate at less weight, but not greater weight than that listed on the permit.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 105 through 107.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
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IDAPA 39
TITLE 03
Chapter 19

RULES GOVERNING ANNUAL OVERLEGAL PERMITS

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 105 through 107.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR
EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rule-making increases the overall length for extra-length vehicles from 85 feet to 90 feet on blue routes, without exceeding the off-track requirement of 5.5 feet. This eliminates the need and cost to issue an additional permit. It also clarifies operating requirements during hazardous conditions.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, pages 112 through 115.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
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Idaho Transportation Department
P. O. Box 7129
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Phone: 208-334-8810 / FAX: 208-334-8195

IDAPA 39
TITLE 03
Chapter 22

RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

There are no substantive changes from the proposed rule text.

The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, pages 112 through 115.

This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.

IDAPA 39 - DEPARTMENT OF TRANSPORTATION
39.03.24 - RULES GOVERNING SELF-PROPELLED SNOWPLOWS

DOCKET NO. 39-0324-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective March 19, 1999, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

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

This rulemaking makes technical corrections to rule text to make it consistent with other rules. It changes the minimum size of warning flags from 18"x18" to 12"x12" and makes all flagging requirements for permitted vehicles uniform. It also makes requirements more uniform between the western states.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the June 2, 1999 Idaho Administrative Bulletin, Volume 99-6, page 119.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, at (208)334-8418.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
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IDAPA 39
TITLE 03
Chapter 24

RULES GOVERNING SELF-PROPELLED SNOWPLOWS

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-6, June 2, 1999, page 119.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 39 - DEPARTMENT OF TRANSPORTATION

39.03.62 - RULES GOVERNING LOGO SIGNS

DOCKET NO. 39-0362-9801

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective September 17, 1998, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-1004 and 40-1011, Idaho Code.

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

This rulemaking is to revise the publication date of "Signs Giving Specific Information in the Interest of the Traveling Public Along the Interstate Highways and Other Fully Controlled Access Highways".

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the November 4, 1998, Idaho Administrative Bulletin, Volume 98-11, pages 164 and 165.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Larry VanOver, at (208)334-8558.

DATED this 23rd day of August, 1999.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

**IDAPA 39
TITLE 03
Chapter 62**

RULES GOVERNING LOGO SIGNS

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 98-11, November 4, 1998, pages 164 through 165.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 - GENERAL ADMINISTRATION

DOCKET NO. 47-0101-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-2301, Idaho Code, and the 1998 Amendments of the Rehabilitation Act of 1973.

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 rules are being adopted as proposed. The original text of the proposed rule was published in the July 7, 1999 Idaho Administrative Bulletin, Volume No. 99-7 pages 231-235.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Barry J. Thompson (208) 334-3390.

DATED this 6th day of August, 1999.

F. Pat Young
Administrator
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
P.O. Box 83720
Boise, ID 83720-0096
(208) 334-3390, Fax: (208)334-5305

**IDAPA 47
TITLE 01
Chapter 01**

GENERAL ADMINISTRATION

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-7, July 7, 1999, pages 231 through 235.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.02 - FIELD SERVICES

DOCKET NO. 47-0102-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-2301, Idaho Code, and the 1998 Amendments of the Rehabilitation Act of 1973.

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 rules are being adopted as proposed. The original text of the proposed rule was published in the July 7, 1999 Idaho Administrative Bulletin, Volume No. 99-7 pages 236-246.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Barry J. Thompson (208) 334-3390.

DATED this 6th day of August, 1999.

F. Pat Young
Administrator
Idaho Division of Vocational Rehabilitation
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**IDAPA 47
TITLE 01
Chapter 02**

FIELD SERVICES

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-7, July 7, 1999, pages 236 through 246.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.03 - MANAGEMENT SERVICES

DOCKET NO. 47-0103-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-2301, Idaho Code, and the 1998 Amendments of the Rehabilitation Act of 1973.

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 rules are being adopted as proposed. The original text of the proposed rule was published in the July 7, 1999 Idaho Administrative Bulletin, Volume No. 99-7 pages 247-250.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Barry J. Thompson (208) 334-3390.

DATED this 6th day of August, 1999.

F. Pat Young
Administrator
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
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**IDAPA 47
TITLE 01
Chapter 03**

MANAGEMENT SERVICES

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-7, July 7, 1999, pages 247 through 250.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE
50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE

DOCKET NO. 50-0101-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 20-223, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 6, 1999 Idaho Administrative Bulletin, Volume 99-1, pages 347 through 352.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Barbara McIntosh, Commission of Pardons and Parole, P.O. Box 83720, Boise, ID 83720, 208-334-2520.

Dated this 17th day of August 1999

Olivia Craven, Executive Director
Commission of Pardons and Parole
3125 So. Shoshone
P.O. Box 83720
Boise, ID 83720
208-334-2520 (phone)
208-334-3501 (fax)

IDAPA 50
TITLE 01
Chapter 01

RULES OF THE COMMISSION OF PARDONS AND PAROLE

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-1, January 6, 1999, pages 347 through 352.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE
50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE
DOCKET NO. 50-0101-9902
NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 20-223, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 6, 1999 Idaho Administrative Bulletin, Volume 99.1, pages 353-357.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Barbara McIntosh, Commission of Pardons and Parole, P.O. Box 83720, Boise, ID 83720, 208-334-2520.

Dated this 17th day of August 1999

Olivia Craven, Executive Director
Commission of Pardons and Parole
3125 So. Shoshone
P.O. Box 83720
Boise, ID 83720
208-334-2520 (phone)
208-334-3501 (fax)

IDAPA 50
TITLE 01
Chapter 01

RULES OF THE COMMISSION OF PARDONS AND PAROLE

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin,
Volume 99-1, January 6, 1999, pages 353 through 357.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.04 - DISABILITY RULES OF PERSI

DOCKET NO. 59-0104-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 59-1314(1) and 72-1405 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

This chapter is being repealed in its entirety and will be replaced with a new chapter governing PERSI disability retirement. A separate Notice of Proposed Rule, Docket No. 59-0104-9902, containing the new chapter, is being published after this notice. The effective date of this repeal is the date the new chapter becomes final and effective.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the retirement board has exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Judy Aitken, Field Services Manager, 334-3365.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th St., Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 334-3365
FAX: (208) 334-3804

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.04 - PERSI DISABILITY RULES

DOCKET NO. 59-0104-9902

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 59-1314(1) and 72-1405 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 1999.

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

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

This chapter will replace the existing chapter governing PERSI disability retirement, which is being repealed in its entirety under a separate Notice of Proposed Rule, Docket No. 59-0104-9901, published preceding this notice. The rules are being updated to reflect statutory changes and to clarify certain issues, including the disability application and assessment process.

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

This rule does propose charging applicants the cost of the disability assessment process, but only when the process has to be repeated, as provided in the rule, due to the applicant's failure to provide complete information during the initial assessment process. Those costs will vary depending on the nature of the information omitted and potential contractual arrangements PERSI may have with service providers.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the retirement board has exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Judy Aitken, Field Services Manager, 334-3365.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 1999.

DATED this 24th day of August, 1999.

Alan H. Winkle, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th St., Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 334-3365 FAX: (208) 334-3804

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0104-9902

IDAPA 59
TITLE 01
Chapter 04

PERSI DISABILITY RULES

Subchapter A -- General Provisions
(Rules 001 through 099)

001. LEGAL AUTHORITY (Rule 1).

PERSI rules are adopted under the legal authority of Sections 50-1507, 50-1508, 50-1524, 59-1301, 59-1305, 59-1314, 59-1372, 59-1383, 59-1392, 72-1405, and 72-1406, Idaho Code. ()

002. TITLE AND SCOPE (Rule 2).

01. Title. The title of this chapter is IDAPA 59.01.04, "PERSI Disability Rules". ()

02. Scope. This chapter relates to disability retirement under the PERSI plan, and as indicated, under the Firefighter's Retirement Fund (FRF) plan. ()

003. WRITTEN INTERPRETATIONS--AGENCY GUIDELINES (Rule 3).

Written interpretations of these rules, to the extent they exist, are available from PERSI, at the following locations:

PERSI Boise Office
607 North Eighth Street
Boise, Idaho 83702
Phone: 208/334-3365 or 1-800-451-8228
Fax: 208/334-3804

PERSI Pocatello Office
850 E. Center, Suite D
Pocatello, Idaho 83201
Phone: 208/236-6225 or 1-800-762-8228
Fax: 208/236-6159

PERSI Coeur d'Alene Office
2005 Ironwood Parkway, Suite 142
Coeur d'Alene, Idaho 83814
Phone: 208/769-1474 or 1-800-962-8228
Fax: 208/769-1476 ()

004. ADMINISTRATIVE APPEAL (Rule 4).

Administrative appeals are conducted pursuant to IDAPA 59.01.01, "Rules of Administrative Procedure of the Public Employees Retirement System of Idaho". ()

005. PUBLIC RECORDS ACT COMPLIANCE (Rule 5).

All public records not exempt from disclosure are available by making a written request to the "Records Custodian" at PERSI's Boise office listed in Rule 3. Requested records must be identified with specificity. ()

006. DEFINITIONS (Rule 6).

PERSI adopts through incorporation by reference as if set forth fully herein all of the definitions listed in IDAPA 59.01.02, Section 005, "Eligibility Rules of the Public Employee Retirement System of Idaho". ()

007. CITATION (Rule 7).

The official citation of this Chapter is IDAPA 59.01.04.000, et seq. For example, this Section's citation is IDAPA 59.01.04.007. In documents submitted to PERSI or issued by PERSI these rules may be cited as PERSI Disability Rules with Section number less leading zeros. For example, this rule may be cited as PERSI Disability Rule 7. Within these rules, where a rule number is cited without reference to a chapter, the citation is to the numbered rule within that chapter. For example, a reference to "Rule 2" within this chapter would be a reference to Disability Rule 2. ()

008. EFFECTIVE DATE (Rule 8).

Unless otherwise indicated, the effective date of each rule is noted in brackets at the end of each Rule. ()

009. -- 099. (RESERVED).

Subchapter B—Eligibility for Disability Retirement
(Rules 100 through 199)

100. GENERAL RULE (Rule 100).

Only active members of PERSI with ten (10) years of credited service, including at least six (6) months of membership service, are eligible for disability retirement. ()

101. SERVICE RELATED DISABILITY FOR POLICE AND FIREFIGHTERS (RULE 101).

Police and certain firefighter members are eligible for disability retirement beginning from the first day of employment when the disability is caused by occupational hazards, as provided in Section 59-1352(2), Idaho Code. ()

102. DISABLED PRIOR TO SEPARATION (Rule 102).

The applicant must demonstrate that, before he separated from service, he was disabled under the applicable disability standard. In other words, the applicant must demonstrate that, while an active member, he was disabled under the applicable standard. ()

103. -- 199. (RESERVED).

Subchapter C—Application for Disability Retirement
(Rules 200 through 299)

200. APPLYING FOR DISABILITY RETIREMENT (Rule 200).

Eligible members may apply for disability retirement by completing a required form available from any PERSI office. The application process may include an interview by a PERSI representative. Applicants must release all medical records and information to PERSI. ()

201. APPLICATION REVIEW -- SERVICE REQUIREMENTS (Rule 201).

Applications will first be reviewed to determine whether the applicant meets service eligibility requirements. If service eligibility requirements are met, the application will proceed to disability assessment review. If service requirements are not met, the applicant will be notified. Eligibility determinations are subject to subsequent review, audit and adjustment. ()

202. DISABILITY ASSESSMENT REVIEW (Rule 202).

Applicants will be assessed to determine whether they qualify for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by PERSI. Failure to timely comply with any request made by PERSI during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, PERSI will notify applicants in writing whether or not they qualify for disability retirement. ()

203. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION (Rule 203).

Applicants who are denied disability retirement as a result of an adverse disability assessment decision, and wish to

contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted to PERSI within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. ()

204. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION (Rule 204).

A reconsideration decision shall be considered a final decision under Section 59-1314(2), Idaho Code, and may be appealed to the board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available to PERSI in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available to PERSI during the assessment or reconsideration process, the applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. This rule is intended to promote the efficient use of fund resources by encouraging full and complete disclosure of information during the disability assessment process. ()

205. DELEGATION (Rule 205).

PERSI may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term "PERSI" includes those third parties. ()

206. REASSESSMENT OF DISABILITY RETIREES (Rule 206).

Disability retirees are subject to reassessment of their disability at any time to determine whether they continue to be disabled under the standard in Section 59-1302(12), Idaho Code. However, pursuant to Section 59-1302(12)(b), Idaho Code, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. Disability retirees who are notified that they have been selected for reassessment are under the same obligation as applicants to supply information. ()

207. ATTORNEY'S FEES AND COSTS (Rule 207).

Attorney's fees and costs incurred by an applicant in his efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by PERSI except for fees related to judicial review for which applicant is found to be entitled under applicable law. ()

208. -- 299. (RESERVED).

**Subchapter D—Applying the Disability Standard
(Rule 300 through 399)**

300. BURDEN ON APPLICANT (Rule 300).

Disability retirement is only available to active members. Applicant must demonstrate that, on or before applicant's last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. ()

301. STATUTORY STANDARD (Rule 301).

In applying the disability standard in Section 59-1302(12), Idaho Code, substantially all avenues of employment are not reasonably closed unless the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of any occupation for which the applicant is reasonably qualified by education, training or experience. ()

302. CONTINUOUS PHYSICIAN CARE (Rule 302).

An applicant is not disabled unless he has a bodily injury or disease that requires the regular and continuous care of a physician. ()

303. AVAILABILITY OF EMPLOYMENT (Rule 303).

The availability of employment in and around the area where an applicant resides is not relevant to whether or not the applicant is disabled. If the applicant's residual functional capacity permits him to engage in any employment for which jobs are generally available in the state economy, the applicant is not disabled. The fact that applicant is not

selected for positions is not relevant to whether or not the applicant is disabled, as are all employer decisions and practices. ()

304. DEFINITION OF "LIKELY" (Rule 304).

For the purpose of Section 59-1302(12)(b), Idaho Code, "likely" means with reasonable medical certainty. ()

305. -- 399. (RESERVED).

Subchapter E— Payment
(Rule 400 through 499)

400. COMMENCEMENT AND DURATION OF DISABILITY ALLOWANCE (Rule 400).

The commencement and duration of payment of disability benefits is governed by Section 59-1354, Idaho Code. For purposes of Section 59-1354(1)(b), Idaho Code, a member "becomes eligible" on the first of the month following the date selected by the member which follows the date on which the member is unable to and thereafter does not return to work on a regular basis for two (2) consecutive weeks but not later than the date on which the member ceases to make contributions. ()

401. DETERMINING WORKER'S COMPENSATION OFFSET (Rule 401).

To determine the offset required by Section 59-1353, Idaho Code, the amount payable under the provisions of any worker's compensation law which represents income benefits as defined in Section 72-102, Idaho Code, shall be converted to a monthly equivalent and deducted from the monthly retirement allowance. ()

402. EFFECT OF UNUSED SICK LEAVE ON DISABILITY ALLOWANCE (Rule 402).

Unused sick leave entitlement provided for by either Section 33-1228, 33-2109A, or 67-5339, Idaho Code, shall not be considered salary or compensation in the application of Section 59-1354(1), Idaho Code. ()

403. -- 499. (RESERVED).

Subchapter F – Firefighter's Retirement Fund (FRF)
(Rules 500 through 599)

500. APPLICATION OF THIS CHAPTER TO FRF DISABILITY RETIREMENT (Rule 500).

All the provisions of this chapter, except rules 100, 101, 206, 301, 302, 401 and 402, apply also to applications for disability retirement under the FRF plan to the extent they do not conflict with the provisions of Title 72, Chapter 14, Idaho Code. ()

501. -- 999. (RESERVED).

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Bulletin Summary of Proposed Rulemaking

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 17 – INDUSTRIAL COMMISSION P. O. Box 83720 Boise, Idaho 83720-0041

Docket No. **17-0405-9901**, Accreditation of Asbestos Workers. Changes name of chapter; deletes course content requirements for asbestos accreditation that are now mandated by federal law and regulation. Comment By: 10/27/99.

Docket No. **17-0602-9901**, Boiler and Pressure Vessel Safety Rules – Administration. Incorporate by reference the 1997 amendments to the American Society of Mechanical Engineers (ASME) Controls and Safety Devices for Automatically Fired Boilers (CSD-1). Comment By: 10/27/99.

IDAPA 18 – DEPARTMENT OF INSURANCE P.O. Box 83720 Boise, ID 83720-0043

Docket No. **18-0127-9901**, Self-Funded Employee Health Care Plans. Removes reference to an exemption from registration for plans with less than 500 members as per Idaho Code; deletes obsolete language and adds sections relating to agency interpretations, administrative appeals and plan qualification. Comment By: 10/27/99.

Docket No. **18-0144-9901**, Schedule of Fees, Licenses, and Miscellaneous Charges. Repeal of chapter. Comment By: 10/27/99.

Docket No. **18-0144-9902**, Schedule of Fees, Licenses, and Miscellaneous Charges. Rewrite of chapter changes fee structure for insurers doing business in Idaho to a single, annual fee. Comment By: 10/27/99.

Docket No. **18-0153-9901**, Continuing Education. Reduces CE requirements for experienced, licensed insurance agents licensed in less than 4 lines of insurance and have been in insurance business for more than 6 years; allows use of carryover CE credits to meet half of the CE requirement; clarifies that Director can approve exceptions and extensions for CE requirements; and removes requirement that CE programs relate to the areas of expertise covered by the licensee's license. Comment By: 10/27/99.

Docket No. **18-0160-9901**, Long-Term Care Insurance Minimum Standards. Repeal of chapter. Comment By: 10/27/99.

Docket No. **18-0160-9902**, Long-Term Care Insurance Minimum Standards. Provide requirements for all long term care insurance contracts in compliance with Idaho Code and federal law. Comment By: 10/27/99.

Docket No. **18-0170-9901**, Rule to Implement the Small Employer Health Insurance Availability Act Plan Design. Removes cap on chiropractic services and imposes cap on reimbursement for certain types of medical services regardless of who provides services. Comment By: 10/27/99.

Docket No. **18-0172-9901**, Rule to Implement the Individual Health Insurance Availability Act. Removes and corrects Idaho Code references, and removes unnecessary wording. Comment By: 10/27/99.

Docket No. **18-0173-9901**, Rule to Implement the Individual Health Insurance Availability Act Plan Design. Removes cap on chiropractic services and imposes a cap on reimbursement for certain types of medical services regardless of who provides services. Comment By: 10/27/99.

**IDAPA 23 – BOARD OF NURSING
P.O. Box 83720 Boise, ID 83720-0061**

Docket No. **23-0101-9901**, Rules of the Board of Nursing. Provides standards, criteria, and curriculum requirements for nursing educational programs. Comment By: 10/27/99.

**IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES
Owyhee Plaza, 1109 Main Street, Suite 220
Boise, Idaho 83702**

Docket No. **24-0101-9901**, Rules of the Board of Architectural Examiners. Limits use of a seal on drawings not personally prepared by the architect or his staff; ties definition of contract administration to contract used by the owner and architect; and changes reference to the handbook that provides information for minimum qualifications for applicants applying for examination. Comment By: 10/27/99.

Docket No. **24-0201-9901**, Rules of the Board of Barber Examiners. Provides equivalent of tenth grade education to be any test approved by the US Dept. of Education; deletes language regarding student daily hours; deletes that schools must maintain monthly records on Bar-40 and Bar-41 forms and that they must submit monthly Bar-40 forms; adds schools shall maintain student records for 2 years and that they may file a letter of explanation as to why student hours are not verified by the school. Comment By: 10/27/99.

Docket No. **24-0301-9901**, Rules of the State Board of Chiropractic Physicians. Increases application fee to \$250; deletes obsolete examination rules; makes it applicant's duty to take and pass the national board examinations. Comment By: 10/27/99.

Docket No. **24-0801-9901**, Rules of the State Board of Morticians. Allows mortician applicant's to work under supervision until passing the examination. Comment By: 10/27/99.

Docket No. **24-0802-9901**, Rules of the State Board of Morticians Governing Crematories in Idaho. Requires that each crematory must maintain records on a crematory log as adopted by the board. Comment By: 10/27/99.

Docket No. **24-0901-9901**, Rules of the Board of Examiners of Nursing Home Administrators. Exam fee will be that charged by the national examining entity; locations and times of exam shall be determined by entity administering the national exam; state exam shall be a take-home exam; applicants shall certify they understand and will abide by the state law and rules governing Nursing Home Administrators and facilities; deletes examination fee; establishes original application fee. Comment By: 10/27/99.

Docket No. **24-1001-9901**, Rules of the State Board of Optometry. Provides for licensure by endorsement if an applicant holds a current license, in good standing, in another state with requirements similar to Idaho including therapeutic privileges; applicant must pass the "Treatment and Management of Ocular Disease Examination" and the Idaho law exam; applicant must have been engaged in the practice of optometry continuously for not less than the last five (5) years; deletes residency requirement. Comment By: 10/27/99.

Docket No. **24-1101-9901**, Rules of the State Board of Podiatry. Corrects reference to the American Podiatry Association to the American Podiatry Medical Association; deletes requirement of a personal interview of applicants by the board; changes the dates of the exam to the third Monday of July; deletes practical and/or oral exam; and

changes the regular meetings of the board to coincide with the examination dates. Comment By: 10/27/99.

Docket No. **24-1601-9901**, Rules of the Idaho State Board of Dentistry. Changes exam dates from Monday to Friday; Board will designate time and place of exam; changes filing date of application to 90 days prior to examination; establishes an inactive licensure status and fee of \$50; clarifies the 2 year internship must be as a denture lab technician; adds correspondence and home study courses are not eligible for continuing education credit; deletes current CPR card requirement; and redefines denture technician. Comment By: 10/27/99.

Docket No. **24-1701-9901**, Rules of the State Board of Acupuncture. New chapter establishes rules for Acupuncture licensure. Comment By: 10/27/99.

Docket No. **24-1801-9901**, Rules of the Real Estate Appraisers Board. Allows a certified residential appraiser 30 months, and a certified general appraiser 36 months, to accumulate the required hours of real estate experience. Comment By: 10/27/99.

**IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074**

Docket No. **31-0000-9901**, Legislative Action Affecting PUC Rule Chapters 31.02.01, 31.11.01, 31.46.01, 31.46.02, 31.81.01. Changes conform to legislative action taken in the 1999 session which repealed the Motor Carrier Act (Sections 61-801 through 61-818, Idaho Code) and restructured the Public Records Act (Section 9-340, Idaho Code). Comment By: 10/27/99.

Docket No. **31-0101-9901**, Rules of Procedure of the PUC. Eliminates and amends citations to repealed and amended legislation; changes procedures for the receipt, safeguarding and handling of trade secrets and other confidential information and evidence and testimony exempt from public disclosure; allows Commission to serve copies of its Orders and Notices electronically at the request of parties; allows for service of Notices of Modified Procedure and Notices of Applications upon counties affected by such pleadings; other housekeeping changes. Comment By: 10/27/99.

Docket No. **31-2102-9901**, Information to Customers of Gas, Electric and Water Public Utilities. Amends requirement that utilities make available brief written summaries of testimony to be offered at "all Commission hearings"; relaxes and clarifies requirement that summaries be prepared for all hearings; when requesting a rate increase, its summary shall address the utility's need for additional revenue, the dollar amount requested, and the proposed percentage increase or decrease for each major customer group; Intervenors in Commission cases shall also be required to make brief written summaries available. Comment By: 10/27/99.

Docket No. **31-4101-9901**, Telephone Customer Relations Rules. Sets out methodology for calculating amount of deposits a local exchange company may collect when billing for long-distance telephone service. Comment By: 10/27/99.

Docket No. **31-4102-9901**, Information to Customers of Telephone Companies. Amends requirement that utilities make available brief written summaries of testimony to be offered at "all Commission hearings"; relaxes and clarifies requirement that summaries be prepared for all hearings; when requesting a rate increase, its summary shall address the utility's need for additional revenue, the dollar amount requested, and the proposed percentage increase or decrease for each major customer group; Intervenors in Commission cases shall also be required to make brief written summaries available. Comment By: 10/27/99.

Docket No. **31-4201-9901**, The Title 62 Telephone Corporation Rules. Allows Commission to serve copies of Order and Notices electronically at the request of the company to be served; long-distance telephone companies will be required to provide their electronic mailing addresses, if applicable. Comment By: 10/27/99.

Docket No. **31-4601-9901**, Universal Service Fund Rules. Clarifies rate calculation for one-party single-line residence and business service for Universal Service Fund recipients in order for the participating companies to continue to receive funding. Comment By: 10/27/99.

**IDAPA 33 – IDAHO REAL ESTATE COMMISSION
PO Box 83720, Boise, ID 83720**

Docket No. **33-0101-9901**, Rules of the Idaho Real Estate Commission. Increases bi-annual licensing fees; lowers required amount of errors and omissions insurance coverage for independently-obtained “firm” policies. Comment By: 10/28/99.

**IDAPA 35 – IDAHO STATE TAX COMMISSION
800 Park, Plaza IV, Boise, ID 83722**

Docket No. **35-0101-9902**, Income Tax Administrative Rules. Changes references relating to Idaho source income; clarifies how Idaho source income is determined when an individual exercises stock options; rennumbers existing rules. Comment By: 10/27/99.

Docket No. **35-0103-9904**, Property Tax Administrative Rules. Deletes equation appendix that is now part of rule. Comment By: 10/27/99.

Docket No. **35-0201-9902**, Administration and Enforcement Rules. Provides for the calculation of the rate of interest due for the next calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund. Comment By: 10/27/99.

**IDAPA 36 – IDAHO STATE BOARD OF TAX APPEALS
PO Box 83720, Boise, ID 83720-0088**

Docket No. **36-0101-9901**, Rules of the State Board of Tax Appeals. Conforms to changes in the recodification of Title 63; recent legislation affecting the Board of Tax Appeals operations; and to record the procedures relating to most contested case proceedings before the agency. Comment By: 10/27/99.

**IDAPA 37 – DEPARTMENT OF WATER RESOURCES
PO Box 83720, Boise, ID 83720-0098**

Docket No. **37-0101-9901**, Rules of Procedure of the IDWR. Conforms to Idaho Code by adding authority for the filing of documents by electronic means including the use of electronic signatures; updates department address information; adds provision allowing for additional time after service by mail; authorizes receipt of payments by credit card; clarifies when answers are required to be filed to pleadings; requires advance notice to appear as a public witness; describes authority of hearing officers; addresses ex parte communications, procedures for authorizing discovery and seeking sanctions, and conduct at hearings; provides for notice of default for failure to attend hearings or to provide requested information; and provides requirements for the contents of department orders. Comment By: 11/5/99.

Docket No. **37-0310-9901**, Well Driller Licensing Rules. Repeal of chapter. Comment By: 10/28/99.

Docket No. **37-0310-9902**, Well Driller Licensing Rules. Rewrite of chapter conforms to statutory changes. Comment By: 11/5/99.

**IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO
PO Box 83720, Boise, ID 83720-0078**

Docket No. **59-0104-9901**, Disability Rules of PERSI. Repeal of chapter. 10/27/99.

Docket No. **59-0104-9902**, Disability Rules of PERSI. Rewrite updates rules to reflect statutory changes and to clarify certain issues, including the disability application and assessment process. Comment By: 10/27/99.

PUBLIC HEARINGS - Public Hearings have been scheduled for the following dockets:

Department of Insurance

Docket No. **18-0144-9902**, Schedule of Fees, Licenses, and Miscellaneous Charges.

Idaho Real Estate Commission

Docket No. **33-0101-9901**, Rules of the Idaho Real Estate Commission.

Idaho Department of Water Resources

Docket No. **37-0101-9901**, Rules of Procedure of the IDWR.

Docket No. **37-0310-9902**, Well Driller Licensing Rules.

Please refer to the Idaho Administrative Bulletin, **October 6, 1999, Volume 99-10** for notices and text of all rulemakings, public hearing schedules, governor's executive orders, and agency contact names.

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