

IDAHO ADMINISTRATIVE BULLETIN

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December 1, 1999

Volume 99-12

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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 CALENDAR YEARS 2000 AND 2001

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
00-5	May, 2000	March 22, 2000	May 3, 2000
00-6	June, 2000	April 19, 2000	June 7, 2000
00-7	July, 2000	May 24, 2000	July 5, 2000
00-8	August, 2000	June 21, 2000	August 2, 2000
00-9	September, 2000	July 19, 2000	September 6, 2000
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

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
01-1	January, 2001	**November 15, 2000**	January 3, 2001
01-2	February, 2001	December 20, 1999	February 7, 2001
01-3	March, 2001	January 24, 2001	March 7, 2001
01-4	April, 2001	February 21, 2001	April 4, 2001
01-5	May, 2001	March 21, 2001	May 2, 2001
01-6	June, 2001	April 18, 2001	June 6, 2001
01-7	July, 2001	May 23, 2001	July 4, 2001
01-8	August, 2001	June 20, 2001	August 1, 2001
01-9	September, 2001	July 18, 2001	September 5, 2001
01-10	October, 2001	*August 22, 2001*	October 3, 2001
01-11	November, 2001	September 19, 2001	November 7, 2001
01-12	December, 2001	October 24, 2001	December 5, 2001

**Last day to submit proposed rules in order to complete rulemaking for review by legislature.*

***Last day to submit proposed rulemaking before moratorium begins.*

ALPHABETICAL INDEX OF AGENCY IDAPA AND ADMINISTRATIVE CODE VOLUME NUMBERS

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IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.17 - RULES CONCERNING THE DISPOSAL OF CULL ONIONS AND POTATOES
DOCKET NO. 02-0617-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is October 20, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 22, Chapters 1 and 20, 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 December 15, 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 proposed amendments will; 1) revise the title "Cull Onion Rules" to "Rules Concerning the Disposal of Cull Onions and Potatoes"; 2) add additional legal authority, Title 22, Chapter 20, Idaho Code, to provide penalty provisions; 3) update the rule to include "Title and Scope" and "Findings" sections; 4) add a definition for cull potatoes; 5) delete sections referring to outdated pesticide references; 6) specify that the quantity of cull onions to be disposed by feeding shall be governed by the number of animals to be fed; 7) add additional disposal systems and reference best management practices for pit disposal as developed by the University of Idaho; 8) establish regulated areas; 9) incorporate the cull potato disposal sections of IDAPA 02.06.33; and 10) require those wishing to dispose of cull onions to give written notification of disposal methods allowed under the rule to those who will actually carry out the disposal.

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

There is a need to amend the rules to address the prevention of plant diseases and pests that could affect onion and potato production. The Idaho Onion Grower Association requested that penalty provisions be included in the rules and this will necessitate a change in legal authority. The amendments will include new disposal methods for cull onions and revise existing methods; and incorporate the cull potato disposal sections of IDAPA 02.06.33 (Rules Concerning The Late Blight Of Potato, *Solanum Tuberosum* L.) which rule will be repealed, as late blight is present in all potato growing areas of the state.

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

None.

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

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 December 22, 1999.

DATED this 20th day of October, 1999.

Lane Jolliffe, Acting Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8660
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0617-9901

IDAPA 02
TITLE 06
Chapter 17

02.06.17 - ~~CULL ONION RULES (REVISED)~~
IDAHO STATE DEPARTMENT OF AGRICULTURE
RULES CONCERNING THE DISPOSAL OF CULL ONIONS AND POTATOES

000. ~~008.~~ ~~(RESERVED)~~ LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapters 1 and 20, Idaho Code. (10-20-99)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.17, "Idaho State Department of Agriculture Rules Concerning the Disposal of Cull Onions and Potatoes". (10-20-99)T

02. Scope. This chapter has the following scope: These rules cover the disposal of cull onions to prevent the spread of the onion maggot (*Delia antiqua*) and disposal of potatoes to prevent the spread of pests and diseases of potatoes. The official citation of this chapter is IDAPA 02.06.17.000 et seq. For example, this Section's citation is IDAPA 02.06.17.001. (10-20-99)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (10-20-99)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (10-20-99)T

0404. DEFINITIONS.

01. Person. Shall include individuals, partnerships, associations, and corporations. (7-1-93)

02. Cull Onions. Shall refer to those onions that are not useable for human consumption or are generally considered waste, and shall include the residue left in the field from the production of onion seed as well as commercial onions. (7-1-93)

03. Cull Potatoes. Shall refer to those potatoes that are not useable or marketable for consumption or as seed potatoes and shall include the residue left in the field from commercial or seed potato production, or as a

result of spoilage while in storage.

(10-20-99)T

005. FINDINGS.

The adoption of IDAPA 02.06.17, "Idaho Department of Agriculture Rules Concerning the Disposal of Cull Onions and Potatoes," will confer benefits to the general public. The proper disposal of cull onions for the control of onion maggot is essential to the production of high quality onions at reasonable prices, while minimizing pesticide usage. Proper disposal of cull potatoes will reduce the spread or incidence of potato pests and diseases and help to minimize pesticide usage. The proper disposal of cull onions and potatoes will reduce odors and address public complaints. The changes will also allow the department to assess a civil penalty against violators.

(10-20-99)T

006 -- 049. (RESERVED).

00950. ~~CONTROL~~ REGULATED AREA.

01. Onions. ~~The phrase, control area, as used herein shall include~~ Ada, Canyon, Gem, Payette, Owyhee, and Washington Counties, state of Idaho.

(7-1-93)(10-20-99)T

02. Potatoes. The entire state of Idaho.

(10-20-99)T

051. -- 059. (RESERVED).

0560. REGULATED PRODUCTS.

01. Cull Onions. All cull ~~or waste~~ onions produced as a result of the grading process, or as a result of breakdown in storage or sorted out in the field during harvest and bulbs and waste left over from seed production.

(7-1-93)(10-20-99)T

02. Cull Potatoes. All cull potatoes produced as a result of the grading process, or as a result of breakdown in storage, or sorted out in the field during harvest and tubers and waste left over from potato seed production.

(10-20-99)T

0561. -- 0969. (RESERVED).

4070. DISPOSITION OF CULL ONIONS.

All cull onions existing in the control area shall be disposed of by a method approved of in Section 071 ~~by~~ of this ~~control order rule, to prevent sprouting.~~ Disposal must be completed prior to March 15th, of each year; provided; however, that in the case of onions sorted after such date, the cull onions resulting therefrom shall be disposed of within one (1) week after such sorting regardless of the disposal method.

(7-1-93)(10-20-99)T

401. -- 149. (RESERVED).

45071. DISPOSAL METHODS.

01. Disposal By Covering In Dumps Or Pits.

(7-1-93)

a. ~~Culls shall be onions disposed of by being~~ dumped in pits ~~and covered with at least one (1) foot of uncontaminated soil~~ shall be managed and covered as recommended by the University of Idaho Agricultural Extension Service.

(7-1-93)(10-20-99)T

b. Covering shall be accomplished by March 15th of each year or as provided in Section 070 of this rule.

(7-1-93)(10-20-99)T

c. ~~Pits shall be treated with ten percent (10%) granular Ethion at the rate of thirty to forty (30-40) lbs/acre.~~

(7-1-93)

d. ~~Treatment is to begin not later than April 1st and continue at ten (10) day intervals until May 1st each year.~~

(7-1-93)

02. Disposal By Feeding After March 15th Of Each Year. (7-1-93)(10-20-99)T

a. Sheep or goats shall be fed no more than fifty-three (53) pounds of cull onions per individual animal per day. Cull onions shall be fed from either bunks or by spreading throughout the pasture or feedlot. Cull onions shall not be fed from piles. (10-20-99)T

b. Cattle shall be fed a ration containing no more than twenty-five percent (25%) cull onions on a dry matter basis. (10-20-99)T

c. Onion debris shall be completely removed from feeding areas and buried under ~~at least one (1) foot~~ twelve (12) inches or more of ~~uncontaminated~~ onion-free soil by March 15th of each year. (7-1-93)(10-20-99)T

d. In the case of residues of onion debris two (2) inches or less in depth, or onions tramped into the soil so that they cannot be removed, such areas shall be ~~disked and~~ plowed to ~~such a depth that at least of ten~~ twelve (102) inches ~~of actual soil can be turned without disclosing any onion residue~~ or more by March 15th of each year. (7-1-93)(10-20-99)T

e. Feeding areas and areas where onions are buried shall be treated in the manner set out in Subsection ~~150.01.e~~ 071. (7-1-93)(10-20-99)T

f. Cattle and sheep being finished for market or dairy cattle shall not be fed forage or grains grown on feeding areas treated in the manner set forth in Subsection ~~150.01.e~~ 071. (7-1-93)(10-20-99)T

03. Disposal By Composting. Cull onions being composted shall be covered by twelve (12) inches or more of onion-free soil or composting material until the onions have turned to compost. (10-20-99)T

034. Disposal Of Residue In Onion Producing Fields. (7-1-93)

a. Commercial onion fields where sort-out bulbs are left at harvest shall be disked ~~to destroy the bulbs and shall be~~ and plowed to a depth of ~~at least eight~~ twelve (812) or more inches by March 15th of each year. (7-1-93)(10-20-99)T

b. Following final seed harvest, ~~Seed~~ seed bulbs shall be ~~disposed of~~ disked and plowed to a depth of twelve (12) inches or more by March 15th ~~following final seed harvest by disking and plowing in the manner set forth in Subsection 150.03~~ of each year. (7-1-93)(10-20-99)T

05. Disposal By Chopping Or Shredding. Cull onions that have been chopped or shredded to the point that they are incapable of sprouting, shall be disked and plowed to a depth of twelve (12) inches or more by March 15th of each year. (10-20-99)T

06. Disposal By Spreading. Cull Onions may be disposed of by being spread on agricultural fields destined to be planted to a crop other than onions provided the onions are disked and plowed to a depth of twelve (12) inches or more. (10-20-99)T

072. INCLEMENT WEATHER.

If inclement weather prevents disposal by the methods in Subsections 071.01 through 071.06, culls shall be treated with an EPA-labeled insecticide at prescribed intervals as recommended by the University of Idaho Agricultural Extension Service until proper disposal as prescribed in Subsections 071.01 through 071.06 can be carried out. (10-20-99)T

073. (RESERVED).

074. NOTIFICATION REQUIRED.

Any person delivering cull onions for disposal in the area regulated for cull onion disposal shall provide written notification to the recipient of those cull onions advising the recipient of the recipient's obligations for the disposal of the cull onions under this rule. (10-20-99)T

~~151~~075. -- ~~190~~89. (RESERVED).

090. DISPOSITION OF CULL POTATOES.

All cull potatoes existing west of the Raft River shall be rendered non-viable by April 15th of each year and all cull potatoes generated after April 15th shall be rendered non-viable on a daily basis until September 20th. All cull potatoes existing east of the Raft River shall be rendered non-viable by May 15th of each year and all cull potatoes generated after May 15th shall be rendered non-viable on a daily basis until September 20th. (10-20-99)T

091. CULL POTATO DISPOSAL METHODS.

Cull potatoes shall be disposed of in a manner as to render them non-viable. Disposal methods shall be those as recommended by the University of Idaho Agricultural Extension Service. (10-20-99)T

~~210~~02. -- 099. (RESERVED).

2100. AUTHORITY TO ENTER AND INSPECT.

The Director, Idaho State Department of Agriculture or his ~~deputies~~ agents are authorized to enter and inspect all onion and potato cull dumps and ~~or onion~~ disposal sites in the state of Idaho for the purpose of insuring compliance with this rule. (7-1-93)(10-20-99)T

~~101~~01. -- 149. (RESERVED).

150. VIOLATIONS.

01. Misdemeanor. Any person who violates any provision of these rules or who fails or refuses to comply with any requirements herein specified, or who wilfully interferes with the department, its agents or employees, in the execution, or on account of the execution of its or their duties under these rules, shall be deemed guilty of a misdemeanor. (10-20-99)T

02. Civil Penalty. Any person who violates or fails to comply with any of the provisions of these rules may be assessed a civil penalty by the department or its duly authorized agent of not more than one thousand dollars (\$1,000) for each offense and shall be liable for reasonable attorney's fees. (10-20-99)T

a. Assessment of a civil penalty may be made in conjunction with any other department administrative action. (10-20-99)T

b. No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act. (10-20-99)T

c. If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court. (10-20-99)T

d. Any person against whom the department has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred. (10-20-99)T

e. Moneys collected for violations of these rules shall be remitted to the agricultural department inspection fund. (10-20-99)T

03. Minor Violations. Nothing in these rules shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action. (10-20-99)T

~~201~~51. -- 999. (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.06.33 - RULES CONCERNING THE LATE BLIGHT OF POTATO, Solanum Tuberosum L.
DOCKET NO. 02-0633-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is October 20, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 22, Chapter 19, 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 December 15, 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:

To repeal the rule in its entirety.

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

Late blight of potato has been confirmed in all the potato growing counties. Late blight is no longer a disease of quarantine significance.

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

None.

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

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 December 22, 1999.

DATED this 20th day of October, 1999.

Lane Jolliffe, Acting Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8660
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.40 - RULES RELATING TO GINSENG CROP MANAGEMENT AREA FOR MAGIC VALLEY
DOCKET NO. 02-0640-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is October 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 22, 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 December 15, 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 proposed new rules will: 1) establish definitions; 2) provide for licensing and registration of persons growing, purchasing, and selling ginseng; 3) provide for the inspection of and accounting for all ginseng exported from Idaho; 4) specify the records to be kept by ginseng growers and dealers; and 5) provide a schedule of fees for services performed in implementing these rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), 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:

Ginseng growers in the Magic Valley petitioned ISDA to establish a ginseng crop management area. Pursuant to Section 22-1003, Idaho Code, a public hearing, conducted by a Hearing Officer, was held in Burley, Idaho. These new rules are based on the decision of the Director, ISDA, to establish a Ginseng Crop Management Area for Magic Valley as recommended by the Hearing Officer. The trade in endangered plants is controlled by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through the United State Fish and Wildlife Service (USFWS). Species, such as ginseng are species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival. The adoption of these rules will satisfy the USFWS rules and allow ginseng growers in Idaho to export their product.

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

The following schedule for ginseng certification activities shall apply:

- | | | |
|----|---|---------|
| 1. | Registration (grower or dealer or grower and dealer): | \$25.00 |
| 2. | Certificate of origin form, each: | \$10.00 |
| 3. | Hourly rate for certification services: | \$28.00 |
| 4. | Overtime rate for certification services: | \$33.00 |

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

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 December 22, 1999.

DATED this 1st day of October, 1999.

Lane Jolliffe, Acting Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8660
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0640-9901

IDAPA 02
TITLE 06
Chapter 40

02.06.40 - RULES RELATING TO GINSENG CROP MANAGEMENT AREA FOR MAGIC VALLEY

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-1003, Idaho Code. (10-1-99)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.40, "Rules Relating to Ginseng Crop Management Area for Magic Valley". (10-1-99)T

02. Scope. This chapter has the following scope: (10-1-99)T

a. Establish definitions; (10-1-99)T

b. Provide for licensing and registration of persons growing, purchasing and selling ginseng; (10-1-99)T

c. Provide for inspections and accounting for all ginseng exported from Idaho; (10-1-99)T

d. Specify the records to be kept by ginseng growers and dealers; and (10-1-99)T

e. Provide a schedule of fees for services performed in implementing these rules. (10-1-99)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (10-1-99)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (10-1-99)T

004. DEFINITIONS.

The Idaho State Department of Agriculture adopts the following definitions: (10-1-99)T

01. Cultivated Ginseng. Means any part of a ginseng plant that is growing or grown in managed beds under artificial or natural shade and cultivated according to recognized ginseng horticultural practices. Cultivated ginseng includes woodsgrown ginseng. (10-1-99)T

02. Dealer. Means anyone who buys ginseng for resale, or grows and sells it for export. This definition does not apply to persons who buy ginseng solely for the purpose of final retail sale to consumers in the United States. (10-1-99)T

03. Dealer Registration. Means an annual registration issued by the department authorizing a dealer to buy, collect, or otherwise acquire ginseng for resale or export. (10-1-99)T

04. Department. Means the Idaho state department of agriculture. (10-1-99)T

05. Director. Means the director of the Idaho state department of agriculture. (10-1-99)T

06. Dry Weight. Means the weight in pounds and ounces of harvested or collected ginseng root that is dried and is no longer viable. (10-1-99)T

07. Export. Means outside the boundaries of the United States. (10-1-99)T

08. Ginseng. Means any and all parts of the plant known as American ginseng (*Panax quinquefolius*) including but not limited to: (10-1-99)T

a. Plants; (10-1-99)T

b. Whole roots; (10-1-99)T

c. Essentially intact roots; (10-1-99)T

d. Root chunks; (10-1-99)T

e. Slices; (10-1-99)T

f. Seeds; and (10-1-99)T

g. Tissue. (10-1-99)T

09. Green Ginseng. Means a ginseng root from which the moisture has not been removed by drying. (10-1-99)T

10. Green Weight. Means the weight in pounds and ounces of freshly harvested or collected ginseng root that is not dried and is still viable. (10-1-99)T

11. Grower. Means a person who grows "cultivated," "wild simulated," and or "woodsgrown" ginseng, and sells it to a dealer. (10-1-99)T

12. Grower Registration. Means an annual registration issued by the department which enables a grower to sell cultivated ginseng that the grower has produced. (10-1-99)T

13. Out-Of-State Ginseng. Means ginseng that is grown or originated outside the state of Idaho. (10-1-99)T

14. Person. Means an individual, partnership, corporation, firm, association or agent. (10-1-99)T

15. Wild Ginseng. Means ginseng growing naturally within its native range. (10-1-99)T

16. Wild Simulated Ginseng. Means wild ginseng seeds or roots planted in natural habitat, within the natural range, in suitable ginseng habitat that is not further cultivated. (10-1-99)T

17. Woodsgrown Ginseng. Means ginseng grown in managed beds under natural shade. (10-1-99)T

005. FINDINGS.

Ginseng growers in the Magic Valley petitioned the department to establish a ginseng crop management area. Pursuant to Section 22-1003, Idaho Code, a public hearing, conducted by a Hearing Officer, was held in Burley, Idaho. These new rules are based on the decision of the director to establish a Ginseng Crop Management Area for Magic Valley as recommended by the Hearing Officer. The trade in threatened and endangered species is controlled by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through the United States Fish and Wildlife Service (USFWS). Species, such as ginseng although not necessarily now threatened with extinction, may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival. The adoption of IDAPA 02.06.40, "Rules Relating to Ginseng Crop Management Area for Magic Valley," will satisfy the USFWS rules and allow ginseng growers in Idaho to export their product. (10-1-99)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the department. (10-1-99)T

007. -- 049. (RESERVED).

050. REGULATED PRODUCTS.

American ginseng (*Panax quinquefolius*). (10-1-99)T

051. MANAGEMENT AREA.

Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls Counties, state of Idaho. (10-1-99)T

052. -- 099. (RESERVED).

100. COLLECTION OF WILD GINSENG.

No grower's or dealer's registration will be issued for the collection, sale or distribution of wild ginseng. (10-1-99)T

101. DEALERS AND GROWERS ANNUAL REGISTRATION WITH THE DEPARTMENT.

No person shall act as a dealer or grower without first registering with the department. Any person who acts as a dealer and a grower shall register as both. The department will assign a registration number to each person registered. Registration with the applicable fee shall be made annually no later than January 15 of each year on a form provided by the department and the registration will expire on December 31. (10-1-99)T

102. -- 149. (RESERVED).

150. GROWER RECORDS.

A grower selling cultivated ginseng shall do all of the following when selling to a dealer: (10-1-99)T

01. Record Of Sale. Provide to the dealer a record of sale containing all of the following information: (10-1-99)T

a. Grower's name and address; (10-1-99)T

b. Grower's registration number; (10-1-99)T

c. Ginseng certificate number; (10-1-99)T

d. Ginseng dry weight; (10-1-99)T

- e. Year harvested; (10-1-99)T
- f. County of harvest; and (10-1-99)T
- g. Date of transaction. (10-1-99)T

02. Certificate Of Origin. Certify that the ginseng was grown in the state of Idaho. The certificate of origin shall be in the form prescribed by the department. (10-1-99)T

03. Records. Maintain records of all ginseng production and sales. Records must be maintained for a period of three (3) years. (10-1-99)T

151. -- 199. (RESERVED).

200. DEALER RECORDS.

Dealers shall keep true and accurate records of transactions, including both sales and purchase records, in a format prescribed by the department. Records must be maintained for a period of three (3) years. (10-1-99)T

- 01. Purchase Records.** Purchase records shall include: (10-1-99)T
- a. Dealer's name, address and registration number; (10-1-99)T
 - b. Grower/seller name and registration number; (10-1-99)T
 - c. Ginseng weight in pounds and ounces; (10-1-99)T
 - d. Designation of green or dry ginseng; (10-1-99)T
 - e. Designation of wild or cultivated ginseng; (10-1-99)T
 - f. Harvest year of ginseng; (10-1-99)T
 - g. County in which the ginseng was harvested; and (10-1-99)T
 - h. Date of transaction. (10-1-99)T

- 02. Sales Records Shall Include The Following Information:** (10-1-99)T
- a. Dealer's name, address and registration number; (10-1-99)T
 - b. Buyer's name, address and registration number; (10-1-99)T
 - c. Ginseng weight in pounds and ounces; (10-1-99)T
 - d. Designation of green or dry ginseng; (10-1-99)T
 - e. Designation of wild or cultivated ginseng; (10-1-99)T
 - f. Harvest year; (10-1-99)T
 - g. County in which the ginseng was harvested; and (10-1-99)T
 - h. Date of transaction. (10-1-99)T

201. -- 249. (RESERVED).

250. OUT-OF-STATE GINSENG.

01. Certificate Of Origin. No dealer may purchase, receive or import out-of-state ginseng unless it is accompanied by a valid certificate of origin issued by the state or country of origin. The certificate must include:

(10-1-99)T

- a. The state or country of origin; (10-1-99)T
- b. The source (wild or cultivated); (10-1-99)T
- c. Year of harvest; and (10-1-99)T
- d. Dry weight of the out-of-state ginseng. (10-1-99)T

02. Recordkeeping. The dealer shall retain for a period of three (3) years a copy of each written certificate of origin received. (10-1-99)T

03. Uncertified Ginseng. If a dealer receives ginseng not accompanied by a valid certificate of origin, the uncertified ginseng must be returned within thirty (30) days to the state or country of origin. Failure to do so shall render the ginseng illegal for commerce. (10-1-99)T

251. SELLING OR SHIPPING OF GINSENG - CERTIFICATES.

01. Export. Except as described in Subsection 251.06, no person shall sell or ship ginseng out-of-state or export Idaho grown ginseng unless it is accompanied by a valid, prenumbered certificate of origin on a form issued by the department. The department shall, upon request and receipt of the required fee(s), provide each registered grower or dealer with forms for certificates of origin. The department shall identify each certificate of origin form with a serial number, and the registration number of the grower or dealer. Registered growers or dealers may certify their own cultivated ginseng by filling out and signing a certificate of origin form. The certificate of origin shall contain the following information: (10-1-99)T

- a. State of origin; (10-1-99)T
- b. Serial number of certificate; (10-1-99)T
- c. Dealer's and/or grower's state registration number; (10-1-99)T
- d. Year of harvest of ginseng being certified; (10-1-99)T
- e. Designation as cultivated roots or plants; (10-1-99)T
- f. Designation as dried or fresh (green) roots, or live plants; (10-1-99)T
- g. Weight of roots or plants (or number of plants) separately expressed both numerically and in writing; (10-1-99)T
- h. Date of certification; and (10-1-99)T
- i. Signature of grower or dealer making certification. (10-1-99)T

02. Idaho Certificate Of Origin. All of the following conditions must be met in order for an Idaho certificate of origin to be valid: (10-1-99)T

- a. The grower or dealer whose registration number was entered on it by the department shall sign the certificate; and (10-1-99)T
- b. The ginseng shall be cultivated ginseng grown in Idaho. (10-1-99)T

03. Forms. Forms for certificates of origin are issued by the department in triplicate. The original is designated for the dealer's use in commerce; the first copy is for the dealer's records; and the grower or dealer shall send the second copy, within two (2) weeks of issuance, to the Division of Plant Industries, Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701-0790. (10-1-99)T

04. Out-Of-State Issued Certificates. No person shall export ginseng grown in Idaho using an out-of-state issued certificate. (10-1-99)T

05. Wild Ginseng Certificates. Certificates of origin shall not be issued for wild ginseng. (10-1-99)T

06. Final Retail Sales. Subsection 251.01 shall not apply to a person who sells or ships cultivated ginseng out-of-state to a person who is buying or receiving it solely for the purpose of final retail sale to consumers in the United States, if the person selling or shipping keeps a record for a period of three (3) years which includes: (10-1-99)T

- a. Name and address of the buyer or receiver; (10-1-99)T
- b. Weight of the ginseng in pounds and ounces; (10-1-99)T
- c. Date of the sale or shipment; (10-1-99)T
- d. County of harvest of the ginseng; and (10-1-99)T
- e. Year of harvest of the ginseng. (10-1-99)T

252. -- 299. (RESERVED).

300. MAINTAINING SEPARATE LOTS OF GINSENG.

Dealers shall maintain separation between lots of out-of-state ginseng and that harvested in Idaho until a certificate of origin has been issued for the ginseng harvested in Idaho. (10-1-99)T

301. DEALER OR GROWER HOLDING GINSENG AFTER DECEMBER 31 OF THE YEAR.

Any grower or dealer holding ginseng on or after December 31 shall report all carryover stocks on a form provided by the department, which shall list: (10-1-99)T

- a. Name and address of the grower or dealer; (10-1-99)T
- b. Location of the lot; (10-1-99)T
- c. Lot identification; (10-1-99)T
- d. County of harvest; (10-1-99)T
- e. Dry or green weight in pounds and ounces; and (10-1-99)T
- f. Year of harvest. (10-1-99)T

302. -- 399. (RESERVED).

400. INSPECTION AND DISCLOSURE OF RECORDS.

01. Inspection. All records required to be kept under this chapter shall be made available to the department upon request for inspection and copying. (10-1-99)T

02. Disclosure. The department shall not disclose information obtained regarding purchases, sales, or production of an individual ginseng dealer, except for providing reports to the United States Fish and Wildlife

Service. (10-1-99)T

401. -- 449. (RESERVED).

450. EXPORT PROCEDURES.

Valid federal Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) documents are necessary to export ginseng. (10-1-99)T

451. FEES - HOURLY, OVERTIME.

Fees shall be charged to cover the department's cost of implementing these rules. (10-1-99)T

01. Certification And Overtime Rate. Ginseng certification services shall be provided at an hourly and overtime rate as provided in Section 452 of these rules. The overtime rate shall apply for service provided subsequent to a regularly scheduled eight (8) hour week day shift or on Saturdays, Sundays, and state legal holidays. No service will be performed on Thanksgiving Day, Christmas Day or New Year's Day, beginning at 5:00 p.m., on the previous day. (10-1-99)T

02. Minimum Charges. Charges shall be for a minimum of one (1) hour. Additional time shall be charged in one-half (1/2) hour increments. (10-1-99)T

452. SCHEDULE OF FEES AND CHARGES.

The following schedule for ginseng certification services shall apply: (10-1-99)T

01. Registration. Registration (grower or dealer or grower and dealer), twenty-five dollars (\$25). (10-1-99)T

02. Certificate Of Origin Form. Certificate of origin form, each, ten dollars (\$10). (10-1-99)T

03. Hourly Rate. Hourly rate for certification services, twenty-eight dollars (\$28). (10-1-99)T

04. Overtime Rate. Overtime rate for certification services, thirty-three dollars (\$33). (10-1-99)T

453. VIOLATIONS.

Any person violating any provisions of these rules shall be subject to the provisions of Section 22-1006, Idaho Code. (10-1-99)T

453. -- 999. (RESERVED).

IDAPA 08 - IDAHO DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-9902

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is August 4, 1999. These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules and amended temporary rules. The action is authorized pursuant to Section 33-2002, Idaho Code, and 20 U.S.C. Sections 1400-1419 and 34 C.F.R. Part 300.

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

The rules have been amended in response to public comment, to provide clarification, and to correct typographical errors.

Rule 08.02.03.109.02.d. has been amended to clarify which expenditure requirements apply to home school students and two commas have been inserted to correct typographical errors.

Rule 08.02.03.109.05.f. was amended to clarify that the limit of twenty-five (25) days for extending a hearing time line applies only to expedited hearings and refers to "calendar" days, not business days or school days.

Rule 08.02.03.109.05.g. was also amended to clarify that the time line refers to "calendar" days.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Volume 8-99, August 4, 1999, Idaho Administrative Bulletin, pages 14 through 22.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Nolene Weaver at 208-332-6917.

DATED this 20th day of October, 1999.

Nolene Weaver
Chief, Bureau of Special Education
State Department of Education
650 W. State Street
P.O. Box 83720
Boise, ID 83702-0027
Phone: 208-332-6910
FAX: 208-334-4664

IDAPA 08
TITLE 02
Chapter 03

RULES GOVERNING THOROUGHNESS

There are substantive changes from the proposed rule text.

Only those subsections that have been corrected or have changed from the original proposed text are printed in this Bulletin following this notice.

The complete original text of the proposed and temporary rule was published in the Idaho Administrative Bulletin, Volume 99-8, August 4, 1999, pages 14 through 22.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-9902

08.02.03.109.02.d.

The child find, services plan, and proportionate expenditure requirements of the Individuals with Disabilities Education Act that apply to students who are unilaterally voluntarily enrolled in private schools by their parents shall also apply to home school students. ~~(8-4-99)T~~(8-4-99)T

08.02.03.109.05.f.

The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within forty-five (45) calendar days of the date a regular hearing is requested, unless a specific extension of this time line is requested by one (1) of the parties and granted by the hearing officer. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within twenty (20) calendar days of a written request for an expedited hearing, unless a specific extension of this time line has been granted. An extension of the time line for an expedited hearing shall not exceed an additional twenty-five (25) calendar days, and may be granted only if requested by one (1) of the parties and agreed to by both parties. The decision shall be sent to the parent or adult student, the education agency administrator, their respective representatives, and the State Department of Education.

~~(8-4-99)T~~(8-4-99)T

08.02.03.109.05.g.

The hearing officer's decision shall be binding unless either party appeals the decision by initiating a civil action. The hearing officer's decision shall be implemented not later than fourteen (14) calendar days from the date of issuance unless an appeal is filed by a parent or adult student or the decision specifies a different implementation date. An appeal to civil court must be filed within forty-two (42) calendar days from the date of issuance of the hearing officer's decision. ~~(8-4-99)T~~(8-4-99)T

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD
DOCKET NO. 11-0201-9801
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 upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-1102, 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 propose rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the August 4, 1999, Administrative Bulletin, Volume 99-8, pages 25 through 27.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Larry Hayhurst at (208) 884-7070.

DATED this 19th day of October, 1999.

Larry Hayhurst
Idaho State Brand Inspector
P.O. Box 1177
Meridian, Idaho 83680-1177
Telephone: (208) 884-7070
Fax: (208) 884-7097

IDAPA 11
TITLE 02
Chapter 01

RULES OF THE IDAHO STATE BRAND BOARD

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-8, August 4, 1999, pages 25 through 27.

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 11 - DEPARTMENT OF LAW ENFORCEMENT
11.04.02 - RULES GOVERNING SIMULCASTING, IDAHO STATE RACING COMMISSION

DOCKET NO. 11-0402-9901

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

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2506, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the September 1, 1999, Administrative Bulletin, Volume 99-9, pages 30 and 31.

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

DATED this 19th day of October, 1999.

Eugene "Jack" Baker
Executive Director
Idaho State Racing Commission
PO Box 700
Meridian, ID 83680-0700
(208) 884-7080, (208) 884-7098 (FAX)

IDAPA 11
TITLE 04
Chapter 02

RULES GOVERNING SIMULCASTING,
IDAHO STATE RACING COMMISSION

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-9, September 1, 1999, pages 30 and 31.

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 11 - DEPARTMENT OF LAW ENFORCEMENT
11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL
DOCKET NO. 11-0501-9901
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 upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 23-932, 23-946(b), 23-1330 and 23-1408, 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 propose rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 7, 1999, Administrative Bulletin, Volume 99-7, pages 93 and 94.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Lonnie Gray at (208) 884-7060.

DATED this 19th day of October, 1999.

Mark J. Mimura
Deputy Attorney General
Department of Law Enforcement
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

IDAPA 11
TITLE 05
Chapter 01

RULES GOVERNING ALCOHOL BEVERAGE CONTROL

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 93 and 94.

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 11 - DEPARTMENT OF LAW ENFORCEMENT
11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL
DOCKET NO. 11-1101-9902
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 14, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 19-5107, 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 December 15, 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:

Simplifies and clarifies the minimum standards of performance for the certification of Idaho police canine teams.

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:

For the protection of the public health, safety, or welfare.

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

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 December 22, 1999.

DATED this 19th day of October, 1999.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-9902

117. CANINE TEAM CERTIFICATION.

01. Legal Authority. The Idaho Legislature has given the Idaho Peace Officer Standards and Training

Council the authority to promulgate these rules in Section 19-5107, Idaho Code. (3-20-97)

02. Title And Scope. These rules are intended to set minimum standards of performance ~~in Idaho~~ for the ~~C~~certification of ~~Idaho P~~police ~~C~~canine ~~T~~teams. Nothing in these rules is intended to limit the use of canine teams employed by other states or federal agencies for law enforcement purposes. (3-20-97)(10-14-99)T

03. Definitions. (3-20-97)

a. **Canine Team.** A specific person and a specific canine controlled by that person in the capacity of handler, formally assigned by the employing agency to working together in the performance of law enforcement duties. ~~This definition includes canines utilized for tracking, controlled substances detection and explosives detection.~~ (3-20-97)(10-14-99)T

b. **Evaluator.** An Idaho POST-certified peace or detention officer or a corrections police officer with three (3) years of canine handler experience and three hundred ninety (390) hours of accredited canine training who has been recommended to the Council by the Idaho Police Canine Association and subsequently approved as an Idaho POST-certified instructor of canine subjects for the purpose of testing and certifying canine teams. (3-20-97)(10-14-99)T

c. **Pace.** A distance measuring two (2) feet. (10-14-99)T

04. Certification. (10-14-99)T

a. A canine team must be certified in order to perform their duties. (10-14-99)T

b. The canine handler must be an Idaho POST-certified peace or detention officer to be eligible for certification under these rules. (10-14-99)T

c. In evaluating the proficiency of the canine teams, the evaluators shall use the standards promulgated by the Idaho Police Canine Association and approved by the POST Council for that particular skill category. Performance shall be rated on a pass/fail basis. The evaluator shall have the discretion to discontinue the testing if excessive time has been spent without results. A POST Training Specialist, or his designee, must be present for all canine certification testing. (10-14-99)T

d. The Council shall certify a canine team which meets the following requirements. (3-20-97)

a. ~~Successful demonstration of proficiency, successfully demonstrates the handler's ability to control the canine, under the scrutiny of a certified canine evaluator, in addition to proficiency in one (1) or more of the following areas:~~ (3-20-97)(10-14-99)T

i. ~~The handler's ability to control and obtain the obedience of the canine. Patrol;~~ (3-20-97)(10-14-99)T

ii. ~~The effectiveness of the team in criminal suspect apprehension. Tracking;~~ (3-20-97)(10-14-99)T

iii. ~~The effectiveness of the team in conducting building Evidence searches;~~ (3-20-97)(10-14-99)T

iv. ~~The effectiveness of the team in conducting open area searches. Controlled substance detection; or~~ (3-20-97)(10-14-99)T

v. ~~The effectiveness of the team in the Explosive substance detection of controlled substances.~~ (3-20-97)(10-14-99)T

vi. ~~The effectiveness of the team in the detection of explosive devices.~~ (3-20-97)

b. ~~In evaluating the proficiency of the canine teams, the Evaluators shall use the Standards promulgated by the Idaho Police Canine Association and approved by the POST Council for that particular skill~~

category. (3-20-97)

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

05. Expiration Of Certification. Each certification issued pursuant to these rules shall remain valid for one (1) year, and shall expire on the anniversary date of the certification. Certification may be renewed upon completion of the requirements of Subsection 113.04.b. A canine team must be evaluated annually to maintain their certification. If the canine team fails any portion of an evaluation, they must be re-evaluated for the failed area. A canine team certification shall lapse if the specific handler and canine, as originally paired at the time of certification, cease to perform canine team functions together. (3-20-97)(10-14-99)T

06. Appeal. Any handler who believes there have been improper procedures applied in implementing the standards may file an appeal with the Idaho Peace Officer Standards and Training Academy in writing. This appeal must be filed within thirty (30) days of the testing date. (10-14-99)T

118. PATROL DOGS.

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

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

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

041. Basic Patrol Dog Certification Test. (3-20-97)(10-14-99)T

a. The skills favorable for successful deployment of a Basic required for certification of a Patrol Dog team are recognized within three (3) categories: (A) Scent Work, (B); (10-14-99)T

i. Suspect search; (10-14-99)T

ii. Apprehension; (10-14-99)T

iii. Handler protection; and (10-14-99)T

iv. Obedience-Agility, and (C) Apprehension. The Dog and Handler can be successfully trained to an appropriate skill level by a qualified Patrol Dog Instructor. The competency can then be evaluated and declared by a qualified Patrol Dog Evaluator. (3-20-97)(10-14-99)T

b. The Basic Patrol Dog evaluation shall be concluded within twenty-four (24) hours after it is begun. This is to establish that the dog's mental and physical endurance are is sufficient to withstand the rigors of active service. (3-20-97)(10-14-99)T

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

a. Scent Work Suspect Search. Under direction and reasonable control, the canine must demonstrate the ability to detect and alert the handler to a hidden person in a structure or building and locate a person in an outdoor open area. The handler shall inform the evaluator of the manner in which the canine alerts prior to the exercise beginning. In a structure or building of at least one thousand five hundred (1,500) square feet with multiple rooms and hiding places, the dog must demonstrate the ability to locate a hidden person and alert the handler. In an outdoor area

at least one (1) acre in size with multiple hiding locations, the dog must demonstrate the ability to locate a hidden person and alert the handler. (3-20-97)(10-14-99)T

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

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

b. ~~Obedience-Agility Apprehension.~~ (3-20-97)(10-14-99)T

i. ~~Heeling, behavior in public, and gun-sureness. The Dog shall heel off-leash beside its Handler through a series of normal, slow, and fast paces. During each pace the Handler shall make right, left, and about turns. Next, the Handler shall walk in a straight line and at intervals of at least ten (10) paces he shall command the Dog to sit, stand, and down. As he gives each command he shall halt. Next, the Dog shall heel beside its Handler as he walks in serpentine fashion through a group of at least three (3) persons. The group shall be walking slowly and parallel to each other. At some point, the Handler will halt beside one (1) of the persons such that the Dog is immediately next to an individual. When the Handler halts, the group shall halt also. The Dog should show no unusual attention to the person beside whom it is sitting. The Dog will then heel beside its Handler as he exits the group and walks away. At a distance of about fifty (50) feet the Handler shall turn around and begin walking toward the group. At this point two (2) simulated gunshots shall be discharged by a group member. This shall be done discreetly, with the blast aimed at the ground. The Dog shall remain under control as this occurs. Apprehension without Contact. While off-leash and under direction of the handler, the dog must demonstrate the ability to pursue a person acting as a suspect without any physical contact. The police service dog team shall begin the exercise off-leash from a pre-designated starting point. While the handler controls the dog, the evaluator shall signal the "suspect" to visually present himself at a reasonable distance of at least thirty (30) yards from the canine team. The handler shall verbally challenge the "suspect" to stop. The "suspect" shall ignore the order and continue to flee. The handler shall then release the dog in pursuit of the "suspect" and tactically follow the dog, keeping the dog and "suspect" in full view. The "suspect" shall stop fleeing and stand still. As predetermined by the handler, the dog shall either return to the handler or stay and guard the "suspect". During this exercise, the dog shall not make physical contact with the "suspect". (3-20-97)(10-14-99)T~~

ii. ~~Stand in motion and down. The Dog shall heel beside its Handler in a straight line. After a few steps the Handler shall command the Dog to stand. The Handler will continue forward, without breaking stride, for at least twenty (20) paces. He will then stop, turn and face the Dog. After a few moments, the Dog will be commanded to assume a down position. After a few moments, the Handler will return to the Dog. It should remain in the down position until commanded to sit, at a heel position. Apprehension with Contact. While under control of the handler and with the dog off-leash, the dog must demonstrate the ability to pursue and apprehend a "suspect" with physical contact. The police service dog team shall begin the exercise off-leash from a pre-designated starting point. While the handler controls the dog, the evaluator shall signal the "suspect" to visually present himself at a reasonable distance of at least thirty (30) yards from the canine team. The handler shall verbally challenge the "suspect" to stop. The "suspect" shall ignore the order and continue to flee. The handler shall then release the dog in pursuit of the "suspect" and tactically follow the dog, keeping the dog and "suspect" in full view. The "suspect" shall continue to flee. The handler shall send the dog to physically apprehend the "suspect" and the dog shall hold the "suspect" until called off (verbal only) by the handler. (3-20-97)(10-14-99)T~~

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

iv. ~~Jumping an obstacle. The Handler and Dog will assume a heel position at an appropriate distance from an obstacle that is at least thirty-six (36) inches high. The Dog will be commanded to jump over the obstacle and then stand in place. After a pause, the Handler will walk to his Dog and command it to heel, without breaking his stride. The Handler will then walk away from the obstacle and halt. (7-1-99)~~

v. ~~Climbing and retrieving. The Handler should obtain an object and hold it as he and his Dog assume a position in front of a wall. The wall should be inclined and at least five (5) feet high. The Dog should remain in position as the Handler tosses the object over the wall. When commanded, the Dog should climb the wall. As the Dog descends, it will be commanded to retrieve the object. It should climb back over the wall with the object, and then present it in front of the Handler. On command, the Dog should relinquish the object. After a pause, it will then be commanded to assume a heel position. (7-1-99)~~

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

c. Apprehension Handler Protection. The dog must demonstrate the ability to defend the handler without command during a physical attack on the handler by a "suspect". On verbal command from the handler, the dog must cease physical apprehension of the assailant. Upon the dog releasing the "suspect", the dog shall assume a guard position while the handler takes control and conducts a "pat down" of the "suspect". (3-20-97)(10-14-99)T

d. Obedience-Agility. The handler must demonstrate the ability to control the canine during an obedience performance test. Testing shall be conducted using reasonable distractions that may be encountered during the performance of law enforcement duties. (10-14-99)T

i. Suspect search. The Handler shall position his Dog on the boundary of a pre-determined search area. The Dog shall be directed to search systematically, The Handler shall move through the search area in a tactical manner. While in the search area, the Dog shall encounter a person who happens to be there totally by accident. The Dog should respond to the person's submissive behavior by detaining him without physical contact. The person shall be absolutely submissive during this encounter. When the Handler arrives, the Dog shall be commanded to assume a backup position as the Handler conducts a frisk of the person, searches the location, and dismisses him Heeling. The canine team must demonstrate the ability to perform basic routine left, right, and about turns, both slow and quick pace, on and off leash. Testing shall consist of two (2) right turns, two (2) left turns, two (2) about turns, and two (2) stop/sits, both on and off leash. (3-20-97)(10-14-99)T

ii. Surveillance and apprehension (choice of exercise). The Handler and Dog shall assume a surveillance position. The Dog should remain calm and alert. A person representing a criminal suspect shall appear about eighty (80) to one hundred (100) yards away. The Dog should remain quiet as the Handler issues a Departmental warning. The person shall flee and the Handler shall send the Dog to apprehend. The suspect shall stop and face the Dog submissively when it is about thirty (30) yards away. It shall be evident the person is surrendering when the Dog arrives. It should detain the suspect without physical contact. When the Handler arrives he shall command the Dog to assume a backup position. It should now remain quiet and alert, ready to engage the suspect if necessary, while the Handler frisks the suspect and places him in custody. The Dog should heel beside its Handler as he escorts the suspect to the evaluator for remanding; OR Down in Motion. With the team moving forward, the handler shall "down" the dog on the evaluator's command and continue to move forward until the handler reaches a designated point (at least thirty (30) paces away). At the evaluator's command, the handler shall recall the dog to the "heel" position by means of voice and/or hand commands. (3-20-97)(10-14-99)T

iii. Handler defense and apprehension. The Handler and Dog shall heel along a predetermined route. A person shall emerge from a hiding place and attempt to assault the Handler. The Dog should defend its Handler without hesitation by engaging in strong combat. The perpetrator shall be armed with a simulated weapon such as a stick. At some point during the combat he shall strike the Dog twice sharply on the less sensitive parts of its body. The Dog should continue in combat until the perpetrator gives up and the Handler commands it to stop. At this point the Dog should remain alert and quiet while the Handler conducts a frisk and places the individual in custody. The Dog should heel beside its Handler as he escorts the individual to the evaluator for remanding. Down from a Distance. With the dog in a stand or a sit-stay position, the handler shall face the dog from a location at least thirty (30) paces

away, wait for the evaluator's signal, then "down" the dog by the means of voice and/or hand signals. After the dog has remained down for five (5) minutes, the handler shall return to the dog and release him from the down.

(3-20-97)(10-14-99)T

iv. The same behavior as above is to be exhibited, up to the point where the suspect stops. The Handler, upon becoming reasonably sure that the suspect shall indeed surrender and not flee further, shall recall his Dog. The team shall heel to the suspect and the Dog shall be placed in a backup position. It should remain quiet and alert, ready to engage the suspect if necessary, while the Handler frisks the suspect and places him in custody. The Dog should heel beside its Handler as he escorts the suspect to the evaluator for remanding. Obstacle (at least thirty-six (36) inches high). From the heel position, and at least two (2) paces in front, the handler shall command the dog to jump the obstacle and to stay in a sit, stand, or down position on the other side of the obstacle. The handler shall inform the evaluator prior to the jump what position the dog will assume. The handler shall then proceed to the dog and command the dog to heel to complete the exercise.

(3-20-97)(10-14-99)T

v. Gunfire Sureness Test (off-lead). The handler shall heel his canine onto the test field. After approximately twenty (20) paces, the handler shall stop, place his dog in a down or sit, draw a pistol and fire two (2) shots (blanks only). The canine may show interest, but no uncontrollable aggression toward the handler or persons in the area.

(10-14-99)T

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

(3-20-97)

07. Evaluators:

(3-20-97)

a. Qualifications:

(3-20-97)

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

(3-20-97)

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

(3-20-97)

119. TRACKING DOGS.

The dog must demonstrate the ability to follow the steps of a person along a track that is four hundred (400) to six hundred (600) paces in length, having two (2) ninety (90) degree turns and aged a minimum of thirty (30) minutes. A cross-track shall be placed at some point along the third leg as a diversion. The dog shall not be diverted from the original track.

(10-14-99)T

120. EVIDENCE SEARCH DOGS.

The dog must demonstrate the ability to locate two (2) well-scented, small items that the evaluator has hidden within an eight hundred (800) square yard area. The dog must be out of sight when the items are placed. The handler shall direct the dog to search systematically. The dog must demonstrate the ability to indicate the location of these items as it encounters them.

(10-14-99)T

14921. DETECTION DOGS.

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

(7-1-99)(10-14-99)T

02. Certifications For Canine Teams Shall Remain Valid For One (1) Year. Each canine team must be evaluated annually to maintain their certification. If the canine team fails any portion of an evaluation, they must be

~~re-evaluated for the failed area.~~ (7-1-99)

031. Detection Dog Teams Certification Test.

a. Detection dog teams ~~should be able to show proficiency in~~ must demonstrate the ability to detect substances in the following environments: (7-1-99)

a. ~~B~~buildings (residential and commercial);₁ (3-20-97)

b. ~~V~~ehicles (private and commercial);₂ (3-20-97)

e. ~~L~~uggage and packages;₁ and (3-20-97)

d. ~~E~~terior open areas. During testing, substances shall be hidden by the evaluator, outside the knowledge of the handler. The canine shall start the search at a point determined by the handler. (3-20-97)(10-14-99)T

~~04. Substance Tests. Tests will, therefore, incorporate each of the above areas with the substance(s) being detected as well as demonstrated control of the canine. Performance of these tests will be on a pass/fail basis. It is recommended that the Dog teams have experience in searching for substances outside of the normal day-to-day routines.~~ (3-20-97)

~~05. Tests.~~ (3-20-97)

ai. Buildings. The building search ~~will~~ shall consist of an area designated by the evaluator that may vary in size, location,₁ or environment, but ~~will~~ shall consist of at least three (3) rooms. Substances shall be hidden high and low, ~~known to the evaluator and unknown to the Handler. The canine will start the search at a point determined by the Handler. All substances will be hidden by the evaluator unknown to the Handler.~~ (3-20-97)(10-14-99)T

bii. Vehicles. The vehicle search ~~will~~ shall consist of at least three (3) vehicles, which may vary in size, location,₁ or environment. The search ~~will~~ shall include the interior and exterior of the vehicles. Substances ~~shall~~ may be hidden inside or on the outside, ~~known to the evaluator and unknown to the Handler. The canine will start the search at a point determined by the Handler of the vehicle.~~ (7-1-99)(10-14-99)T

eiii. Luggage and packages. This search ~~will~~ shall consist of at least six (6) pieces of luggage and/or packages of different sizes and/or shapes. These pieces may vary in location or environment. ~~The canine will start the search at a point determined by the Handler.~~ (3-20-97)(10-14-99)T

dii. Exterior open areas. The exterior search ~~will~~ shall consist of an area in open air that may vary in size, location,₁ or environment, and may include buried substance. ~~The canine will start the search at a point determined by the Handler.~~ (3-20-97)(10-14-99)T

eb. ~~O~~bedience Control. Each handler ~~will~~ must demonstrate ~~obedience and the ability to control of~~ their canine. This ~~will~~ shall include "sit," "stay," "heel," and "come" commands. (3-20-97)(10-14-99)T

062. Test Criteria. The handler ~~will~~ shall be evaluated in the following areas: (7-1-99)(10-14-99)T

a. Control of the dog. (3-20-97)

b. Recognition of the behavioral changes in the dog. (3-20-97)

c. Search patterns, to include: (3-20-97)

i. Presentation of the areas to be searched. (3-20-97)

ii. Manipulation of the environments. (3-20-97)

iii. Body language which includes negative behavior in the dog (false response, failure to work to the course, etc.) and timeliness of positive and/or negative reinforcement. (3-20-97)

073. Substances. (3-20-97)

a. The types and amounts of substance in each search ~~will~~ shall be at the discretion of the evaluator. Substances ~~will~~ shall be set in place at least thirty (30) minutes prior to each test. (~~3-20-97~~)(10-14-99)T

b. Articles containing human scent may be placed in each test area. (7-1-99)

c. The handler ~~will~~ shall be notified if a dangerous substance being detected by the dog can be accessed by the dog. (~~3-20-97~~)(10-14-99)T

d. No explosive or controlled substance other than marijuana ~~will~~ shall be hidden in a location readily accessible to the canine. (~~3-20-97~~)(10-14-99)T

e. Controlled substances shall consist of, but not be limited to, four (4) main areas: (~~3-20-97~~)(10-14-99)T

i. Marijuana and hashish (two (2) grams or greater). (3-20-97)

ii. Cocaine (hydrochloride) (two (2) grams or greater). (3-20-97)

iii. Heroin and opiate derivatives (two (2) grams or greater). (3-20-97)

iv. Methamphetamines (two (2) grams or greater). (~~3-20-97~~)(10-14-99)T

f. It is not required that a narcotic detection dog be trained in all four (4) common fields of controlled substances. However, if the dog is not trained in all four (4) substances, it ~~should~~ shall be noted on the evaluation form and in the dog's training records what substances the dog is proficient in detecting. (~~3-20-97~~)(10-14-99)T

g. Explosive substances shall consist of, but not be limited to, twelve (12) areas: (10-14-99)T

i. C-4 explosive (two (2) grams or greater). (10-14-99)T

ii. Pyrodex (two (2) grams or greater). (10-14-99)T

iii. Ammonium nitrate (two (2) grams or greater). (10-14-99)T

iv. Detonating cord (two (2) grams or greater). (10-14-99)T

v. Time fuse (two (2) grams or greater). (10-14-99)T

vi. Nitro methane (two (2) grams or greater). (10-14-99)T

vii. TNT pentex (two (2) grams or greater). (10-14-99)T

viii. Nitro glycerin dynamite (two (2) grams or greater). (10-14-99)T

ix. Non nitro glycerin dynamite (two (2) grams or greater). (10-14-99)T

x. Sodium chlorate (two (2) grams or greater). (10-14-99)T

xi. Potassium chlorate (two (2) grams or greater). (10-14-99)T

xii. Gun powder (two (2) grams or greater). (10-14-99)T

h. It is not required that an explosives detection dog be trained in all twelve (12) common fields of explosive substances. However, if the dog is not trained in all twelve (12) substances, it shall be noted on the evaluation form and in the dog's training records what substances the dog is proficient in detecting. (10-14-99)T

084. Testing Procedure. (3-20-97)

- a. Prior to the start of the testing, the handler ~~will~~ shall give the evaluator the following information: (3-20-97)(10-14-99)T
- i. The type of alert (passive or aggressive). (3-20-97)
 - ii. The type of reward (ball, food, towel, praise, etc.). (3-20-97)
 - iii. The type of substance(s) the dog is trained to detect (dogs ~~will~~ shall be evaluated only on the substances with which ~~it has~~ they have been trained). (3-20-97)(10-14-99)T
 - iv. Whether the dog is cross-trained (patrol/drugs/bombs/etc.) (3-20-97)
- b. The evaluator ~~will~~ shall signal the start and finish of each test and shall allow reasonable time for the team to cover the area and indicate the location of the substance. (3-20-97)
- i. ~~It will be at~~ The evaluator's shall have the discretion to discontinue the search if excessive time has been spent on the search without results. Prior to terminating the search the evaluator may give the team the opportunity to note any changes in behavior and research that specific area. (3-20-97)(10-14-99)T
- c. The handler ~~must~~ shall verbally indicate to the evaluator that he has a positive alert from his dog and believes that the substance has been found. The handler ~~will~~ shall indicate the location of the substance to the evaluator. (3-20-97)(10-14-99)T

~~**09. Appeal.** Any handler who thinks there have been improper procedures applied in implementing the standards may report the facts to the Idaho Peace Officer Standards and Training Academy in writing. This report must be filed within thirty (30) days of the testing date. (3-20-97)~~

~~**10. Evaluators.** (3-20-97)~~

- a. ~~Qualifications. (3-20-97)~~
- i. ~~An evaluator must be an Idaho POST-certified officer with three (3) years of street handler experience, and three hundred ninety (390) hours of accredited canine classroom training. He/she must also meet the requirements as stipulated by the Idaho Police Canine Association, and be an Idaho POST-certified instructor for canine subjects. (3-20-97)~~
 - ii. ~~A Corrections Officer may be recognized as an evaluator, provided they have passed a four-week Detention or Corrections Academy and met all other requirements with the exception of being a "commissioned law enforcement officer". (3-20-97)~~

~~**1202. -- 129. (RESERVED).**~~

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-9901

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that his agency has adopted a pending rule. The action is authorized pursuant to Section 67-2901(A), 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 propose rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the June 2, 1999, Administrative Bulletin, Volume 99-6, pages 15 through 23.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sandra DeKlotz at (208) 884-7200.

DATED this 19th day of October, 1999.

Margaret P. White
Deputy Attorney General
Department of Law Enforcement
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

**IDAPA 11
TITLE 13
Chapter 01**

THE MOTOR CARRIER RULES

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-6, June 2, 1999, pages 15 through 23.

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 15 - OFFICE OF THE GOVERNOR - IDAHO COMMISSION ON AGING

15.01.01 - RULES GOVERNING SENIOR SERVICES PROGRAM

DOCKET NO. 15-0101-9901

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to temporary rule is July 1, 1999. The pending 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 upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

- Removes the case management responsibility for revision of status;
- Adds a definition of "Certified Care Manager";
- Renumbers sections;
- Redefines the role of the Supportive Services Technician in relation to Adult Protection programs, as well as the qualifications for the position;
- Adds provisions for a waiver of the requirement that Supportive Services Technicians be AAA employees.

The proposed rule has been amended in response to public comment and is being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule await legislative approval, the Idaho Commission on Aging amended the temporary rule with the same revisions which have been made to the proposed rule.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-9, pages 32 through 42.

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

DATED this 20th day of October, 1999.

Lupe Wissel, Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
PO Box 83720
Boise, Idaho 83720-0007
Telephone: (208) 334-3833
Fax: (208) 334-3033

IDAPA 15
TITLE 01
Chapter 01

RULES GOVERNING SENIOR SERVICES PROGRAM

There are substantive changes from the proposed rule text.

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

The complete original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-9, September 1, 1999, pages 32 through 42.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0101-9901

010. DEFINITIONS.

01. Act. The Idaho Senior Services Act. Programs and services established in Idaho Code, Section 67-5001, et. seq., Idaho Code. (7-1-98)

02. Activities Of Daily Living (ADL). Bathing, dressing, toileting, transferring, eating, walking. (7-1-98)

03. Adult Day Care. A structured day program which provides individually planned care, supervision, social interaction, and supportive services for frail older persons in a protective group setting, and provides relief and support for caregivers. (7-1-98)

04. Aging Network. The ICOA, it's AAAs and providers. (7-1-98)

05. Advance Directive. A Living Will or Durable Power of Attorney for healthcare executed under the Natural Death Act, 39-4501, Idaho Code. (7-1-98)

06. Area Agency On Aging (AAA). Separate organizational unit within a multipurpose agency which functions only for purposes of serving as the area agency on aging that plans, develops, and implements services for older persons within a specified geographic area. (7-1-99)T

07. Area Plan. Plan for aging programs and services which an AAA is required to submit to the Idaho Commission on Aging, in accordance with the OAA, in order to receive OAA funding. (7-1-98)

08. Case Manager. A licensed social worker, licensed professional nurse (RN), or Certified Case Manager, or an individual with a BA or BS in a human services field and at least one (1) year's experience in service delivery to the service population. (7-1-99)T

09. Case Management. Case management is a service provided to an older individual, at the direction of the older individual or a family member of the individual, to assess the needs of the older person and to arrange,

coordinate, and monitor an optimum package of services to meet those needs. Activities of case management include: comprehensive assessment of the older individual; development and implementation of a service plan with the older individual to mobilize formal and informal resources and services; coordination and monitoring of formal and informal service delivery; and periodic reassessment and revision of the status of the older individual.

~~(7-1-99)T~~(7-1-99)T

10. Case Management Supervisor. An individual who has at least a BA or BS degree and is a licensed social worker, psychologist or licensed professional nurse (registered nurse/RN) with at least two (2) years' experience in service delivery to the service population. (7-1-99)T

11. Certified Case Manager. One who has met the requirements for certification as established by the National Academy of Care/Case Managers or other professional association recognized by the Idaho Commission on Aging. (7-1-99)T

142. Chore Services. Providing assistance with normal yard work, sidewalk maintenance, heavy cleaning, or minor household maintenance to persons who have functional limitations that prohibit them from performing these tasks. (7-1-99)T

123. Client. Person who has met program eligibility requirements for services addressed in this chapter. (7-1-98)

134. Cognitive Impairment. A disability or condition due to mental impairment. (7-1-98)

145. Congregate Meals. Meals that meet the requirements of the OAA, as amended, served in a group setting. (7-1-98)

156. Department. Department of Health and Welfare. (7-1-98)

167. Direct Costs. Costs incurred from the provision of direct services. These costs include, but are not limited to, salaries, fringe benefits, travel, equipment, and supplies directly involved in the provision of services. Salaries of program coordinators and first line supervisors are considered direct costs. (7-1-98)

178. Eligible Clients. Residents of the state of Idaho who are sixty (60) years or older and their spouses. (7-1-98)

189. Fee For Services. An established payment required from individuals receiving services under the Act. The fee varies according to client's current annual household income. (7-1-98)

1920. Fiscal Effectiveness. A financial record of the cost of all formal services provided to insure that maintenance of an individual at home is more cost effective than placement of that individual in an institutional long-term care setting. (7-1-98)

201. Formal Services. Services provided to clients by a formally organized entity. (7-1-98)

242. Functional Impairment. A condition that limits an individual's ability to perform ADLs and IADLs. (7-1-98)

223. Home-Delivered Meals. Meals delivered to eligible clients in private homes. These meals shall meet the requirements of the OAA. (7-1-98)

234. Homemaker. A person who has successfully completed a basic prescribed training, who, with additional supervision, provides homemaker services. (7-1-98)

245. Homemaker Service. Assistance with housekeeping, meal planning and preparation, essential shopping and personal errands, banking and bill paying, medication management, and, with restrictions, bathing and washing hair. (7-1-98)

256. Household. For sliding fee purposes, a "household" includes a client and any other person(s) permanently resident in the same dwelling who share accommodations and expenses with the client. (7-1-98)

267. Idaho Commission On Aging (ICOA). Commission designated by the Governor to plan, set priorities, coordinate, develop policy, and evaluate state activities relative to the objectives of the OAA. (7-1-98)

278. Informal Supports. Those supports provided by church, family, friends, and neighbors, usually at no cost to the client. (7-1-98)

289. Instrumental Activities Of Daily Living (IADL). Meal preparation, money management, transportation, shopping, using the telephone, medication management, heavy housework, light housework. (7-1-98)

2930. Legal Representative. A person who carries a Durable Power of Attorney or who is appointed Guardian or Conservator with legal authority to speak for a client. (7-1-98)

301. National Aging Program Information System. (NAPIS) Standardized Nationwide reporting system that tracks: (7-1-98)

a. Service levels by individual service, identifies client characteristics, State and AAA staffing profiles, and identifies major program accomplishments; and (7-1-99)T

b. Complaints received against long term care facilities and family members or complaints related to rights, benefits and entitlements. (7-1-98)

342. Non-Institutional. Living arrangements which do not provide medical oversight or organized supervision of residents' activities of daily living. Non-institutional residences include congregate housing units, board and room facilities, private residential houses, apartments, condominiums, duplexes and multiplexes, hotel/motel rooms, and group homes in which residents are typically unrelated to individuals. Non-institutional does not include skilled nursing homes, residential care facilities, homes providing adult foster care, hospitals, or residential schools/hospitals for the severely developmentally disabled or the chronically mentally ill. (7-1-98)

323. Older Americans Act (OAA). Federal law which authorizes funding to states to provide supportive and nutrition services for the elderly. (7-1-98)

334. Ombudsman. An individual or program providing a mechanism to receive, investigate, and resolve complaints made by, or on behalf of, residents of long-term care facilities, or persons aged sixty (60) and older living in the community. (7-1-98)

345. Performance-Based Agreements. A written agreement between the ICOA and AAAs which establishes statements of work for services to be performed by the AAA, including output and outcome projections, program review and process for contract termination. (7-1-99)T

356. Personal Care Services (PCS). Services which include personal and medically-oriented procedures required to meet the physical needs of a patient convalescing at home or to provide for a long-term care client's on-going maintenance/support, in accordance with Section 39-5602 (f), Idaho Code. (7-1-98)

367. Program. The Idaho Senior Services Program. (7-1-98)

378. Planning And Service Area (PSA). Substate geographical area designated by the ICOA for which an AAA is responsible. (7-1-99)T

389. Provider. An AAA that provides services directly or another entity under contract with the AAA to provide a specific service(s). (7-1-98)

3940. Respite. Short-term, intermittent relief provided to caregivers (individuals or families) of a functionally-impaired relative or custodial charge. (7-1-99)T

401. Shopping Assistance. Accompaniment and provision of assistance to an elderly individual for the purpose of purchasing food, medicine and other necessities for an elderly individual who is disabled or homebound. (7-1-98)

412. Sliding Fee Scale. A fee scale ranging from zero percent (0%) to one hundred percent (100%) of the cost of services. Cost of services shall be based on the contractor's or provider's actual unit costs. A client's percentage (payment) shall be determined by ranking the client's annual household income against the federally determined poverty guidelines for that year. (3-19-99)

423. Supportive Service Plan (SSP). An individual support plan outlining an array of services or the components of an individual service required to maintain a client at home. For Adult Protection purposes the SSP shall address the available remedial, social, legal, medical, educational, mental health, or other services available to reduce risks and meet the care needs of a vulnerable adult. (7-1-98)

434. Supportive Services Technician. AAA employee ~~who is a paraprofessional~~ working under the supervision of a licensed social worker or case manager assisting ~~in the performance of specified tasks associated~~ with investigation of Adult Protection reports or development and initiation of a SSP. Tasks are limited to: (7-1-99)T

- a. Re-assessment of clients initially assessed by a case manager; (7-1-99)T
- b. Coordination of start-up services using the SSP developed by a case manager; (7-1-99)T
- c. Follow-up calls to determine care plan progress and minor plan adjustments; (7-1-99)T
- d. Clerical work in support of case management and adult protection activities; and (7-1-99)T
- e. Receiving emergency Adult Protection calls for referral to the appropriate legal or other entity. (7-1-99)T
- f. Follow-up investigative responsibility must remain with the Adult Protection Worker. (7-1-99)T
- g. The employee shall have a college degree in a related field or a high school diploma and at least two (2) years' experience working with elderly or at-risk populations. ~~(7-1-99)T~~(7-1-99)T

445. Transportation Services. Services designed to transport eligible clients to and from community facilities/resources for the purposes of applying for and receiving services, reducing isolation, or otherwise promoting independence. (7-1-98)

456. Uniform Assessment Instrument (UAI). A comprehensive assessment instrument utilizing uniform criteria. The ICOA mandates use of a UAI in determining an applicant's need for care and services. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

056. CASE MANAGEMENT.

01. Policy. Case management is a consumer-driven, social model case management service that empowers individuals and their families to make choices concerning in-home, community-based or institutional long-term care services. (7-1-99)T

02. Qualifications. Any person hired to fill the position of case management supervisor or case manager on or after July 1, 1998, shall have the qualifications identified in Subsections 010.08 and 010.10 of this chapter. (7-1-99)T

03. Service Priority. Service priority is based on the following criteria: (7-1-98)

- a. Require minimal assistance with one or more ADLs or IADLs; and (7-1-98)
- b. Require services from multiple health/social services providers, and (7-1-98)
- c. Are unable to obtain the required health/social services for themselves, or, (7-1-98)
- d. Lack available family or friends who can provide the needed assistance. (3-19-99)
- 04. Screening And Referral.** (7-1-98)
 - a. The purpose of screening is to determine whether an older person needs service referral, assistance and client advocacy, or is a potential case management client who should receive a home visit and a comprehensive assessment. (7-1-99)T
 - b. Screening shall be provided over the telephone. Screening may also be provided in the field, if appropriate. (7-1-98)
 - c. Screening shall usually be accomplished by the I&A component, Adult Protection, provider, or by a community agency. However, case management may receive a direct referral of a potential client who has not been screened. In such cases, case management shall conduct screening or refer the potential client to the I&A component for screening. (7-1-99)T
 - d. Pre-referral screening shall be done to determine if a potential client meets the criteria for receipt of Case Management Services. If the potential client meets the criteria and agrees to the referral, the client shall be referred for a comprehensive assessment utilizing the UAI. (7-1-99)T
 - e. Referrals who do not meet the criteria for Case Management Services shall be referred for other appropriate services. (7-1-99)T
 - f. If notification was requested, the referral source shall be notified of case disposition following the screening. (7-1-98)
- 05. Referral For Case Management.** Referrals shall be accepted from any source and may include eligible clients who are seeking or already receiving other services. (7-1-99)T
- 06. Working Agreements.** (7-1-98)
 - a. The Case Management Program shall enter into working agreements with primary community resources utilized by older persons. These resources may include AAA service providers, mental health centers, hospitals, home health agencies, legal services providers, and others. (7-1-99)T
 - b. Working agreements shall address at least the following: (7-1-98)
 - i. How long each party shall take to respond to a request for service; (7-1-98)
 - ii. Release of information procedures; (7-1-98)
 - iii. Referral and follow-up procedures; (7-1-98)
 - iv. How each party shall notify the other of program changes and non-availability of service; and (7-1-98)
 - v. Procedures for working out problems between the two (2) parties. (7-1-98)
- 07. Core Services.** Case management provides responsible utilization of available informal (unpaid) supports before arranging for formal (paid) services. The case manager and client shall work together in determining

the frequency and duration of needed services. Services shall be arranged subsequent to approval by the client or legal representative. Services provided shall be recorded and monitored to insure cost effectiveness and compliance with the SSP. (7-1-99)T

- a. Client assessment shall be conducted during a home visit and shall utilize the UAI. (7-1-98)
- b. A client need not be re-assessed if an assessment completed within the past ninety (90) days by another human service agency provides the same information as the ICOA's UAI and the client signs a Release of Information form. (7-1-98)
- c. SSP. Based on the information obtained during the client assessment and input obtained from family or professionals familiar with the client, the case manager shall develop a written SSP which shall include at least the following: (7-1-99)T
 - i. Problems identified during the assessment; (7-1-98)
 - ii. Exploration of opportunities for family and other informal support involvement to be included in development of the SSP; (7-1-98)
 - iii. Overall goals to be achieved; (7-1-98)
 - iv. Reference to all services and contributions provided by informal supports including the actions, if any, taken by the case manager to develop the informal support services; (7-1-99)T
 - v. Documentation of all those involved in the service planning, including the client's involvement; (7-1-98)
 - vi. Schedules for case management monitoring and reassessment; (7-1-99)T
 - vii. Documentation of unmet need and service gaps; and (7-1-98)
 - viii. References to any formal services arranged, including fees, specific providers, schedules of service initiation, and frequency or anticipated dates of delivery. (7-1-98)
- d. The SSP shall be reevaluated and updated by the case manager at least annually or when significant changes in the client's status occur. (7-1-99)T
- e. A copy of the current SSP shall be provided to the client or legal representative. (7-1-98)
- f. Case files shall be maintained for three (3) years following service termination. (7-1-98)

08. Other Supportive Services. (7-1-98)

- a. Necessary Services. Case managers shall assist clients to obtain available benefits, services, medically related devices, assistive technology, necessary home modifications, or other services required to fulfill unmet needs. (7-1-99)T
- b. Social-Emotional Support. Case managers shall link clients and their families with available services which facilitate life adjustments and bolster informal supports. (7-1-99)T
- c. Unmet Needs. To assist the AAA in future planning, case managers shall identify and document unmet client needs. (7-1-99)T
- d. Other Informal Resources. In all cases, available informal supports shall be explored prior to utilization of formal services. (7-1-98)

09. Structure And Role. Case management is a centralized evaluator and arranger of services and

provides those activities previously outlined under "Service Functions". AAAs shall be the direct provider for case management services. The AAA is responsible for the implementation of the case management program. (7-1-99)T

- a. Case managers shall coordinate service delivery between multiple agencies, individuals, and others. (7-1-99)T
- b. All providers of Case Management Services shall carry insurance in the types and amounts which meet acceptable business and professional standards. (7-1-99)T
- c. Providers shall conduct an orientation program for all new employees which covers, at least, local resources available, case management service delivery, confidentiality of information, and client rights. (7-1-99)T
- d. In addition to the development and maintenance of the SSP, program and client records shall be maintained to provide an information system which assures accountability to clients, the Case Management Program, and funding agencies, and which supplies data for AAA planning efforts. The information system established shall comply with the following ICOA requirements: (7-1-99)T
 - i. NAPIS Registration Form; (7-1-98)
 - ii. Completed UAI; (7-1-98)
 - iii. Pertinent correspondence relating specifically to the client; (7-1-98)
 - iv. A narrative record of client and community contacts, including problems encountered and SSP modifications developed in response; (7-1-98)
 - v. Completed SSP, signed by the client; (7-1-98)
 - vi. Written consent and acceptance of Case Management Services and release of information forms; (7-1-99)T
 - vii. Any other documentation necessary for systematic case management and SSP continuity.(7-1-99)T

10. Standards Of Performance. AAAs shall assure case management meets the requirements for service neutrality. An agency providing case management shall not be a direct provider of other in-home services without proper written justification and approval by the Director of the ICOA. (7-1-99)T

11. Evaluation. Evaluation is required to assure quality control. The AAA is responsible for monitoring case management activities for quality control and assurance. The AAA shall review client records to determine: (7-1-99)T

- a. Services are being provided as outlined in the SSP; (7-1-98)
- b. Services are meeting the goals established in the SSP; (7-1-98)
- c. The client is satisfied with the service(s) being provided; (7-1-98)
- d. Changes in service have been authorized; (7-1-98)
- e. The SSP continues to be cost-effective; (7-1-98)
- f. Providers are noting observations and relating information about informal caregivers, additional actions required by the case manager, re-evaluations, amendments to the SSP, and client contacts. (7-1-99)T

12. Waiver. The Director of the Idaho Commission on Aging may waive the requirement that Supportive Services Technicians must be employees of the AAA. In order to grant such a waiver, the AAA must submit a written request to the ICOA that includes appropriate justification. (7-1-99)T

IDAPA 15 - OFFICE OF THE GOVERNOR - IDAHO COMMISSION ON AGING
15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES

DOCKET NO. 15-0102-9901

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

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

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

Requires area agencies to provide adult protective services as a direct service, with no option for waiver.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 99-9, pages 43 and 44.

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

DATED this 20th day of October, 1999.

Lupe Wissel, Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
PO Box 83720
Boise, Idaho 83720-0007
Telephone: (208) 334-3833, Fax: (208) 334-3033

IDAPA 15
TITLE 01
Chapter 02

RULES GOVERNING AREA AGENCY ADULT PROTECTION SERVICES

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 99-9, September 1, 1999, pages 43 and 44.**

**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 15 - OFFICE OF THE GOVERNOR - IDAHO COMMISSION ON AGING
15.01.20 - RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS**

DOCKET NO. 15-0120-9901

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

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

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

Each area agency on aging shall submit an area plan and an annual update by May 15 of each year.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 99-9, page 47 and 48.

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

DATED this 20th day of October, 1999.

Lupe Wissel, Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
PO Box 83720
Boise, Idaho 83720-0007
Telephone: (208) 334-3833, Fax: (208) 334-3033

**IDAPA 15
TITLE 01
Chapter 20**

RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 99-9, September 1, 1999, pages 47 and 48.**

**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 15 - OFFICE OF THE GOVERNOR - IDAHO COMMISSION ON AGING

15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES

DOCKET NO. 15-0121-9901

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

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

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

Clarifies the role and responsibilities of Information and Assistance services as they relate to Adult Protection and case management services.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 99-9, page 49 and 50.

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

DATED this 20th day of October, 1999.

Lupe Wissel, Director
Idaho Commission on Aging
3380 Americana Terrace, Suite 120
PO Box 83720
Boise, Idaho 83720-0007
Telephone: (208) 334-3833, Fax: (208) 334-3033

**IDAPA 15
TITLE 01
Chapter 21**

RULES GOVERNING OLDER AMERICANS ACT SERVICES

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 99-9, September 1, 1999, pages 49 and 50.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE
DIVISION OF ENVIRONMENTAL QUALITY**

DEQ POLICIES AND GUIDANCE DOCUMENTS

DOCKET NO. 16-0000-9902

NOTICE OF AVAILABILITY OF DEQ POLICIES AND GUIDANCE DOCUMENTS

Notice is hereby given that the Department of Health and Welfare, Division of Environmental Quality (DEQ) has made the following documents available on its web site at www.state.id.us/deq.

Document No.	Name of Document
PM95-1	Policy for Records Management
PM95-4	Policy Toward Owners of Property Containing Contamination
PM96-1	Special-Interest Related Activities
PM96-2	Policy for DEQ Rulemaking
PM96-3	Policy for DEQ Public Hearings
PM96-7	Policy for Awarding of Grants from the Water Pollution Control Account to Qualified Entities for Wastewater Projects
PM96-8	Policy Directed to all Staff at DEQ Working with Award of Grants from the Water Pollution Control Account
PM97-1	Water Quality & Wood Preservatives Policy
PM97-2	Policy Directed to all Staff at DEQ Working with Award of Loans from the Wastewater and Drinking Water Loan Accounts
PM97-3	Delegation of Engineering Related Drinking Water Rule Waivers to DEQ Regional Administrator
GD97-2	Contained-In Policy for Environmental Media
PM98-2	Policy for No-Net Increase (TMDL)
PM98-3	Ground Water Protection from Storm Water Runoff
PM98-4	Wood and Mill Yard Debris Policy
PM98-5	Used Tire Policy
PM98-6	Policy Directed to all Staff at DEQ Working with Award of Loans from the Wastewater and Drinking Water Loan Accounts
PM98-7	Policy for DEQ Non-Contested Case Pubic Hearings
GD98-1	Guidance Document for Supplemental Environmental Projects
GD98-2	Guidance Document for Handling of Trade Secret Information
PM99-1	Policy for Handling of Public Records Requests
PM99-2	Groundwater Monitoring Policy for Small Exempt Municipal Landfills
PM99-4	Year 2000 (Y2K) Enforcement Policy
GD99-1	Guidance for Development of Maximum Daily Loads

To obtain a copy of the documents, go to DEQ's web site at www.state.id.us/deq or contact:

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208)373-0418/Fax: (208)373-0481
psaul@deq.state.id.us

DATED this 26th day of October, 1999.

C. Steven Allred, Administrator
Division of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED
DOCKET NO. 16-0305-9903
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 upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-106(l); 56-202(b), Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the September 1, 1999 Administrative Bulletin, Volume 99-9, pages 100 through 104.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5815.

DATED this 5th day of October 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

IDAPA 16
TITLE 03
Chapter 05

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

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 99-9, September 1, 1999, pages 100 through 104.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9911
NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Sections(s) 56-202(b) and 56-203(g), Idaho Code.

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

December 7, 1999, at 7:00 p.m.
Coeur d'Alene Inn, Syringa Room
414 W. Appleway Ave., Coeur d'Alene.

December 8, 1999, at 7:00 p.m.
Little Tree Inn, North Court Yard
888 N. Holmes, Idaho Falls.

December 9, 1999, at 7:00 p.m.
Holiday Inn, Silverhorn Room
3300 S. Vista Avenue, Boise.

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 summary of this action is found in the October 6, 1999 Administrative Bulletin, Volume 99-10, pages 268 through 290.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Mary Lou Forbes at (208) 334-5795.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before December 22, 1999.

DATED this 22nd day of October, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 334-5548 fax

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE
DOCKET NO. 16-0309-9913
NOTICE OF PUBLIC HEARING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Sections(s) 56-202(b) and 56-203(g), Idaho Code.

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

December 7, 1999, at 7:00 p.m.
Coeur d'Alene Inn, Syringa Room
414 W. Appleway Ave., Coeur d'Alene.

December 8, 1999, at 7:00 p.m.
Little Tree Inn, North Court Yard
888 N. Holmes, Idaho Falls.

December 9, 1999, at 7:00 p.m.
Holiday Inn, Silverhorn Room
3300 S. Vista Avenue, Boise.

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 summary of this action is found in the October 6, 1999 Administrative Bulletin, Volume 99-10, pages 291 through 296.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Mary Lou Forbes at (208) 334-5795.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before December 22, 1999.

DATED this 22nd day of October, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 334-5548 fax

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.47 - VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE INTRODUCTION
AND USE OF NEW SELECT MORTALITY FACTORS

DOCKET NO. 18-0147-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5261(2), 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 41-211, 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 January 19, 2000.

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:

To provide tables of select mortality factors and rules for calculating basic reserves concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits and secondary guarantees, which shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the effective date of this Rule.

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:

Protection of the public health, safety, or welfare.

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 need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Robert Murphy, Chief Examiner/Company Activities, at (208) 334-4240.

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 January 26, 2000.

Dated this 20th day of October, 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. 18-0147-9901

IDAPA 18
TITLE 01
Chapter 47

**18.01.47 - VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE INTRODUCTION
AND USE OF NEW SELECT MORTALITY FACTORS**

000. LEGAL AUTHORITY.

The statutory authority for this chapter is Title 67, Chapter 52, Idaho Code, and Idaho Code, Sections 41-211 and 41-612. (1-1-00)T

001. TITLE AND SCOPE.

01. Title. This chapter shall be cited in full as IDAPA 18.01.47, "Valuation of Life Insurance Policies Including the Introduction and Use of New Select Mortality Factors". (1-1-00)T

02. Scope. The purpose of this chapter is to provide: (1-1-00)T

- a. Tables of select mortality factors and rules for their use; (1-1-00)T
- b. Rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and (1-1-00)T
- c. Rules concerning a minimum standard for the valuation of plans with secondary guarantees. (1-1-00)T

03. Method. The method for calculating basic reserves defined in this chapter will constitute the commissioners' reserve valuation method for policies to which this chapter is applicable. (1-1-00)T

04. Applicability. This chapter shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the effective date of this chapter, subject to the following exceptions and conditions. (1-1-00)T

a. Exceptions: (1-1-00)T

i. This chapter shall not apply to any individual life insurance policy issued on or after the effective date of this chapter if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before the effective date of this chapter, that guarantees the premium rates of the new policy. This chapter also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy. (1-1-00)T

ii. This chapter shall not apply to any universal life policy that meets all the following requirements: (1-1-00)T

(1) Secondary guarantee period, if any, is five (5) years or less; (1-1-00)T

(2) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in Subsection 004.06 and the applicable valuation interest rate; and (1-1-00)T

(3) The initial surrender charge is not less than one hundred percent (100%) of the first year annualized specified premium for the secondary guarantee period. (1-1-00)T

iii. This chapter shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts. (1-1-00)T

iv. This chapter shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts. (1-1-00)T

v. This chapter shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one (1) year. (1-1-00)T

b. Conditions: (1-1-00)T

i. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of Section 006. (1-1-00)T

ii. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of Section 007. (1-1-00)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. (1-1-00)T

003. ADMINISTRATIVE APPEALS.

There is no appeal to the Attorney General from application of this chapter. All such appeals must be instituted by written demand for a hearing before the Director of the Department of Insurance, pursuant to Chapter 2, Title 41 and Chapter 52, Title 67, Idaho Code. Further appeal from the Director's decision can be taken to district court, pursuant to Chapter 52, Title 67, Idaho Code. (1-1-00)T

004. DEFINITIONS.

01. Basic Reserves. Reserves calculated in accordance with Section 41-612(5), Idaho Code. (1-1-00)T

02. Contract Segmentation Method. Method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in this chapter, (or any other valuation mortality table adopted by the National Association of Insurance Commissioners (NAIC) after the effective date of this chapter and promulgated by rule by the Director for this purpose), and, if elected, the optional minimum mortality standard for deficiency reserves set forth in Subsection 005.02. The length of a particular contract segment shall be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

- Formulas -

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;
k = the number of years from the date of issue to the beginning of the segment;
t = 1, 2, ...; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed gross premium per thousand of face amount for year t of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$, However, R_t may be increased or decreased by one percent (1%) in any policy year, at the company's option, but R_t shall not be less than one (1);

where:

x, k and t are as defined above, and

$q_{x+k+t-1}$ = valuation mortality rate for deficiency reserves in policy year $k+t$ but using the mortality of Subsection 005.02.b. if Subsection 005.02.c. is elected for deficiency reserves.

However, if GP_{x+k+t} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t shall be deemed to be 0.

(1-1-00)T

03. Deficiency Reserves. Excess, if greater than zero (0), of (1-1-00)T

a. Minimum reserves calculated in accordance with Section 41-612(10), Idaho Code, over (1-1-00)T

b. Basic reserves. (1-1-00)T

04. Guaranteed Gross Premiums. Premiums under a policy of life insurance that are guaranteed and determined at issue. (1-1-00)T

05. Maximum Valuation Interest Rates. Interest rates defined in Section 41-612(4b), Idaho Code (Computation of Minimum Standard by Calendar Year of Issue) that are to be used in determining the minimum standard for the valuation of life insurance policies. (1-1-00)T

06. 1980 CSO Valuation Tables. Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten (10) year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983. (1-1-00)T

07. Scheduled Gross Premium. Smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in Subsection 007.01.c., if any, or else the minimum premium described in Subsection 007.01.d. (1-1-00)T

08. Segmented Reserves. (1-1-00)T

a. Reserves calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals: (1-1-00)T

- i. The present value of the death benefits within the segment, plus (1-1-00)T
 - ii. The present value of any unusual guaranteed cash value (see Subsection 006.04) occurring at the end of the segment, less (1-1-00)T
 - iii. Any unusual guaranteed cash value occurring at the start of the segment, plus (1-1-00)T
 - iv. For the first segment only, the excess of the Item one (1) over Item two (2), as follows: (1-1-00)T
 - (1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. (1-1-00)T
 - (2) A net one (1) year term premium for the benefits provided for in the first policy year. (1-1-00)T
 - b. The length of each segment is determined by the "contract segmentation method", as defined in this chapter. (1-1-00)T
 - c. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy. (1-1-00)T
 - d. For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments. (1-1-00)T
- 09. Tabular Cost Of Insurance.** The net single premium at the beginning of a policy year for one (1) year term insurance in the amount of the guaranteed death benefit in that policy year. (1-1-00)T
- 10. Ten Year Select Factors.** The select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law. (1-1-00)T
- 11. Unitary Reserves.** (1-1-00)T
- a. The present value of all future guaranteed benefits less the present value of all future modified net premiums, where: (1-1-00)T
 - i. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and (1-1-00)T
 - ii. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of Item one (1) over Item two (2), as follows: (1-1-00)T
 - (1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. (1-1-00)T
 - (2) A net one (1) year term premium for the benefits provided for in the first policy year. (1-1-00)T
 - b. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the

mandatory expiration of the policy. (1-1-00)T

12. Universal Life Insurance Policy. Any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy. (1-1-00)T

005. GENERAL CALCULATION REQUIREMENTS FOR BASIC RESERVES AND PREMIUM DEFICIENCY RESERVES.

01. Basic Reserves. At the election of the company for any one (1) or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director for this purpose). If select mortality factors are elected, they may be: (1-1-00)T

a. The ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; (1-1-00)T

b. The select mortality factors in the tables as referenced in Section 009; or (1-1-00)T

c. Any other table of select mortality factors adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director for the purpose of calculating basic reserves. (1-1-00)T

02. Deficiency Reserves. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero (0), of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director). If select mortality factors are elected, they may be one of the following: (1-1-00)T

a. The ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; (1-1-00)T

b. The select mortality factors in the tables as referenced in Section 009; (1-1-00)T

c. For durations in the first segment, X percent of the select mortality factors in the tables as referenced in Section 009, subject to the following: (1-1-00)T

i. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience; (1-1-00)T

ii. X shall not be less than twenty percent (20%); (1-1-00)T

iii. X shall not decrease in any successive policy years; (1-1-00)T

iv. X is such that, when using the valuation interest rate used for basic reserves, Item one (1) is greater than or equal to Item two (2); (1-1-00)T

(1) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X; (1-1-00)T

(2) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date; (1-1-00)T

v. X is such that the mortality rates resulting from the application of X are at least as great as the

anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five (5) years after the valuation date; (1-1-00)T

vi. The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of Subsection 005.02.c.; (1-1-00)T

vii. The appointed actuary may decrease X at any valuation date as long as X does not decrease in any successive policy years and as long as it continues to meet all the requirements of Subsection 005.02.c.; and (1-1-00)T

viii. The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums. (1-1-00)T

ix. If X is less than one hundred percent (100%) at any duration for any policy, the following requirements shall be met: (1-1-00)T

(1) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of the Actuarial and Memorandum Rule, IDAPA 18.01.77, Section 008, "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis"; and (1-1-00)T

(2) The appointed actuary shall annually opine for all policies subject to this chapter as to whether the mortality rates resulting from the application of X meet the requirements of Subsection 005.02.c. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience; or (1-1-00)T

d. Any other table of select mortality factors adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director for the purpose of calculating deficiency reserves. (1-1-00)T

03. Applicability. Subsection 005.03 applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten (10) years, the appropriate ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue. (1-1-00)T

04. Gross Premiums. In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves. (1-1-00)T

05. Changes In Guarantees. Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one (1) year after the date of the change shall be the greatest of the following: (1-1-00)T

a. Reserves calculated ignoring the guarantee; (1-1-00)T

b. Reserves assuming the guarantee was made at issue; and (1-1-00)T

c. Reserves assuming that the policy was issued on the date of the guarantee. (1-1-00)T

06. Reserve Adequacy. The Director may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to the effective date of this chapter. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of the Actuarial and Memorandum Rule, IDAPA 18.01.77, Section 008, "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis". (1-1-00)T

006. CALCULATION OF MINIMUM VALUATION STANDARD FOR POLICIES WITH GUARANTEED NONLEVEL GROSS PREMIUMS OR GUARANTEED NONLEVEL BENEFITS (OTHER THAN UNIVERSAL LIFE POLICIES).

01. Basic Reserves. Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described below may be made: (1-1-00)T

a. Treat the unitary reserve, if greater than zero (0), applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero (0), applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment; or (1-1-00)T

b. Treat the guaranteed cash surrender value, if greater than zero (0), applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero (0), applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment. (1-1-00)T

02. Deficiency Reserves. (1-1-00)T

a. The deficiency reserve at any duration shall be calculated: (1-1-00)T

i. On a unitary basis if the corresponding basic reserve determined by Subsection 006.01 is unitary; (1-1-00)T

ii. On a segmented basis if the corresponding basic reserve determined by Subsection 006.01 is segmented; or (1-1-00)T

iii. On the segmented basis if the corresponding basic reserve determined by Subsection 006.01 is equal to both the segmented reserve and the unitary reserve. (1-1-00)T

b. Subsection 006.02 shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in Subsection 005.02 and rate of interest). (1-1-00)T

c. Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero (0), for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in Subsection 005.02. (1-1-00)T

d. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves. (1-1-00)T

03. Minimum Value. Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the ten (10) year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy. (1-1-00)T

04. Unusual Pattern Of Guaranteed Cash Surrender Values. (1-1-00)T

a. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled. (1-1-00)T

b. The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where: (1-1-00)T

i. n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of: (1-1-00)T

(1) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or (1-1-00)T

(2) The mandatory expiration date of the policy; and (1-1-00)T

ii. The net premium for a given year during the n year period is equal to the product of the net to gross ratio and the respective gross premium; and (1-1-00)T

iii. The net to gross ratio is equal to Item one (1) divided by Item two (2) as follows: (1-1-00)T

(1) The present value, at the beginning of the n year period, of death benefits payable during the n year period plus the present value, at the beginning of the n year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n year period. (1-1-00)T

(2) The present value, at the beginning of the n year period, of the scheduled gross premiums payable during the n year period. (1-1-00)T

c. For purposes of Subsection 006.04, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of: (1-1-00)T

i. One hundred ten percent (110%) of the scheduled gross premium for that year; (1-1-00)T

ii. One hundred ten percent (110%) of one (1) year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and (1-1-00)T

iii. Five percent (5%) of the first policy year surrender charge, if any. (1-1-00)T

05. Optional Exemption For Yearly Renewable Term (YRT) Reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used: (1-1-00)T

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year; (1-1-00)T

b. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection 006.03; (1-1-00)T

c. Deficiency reserves. (1-1-00)T

i. For each policy year, calculate the excess, if greater than zero (0), of the valuation net premium over the respective maximum guaranteed gross premium. (1-1-00)T

ii. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subsection 006.05.c.i.; (1-1-00)T

d. For purposes of Subsection 006.05, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this chapter by the NAIC and promulgated by rule by the Director for this purpose; (1-1-00)T

e. A reinsurance agreement shall be considered YRT reinsurance for purposes of Subsection 006.05 if only the mortality risk is reinsured; and (1-1-00)T

f. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies. (1-1-00)T

06. Optional Exemption For Attained-Age-Based Yearly Renewable Term Life Insurance Policies. At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used: (1-1-00)T

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year. (1-1-00)T

b. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection 006.03. (1-1-00)T

c. Deficiency reserves: (1-1-00)T

i. For each policy year, calculate the excess, if greater than zero (0), of the valuation net premium over the respective maximum guaranteed gross premium. (1-1-00)T

ii. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subsection 006.06.c.i. (1-1-00)T

d. For purposes of Subsection 006.06, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this chapter by the NAIC and promulgated by rule by the Director for this purpose. (1-1-00)T

e. A policy shall be considered an attained-age-based YRT life insurance policy for purposes of Subsection 006.06 if: (1-1-00)T

i. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and (1-1-00)T

ii. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age. (1-1-00)T

f. For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of Subsection 006.06 may be used after the initial period if: (1-1-00)T

i. The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or (1-1-00)T

ii. The initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and (1-1-00)T

iii. After the initial period of coverage, the policy meets the conditions of Subsection 006.06.e.; and

(1-1-00)T

g. If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this chapter. (1-1-00)T

07. Exemption From Unitary Reserves For Certain n -Year Renewable Term Life Insurance Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met: (1-1-00)T

a. The policy consists of a series of n -year periods, including the first period and all renewal periods, where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that this final renewal period is less than ten (10) years and less than twice the size of the earlier n -year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level; (1-1-00)T

b. The guaranteed gross premiums in all n -year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the ten (10) year select mortality factors; and (1-1-00)T

c. There are no cash surrender values in any policy year. (1-1-00)T

08. Exemption From Unitary Reserves For Certain Juvenile Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue: (1-1-00)T

a. At issue, the insured is age twenty-four (24) or younger; (1-1-00)T

b. Until the insured reaches the end of the juvenile period, which shall occur at or before age twenty-five (25), the gross premiums and death benefits are level, and there are no cash surrender values; and (1-1-00)T

c. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy. (1-1-00)T

007. CALCULATION OF MINIMUM VALUATION STANDARD FOR FLEXIBLE PREMIUM AND FIXED PREMIUM UNIVERSAL LIFE INSURANCE POLICIES THAT CONTAIN PROVISIONS RESULTING IN THE ABILITY OF A POLICY OWNER TO KEEP A POLICY IN FORCE OVER A SECONDARY GUARANTEE PERIOD.

01. General. The following general provisions apply. (1-1-00)T

a. Policies with a secondary guarantee include: (1-1-00)T

i. A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums; (1-1-00)T

ii. A policy in which the minimum premium at any duration is less than the corresponding one (1) year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this chapter by the NAIC and promulgated by rule by the Director for this purpose; or (1-1-00)T

iii. A policy with any combination of Subsections 007.01.a.i. and 007.01.a.ii. (1-1-00)T

b. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in Subsections 007.02 and 007.03 below shall be recalculated from issue to reflect these changes. (1-1-00)T

c. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed. (1-1-00)T

d. For purposes of Section 007, the minimum premium for any policy year is the premium that, when paid into a policy with a zero (0) account value at the beginning of the policy year, produces a zero (0) account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue. (1-1-00)T

e. The one (1) year valuation premium means the net one (1) year premium based upon the original schedule of benefits for a given policy year. The one (1) year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in Subsections 005.02.b., 005.02.c., and 005.02.d. may not be used to calculate the one (1) year valuation premiums. (1-1-00)T

f. The one (1) year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund. (1-1-00)T

02. Basic Reserves For the Secondary Guarantees. Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in Subsection 004.02. (1-1-00)T

03. Deficiency Reserves For The Secondary Guarantees. Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in Subsection 006.02 with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force. (1-1-00)T

04. Minimum Reserves. The minimum reserves during the secondary guarantee period are the greater of: (1-1-00)T

a. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or (1-1-00)T

b. The minimum reserves required by other rules or rules governing universal life plans. (1-1-00)T

008. EFFECTIVE DATE. This chapter shall become effective January 1, 2000. (1-1-00)T

009. INCORPORATION BY REFERENCE. The tables of select mortality factors are hereby incorporated by reference into IDAPA 18.01.47, "Valuation of Life Insurance Policies Including the Introduction and Use of the New Select Mortality Factors" that are the bases to which the respective percentage of Subsections 005.01.b., 005.02.b., and 005.02.c. are applied. The tables referenced are located on the Internet (www.doi.state.id.us - select Miscellaneous under the Company Assistance link, see Attachments to IDAPA 18.01.47). (1-1-00)T

01. Types Of Tables. The six (6) tables of select mortality factors incorporated herein by reference include: (1-1-00)T

a. Male aggregate; (1-1-00)T

b. Male nonsmoker; (1-1-00)T

c. Male smoker; (1-1-00)T

- d. Female aggregate; (1-1-00)T
- e. Female nonsmoker; and (1-1-00)T
- f. Female smoker. (1-1-00)T

02. Age Basis. These tables apply to both age last birthday and age nearest birthday mortality tables. (1-1-00)T

03. Computation For Sex-Blended Mortality Tables. For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are eighty percent (80%) of the appropriate male table as referenced in Section 009, plus twenty percent (20%) of the appropriate female table, as referenced in Section 009. (1-1-00)T

010. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.49 - FIRE PROTECTION SPRINKLER CONTRACTORS
DOCKET NO. 18-0149-9901
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 effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 41-211 and 41-254, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 6, 1999 Idaho Administrative Bulletin, Volume 99-1, pages 297 and 298.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending and temporary rule, contact Don McCoy, State Fire Marshal, at (208) 334-4370.

Dated this 19th day of October, 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

IDAPA 18
TITLE 01
Chapter 49

FIRE PROTECTION SPRINKLER CONTRACTORS

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-1, January 6, 1999, pages 297 and 298.

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 18 - DEPARTMENT OF INSURANCE
18.01.54 - MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

DOCKET NO. 18-0154-9901

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code, and the federal social security act (42 U.S.C. Section 1395 et seq.).

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 7, 1999 Idaho Administrative Bulletin, Volume 99-7, page 190.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these proposed rules, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4300.

Dated this 20th day of October, 1999.

Mary L. Hartung, Director
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IDAPA 18
TITLE 01
Chapter 54

MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

This chapter is being repealed in its entirety.

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, page 190.

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 18 - DEPARTMENT OF INSURANCE
18.01.54 - RULE TO IMPLEMENT THE NAIC MEDICARE SUPPLEMENT
INSURANCE MINIMUM STANDARDS MODEL ACT

DOCKET NO. 18-0154-9902

NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is January 1, 1999. 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 41-211 and 41-4409, Idaho Code, and the federal social security act (42 U.S.C., Section 1395 et seq.).

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

Subsection 013.01 is amended to remove the guaranteed issue requirement without regard to age and the requirement that people under age 65 not be charged greater than the 65 year old premium.

Subsection 014.03.a. is amended to include Subsections 014.02.e. and 014.02.g. in the category for which an eligible person is eligible for a Medicare supplement policy with benefit package classified as Plan A, B, C, or F.

The proposed rule has been amended in response to public comment and is being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the former version of the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the proposed rule.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the July 7, 1999 Idaho Administrative Bulletin, Volume 99-7, pages 191 through 218.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these proposed rules, contact Joan Krosch, Health Insurance Coordinator, at (208) 334-4300.

Dated this 19th day of October, 1999.

Mary L. Hartung, Director
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IDAPA 18
TITLE 01
Chapter 54

**RULE TO IMPLEMENT THE NAIC MEDICARE SUPPLEMENT INSURANCE
MINIMUM STANDARDS MODEL ACT**

There are substantive changes from the proposed rule text.

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

**The complete original text of the proposed rule was published in the Idaho Administrative
Bulletin, Volume 99-7, July 7, 1999, pages 191 through 218.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0154-9902

013. OPEN ENROLLMENT.

01. Offer Of Coverage. An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, or discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual is both sixty-five (65) years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available ~~on a guaranteed issue basis to all applicants who qualify under this Subsection 013.01 without regard to age. For the period that a person to whom this section applies is sixty five (65) years of age or less, the premium charged the person by the issuer shall not be greater than the premium charged by the issuer for persons who are sixty five (65) years of age. The same rating structure must be used as stated in Subsection 017.04 of the rule.~~ (1-1-99)T(1-1-99)T

a. If an applicant qualifies under Subsection 013.01 and submits an application during the time period referenced in Subsection 013.01 and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition. (1-1-99)T

b. If the applicant qualifies under Subsection 013.01 and submits an application during the time period referenced in Subsection 013.01 and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary shall specify the manner of the reduction under this Subsection. (1-1-99)T

c. Except as provided Subsection 013.01 shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective. (1-1-99)T

014. GUARANTEED ISSUE FOR ELIGIBLE PERSONS.

01. Guaranteed Issue. (1-1-99)T

a. Eligible persons are those individuals described in Subsection 014.02 who apply to enroll under the policy not later than sixty-three (63) days after the date of the termination of enrollment described in Subsection 014.02, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy. (1-1-99)T

b. With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection 014.03 that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy. (1-1-99)T

02. Eligible Persons. An eligible person is an individual described in any of the following paragraphs: (1-1-99)T

a. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefits plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan; (1-1-99)T

b. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, and any of the following circumstances apply: (1-1-99)T

i. The organization's or plan's certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides; (1-1-99)T

ii. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area; (1-1-99)T

iii. The individual demonstrates, in accordance with guidelines established by the Secretary, that the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or the organization, or agent, or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or the individual meets such other exceptional conditions as the Secretary may provide. (1-1-99)T

c. The individual is enrolled with: (1-1-99)T

i. An eligible organization under a contract under Section 1876 (Medicare risk or cost); (1-1-99)T

ii. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; (1-1-99)T

iii. An organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan); or (1-1-99)T

iv. An organization under a Medicare Select policy; and (1-1-99)T

d. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under Subsection 014.02.b. (1-1-99)T

e. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because: (1-1-99)T

- i. Of the insolvency of the issuer or bankruptcy of the non-issuer organization; or (1-1-99)T
- ii. Of other involuntary termination of coverage or enrollment under the policy; (1-1-99)T
- iii. The issuer of the policy substantially violated a material provision of the policy; or (1-1-99)T
- iv. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual. (1-1-99)T

f. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under Section 1876 (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and (1-1-99)T

g. The subsequent enrollment under Subsection 014.02.f. is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or (1-1-99)T

h. The individual, upon first becoming enrolled in Medicare Part B for benefits at age 65 or older, enrolls in a Medicare+Choice plan under part C of Medicare, and disenrolls from the plan by not later than twelve (12) months after the effective date of enrollment. (1-1-99)T

03. Products To Which Eligible Person Are Entitled. The Medicare supplement policy to which eligible persons are entitled under: (1-1-99)T

a. Subsections 014.02.a. through 014.02.d. ~~and 014.02.g.~~ is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer. ~~(1-1-99)T~~(1-1-99)T

b. Subsection 014.02.f. is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in Subsection 014.03.a. (1-1-99)T

c. Subsection 014.02.h. shall include any Medicare supplement policy offered by any issuer. (1-1-99)T

04. Notification Provisions. (1-1-99)T

a. At the time of an event described in Subsection 014.02 of this section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under Section 014, and of the obligations of issuers of Medicare supplement policies under Subsection 014.01. Such notice shall be communicated contemporaneously with the notification of termination. (1-1-99)T

b. At the time of an event described in Subsection 014.02 of this section because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under Subsection 014.01. Such notice shall be communicated within ten (10) working days of the issuer receiving notification of disenrollment. (1-1-99)T

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.69 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT

DOCKET NO. 18-0169-9901

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 Sections 41-211 and 41-4715, 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.

Subsections 046.04, 046.06, 046.09, 046.10, 046.11, and 075.11 are amended to correct citations.

Unnecessary and repetitive language in new Subsection 046.13 after "employer" on the fourth line is deleted.

The new language in proposed Subsection 075.01 regarding non-mandated plans is removed.

Subsection 075.02 is being left in its original form rather than stricken as was shown in the proposed rule.

Subsection 075.03 is left in its original form rather than stricken as was shown in the proposed rule and is changed slightly to clarify that a small employer carrier shall offer all small group products in writing.

Only the Sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the August 4, 1999 Idaho Administrative Bulletin, Volume No. 99-8, pages 315 through 328.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan A. Krosch at (208) 334-4300.

DATED this 19th day of October, 1999.

Mary L. Hartung, Director
Idaho Department of Insurance
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PO Box 83720
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Telephone No. (208) 334-4250

IDAPA 18
TITLE 01
Chapter 69

RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT

There are substantive changes from the proposed rule text.

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

The complete original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-8, August 4, 1999, pages 315 through 328.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0169-9901

046. REQUIREMENT TO INSURE ENTIRE GROUPS.

01. Offer Of Coverage. A small employer carrier that offers coverage to a small employer shall offer to provide coverage to each eligible employee and to each dependent of an eligible employee. Except as provided in Subsection 046.02, the small employer carrier shall provide the same health benefit plan to each such employee and dependent. (1-25-95)

02. Choice Of Health Benefit Plans. A small employer carrier may offer the employees of a small employer the option of choosing among one or more health benefit plans, provided that each eligible employee may choose any of the offered plans. Except as provided in Section 41-4708(3), Idaho Code, (with respect to exclusions for pre-existing conditions), the choice among benefit plans may not be limited, restricted or conditioned based upon the risk characteristics of the eligible employees or their dependents. (1-25-95)

03. Participation Requirement. The small employer carrier may impose reasonable minimum participation requirements for issuance of coverage to small employers, subject to prior approval from the Director. (1-25-95)

04. Employer Census And Supporting Documentation. A small employer carrier shall require each small employer that applies for coverage, as part of the application process, to prepare or provide an employer census of dependents and eligible employees as defined in Sections 41-4703 (123) and 41-4703(145), Idaho Code. The small employer carrier shall require the small employer to provide appropriate supporting documentation (such as the W-2 Summary Wage and Tax Form) or a certification of information by a Small Employer as to the current census information. (1-25-95)()

05. Waiver For Documentation Of Coverage. A small employer carrier shall secure a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer. The waiver shall be signed by the eligible employee (on behalf of such employee or the dependent of such employee) and shall certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form shall require that the reason for declining coverage be stated on the form and shall include a written warning of the penalties imposed on late enrollees. Waivers shall be maintained by the small employer carrier for a period of six (6) years. (1-25-95)

06. Refusal To Provide Information. A small employer carrier shall not issue coverage to a small employer that refuses to provide the list required under Subsection 046.01 or a waiver required under Subsection 046.054, except for the following: (1-25-95)()

a. The excluded individual has coverage under a health benefit plan or other health benefit

arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan.

(1-25-95)

07. Small Employer Carrier Shall Not Issue Coverage. A small employer carrier shall not issue coverage to a small employer if the carrier, or an agent for such carrier, has reason to believe that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics.

(1-25-95)

08. Agent Notification To Small Employer Carrier. An agent shall notify a small employer carrier, prior to submitting an application for coverage with the carrier on behalf of a small employer, of any circumstances that would indicate that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics.

(1-25-95)

09. New Entrants. New entrants to a small employer group shall be offered an opportunity to enroll in the health benefit plan currently held by such group based upon the provisions of Section 41-4708(3)(b), Idaho Code. A new entrant that does not exercise the opportunity to enroll in the health benefit plan within the period provided by the small employer carrier may be treated as a late enrollee by the carrier, provided that the period provided to enroll in the health benefit plan extends at least thirty (30) days after the date the new entrant is notified of his or her opportunity to enroll. The period of continuous coverage shall not include any waiting period for the effective date of the new coverage applied by the employer or the carrier to all new enrollees under the Employee Benefit Plan. If a small employer carrier has offered more than one health benefit plan to a small employer group pursuant to Subsection 046.02, the new entrant shall be offered the same choice of health benefit plans as the other members of the group.

(1-25-95)(____)

10. Small Employer Carrier Shall Not Apply Waiting Period Or Similar Limitation. A small employer carrier shall not apply a waiting period, elimination period or other similar limitation of coverage (other than an exclusion for pre-existing medical conditions consistent with Section 41-4708(3)(b), Idaho Code. This provision does not preclude application of any waiting periods applicable to all new enrollees under the health benefit plan.

(1-25-95)(____)

11. No Restrictions Or Limitations On Coverage Related To Risk Characteristics. New entrants to a group shall be accepted for coverage by the small employer carrier without any restrictions or limitations on coverage related to the risk characteristics of the employees or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-4708(3), Idaho Code.

(1-25-95)

12. Risk Load. A small employer carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-4706, Idaho Code. The risk load shall be the same risk load charged to the small employer group immediately prior to acceptance of the new entrant into the group.

(1-25-95)

~~**13. Open Enrollment.** In the case of an eligible employee (or dependent of an eligible employee) who, prior to the effective date of Section 41-4708, Idaho Code, was excluded from coverage or denied coverage by a small employer carrier in the process of providing a health benefit plan to an eligible small employer (as defined in Section 41-4708(1)(c), Idaho Code, the small employer carrier shall provide an opportunity for the eligible employee (or dependent of such eligible employee) to enroll in the health benefit plan currently held by the small employer.~~

(1-25-95)

~~**14. Statement That Coverage Was Not Offered.** A small employer carrier may require an individual who requests enrollment under this subsection to sign a statement indicating that such individual sought coverage under the group contract (other than as a late enrollee) and that the coverage was not offered to the individual.~~

(1-25-95)

15. Opportunity To Enroll. The opportunity to enroll shall meet the following requirements:

(1-25-95)

a. The opportunity to enroll shall begin October 1st, 1994 and shall last for a period of at least thirty

~~(30) days. (1-25-95)~~

~~b. Eligible employees and dependents of eligible employees who are provided an opportunity to enroll pursuant to this subsection shall be treated as new entrants. Premium rates related to such individuals shall be set in accordance with Subsection 046.15.e. (1-25-95)~~

~~e. The terms of coverage offered to an individual described in Subsection 046.13 may exclude or limit, coverage for pre-existing medical conditions if the health benefit plan currently held by the small employer contains such an exclusion or limitation, provided that the exclusion or limitation shall be reduced by the number of days between the date the individual was excluded or denied or limited coverage and the date coverage is provided to the individual pursuant to this subsection. (1-25-95)~~

~~d. A small employer carrier shall provide written notice at least forty five (45) days prior to the opportunity to enroll provided in Subsection 046.13 to each small employer insured under a health benefit plan offered by such carrier. The notice shall clearly describe the rights granted under this subsection to employees and dependents who were previously excluded from or allowed through a rider or limited benefits or denied coverage and the process for enrollment of such individuals in the employer's health benefit plan. (1-25-95)~~

163. Rescission Employer Misstatements. (1-25-95)

~~a. When material application misstatements are found, rescission action by the carrier shall be taken at the carrier's option against the coverage of an entire small employer (including employees and dependents) and shall be limited to circumstances under which the application misstatements have been made by the small employer. When rescission action is taken, per Section 41-4707(1)(b), Idaho Code, premiums must be refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier shall seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage shall be considered null and void. (1-25-95)(____)~~

~~b. Employer Misstatements — Rescissions taken against the coverage of an entire small employer (including employees and dependents) shall be limited to circumstances under which the application misstatements have been made by the small employer in his or her capacity as an employer. (1-25-95)~~

(BREAK IN CONTINUITY OF SECTIONS)

075. RULES RELATED TO FAIR MARKETING.

01. Small Employer Carrier Shall Actively Market. A small employer carrier shall actively market each of its health benefit plans to small employers in this state. A small employer 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, Or Catastrophic Plans. In marketing the basic, standard, or catastrophic health benefit plans to small employers, a small employer carrier shall use at least the same sources and methods of distribution that it uses to market other health benefit plans to small employers. Any producer authorized by a small employer carrier to market health benefit plans to small employers in the state shall also be authorized to market the basic, standard, or catastrophic health benefit plans. (7-1-98)

03. Offer Must Be In Writing. A small employer carrier shall offer ~~at least the basic, standard, or catastrophic~~ all small group health benefit plans to any small employer that applies for or makes an inquiry regarding health insurance coverage from the small employer 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 all actively marketed, including but not limited to the mandated, the basic, standard, or catastrophic health benefit plans and any other health benefit plans being offered~~

~~to the small employer, and~~ (7-1-98)()

b. Information describing how the small employer may enroll in the plans. The offer may be provided directly to the small employer or delivered through a producer. (1-25-95)

04. Timeliness Of Price Quote. A small employer carrier shall provide a price quote to a small employer (directly or through an authorized producer) within ten (10) working days of receiving a request for a quote and such information as is necessary to provide the quote. A small employer carrier shall notify a small employer (directly or through an authorized producer) within five (5) working days of receiving a request for a price quote of any additional information needed by the small employer carrier to provide the quote. (1-25-95)

~~**05. Restrictions As To Application Process.** A small employer carrier may not apply more stringent or detailed requirements related to the application process for the basic, standard, or catastrophic health benefit plans than are applied for other health benefit plans offered by the carrier. (7-1-98)~~

~~**06. Denial Of Coverage.** If a small employer carrier denies coverage under a health benefit plan to a small employer on the basis of a risk characteristic, the denial shall be in writing and shall be maintained in the small employer carrier's office. This written denial shall state with specificity the risk characteristic(s) of the small employer group that made it ineligible for the health benefit plan it requested (for example, health status, industry, group size, etc.). The denial shall be accompanied by a written explanation of the availability of the basic, standard, or catastrophic health benefit plans from the small employer carrier. The explanation shall include at least the following: (7-1-98)~~

~~a. A general description of the benefits contained in each such plan; (1-25-95)~~

~~b. A price quote for each such plan; and (1-25-95)~~

~~e. Information describing how the small employer may enroll in such plans. The written information described in this paragraph may be provided within the time periods provided in Subsection 075.04 directly to the small employer or delivered through an authorized producer. (1-25-95)~~

~~**07. Lowest Priced Basic, Standard, Or Catastrophic Plan.** The price quote required under Subsection 075.06.b. shall be for the lowest priced basic, standard, or catastrophic health benefit plan for which the small employer is eligible. (7-1-98)~~

085. Toll-Free Telephone Service. A small employer carrier shall establish and maintain a toll-free telephone service to provide information to small employers regarding the availability of small employer 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. (1-25-95)

096. Restrictions As To Contribution To Association. The small group carrier shall not require a small employer to join or contribute to any association or group as a condition of being accepted for coverage by the small employer carrier, except that, if membership in an association or other group is a requirement for accepting a small employer into a particular health benefit plan, a small employer carrier may apply such requirement, subject to the requirements of Section 41-4708(1)(b)(ii), Idaho Code. (1-25-95)

407. No Requirement To Qualify For Other Insurance Product. A small employer carrier may not require, as a condition to the offer of sale of a health benefit plan to a small employer, that the small employer purchase or qualify for any other insurance product or service. (1-25-95)

~~**408. Plans Subject To Requirement Of The Act And This Rule.** Carriers offering individual and group 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: (1-25-95)()~~

~~a. Whether or not any portion of the premium will be paid by or on behalf of a small employer, either directly or through wage adjustments or other means of reimbursement; and (1-25-95)~~

~~b. Whether or not the prospective policyholder, certificate holder or any prospective insured individual intends to treat the health benefit plans as part of plan or program under Section 162 (other than Section 162(1)), Section 125 or Section 106, Internal Revenue Code. (1-25-95)~~

~~**12. Failure To Comply.** If a small employer carrier fails to comply with Subsection 075.11, the small employer carrier shall be deemed to be on notice of any information that could reasonably have been attained if the small employer carrier had complied with Subsection 075.11. (1-25-95)~~

130. Annual Filing Requirement. A small employer carrier shall file annually the following information with the Director related to health benefit plans issued by the small employer carrier to small employers in this state on forms prescribed by the Director: (1-25-95)

a. The number of small employers that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (1-25-95)

b. The number of small employers that were covered under the basic, standard, or catastrophic health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). (7-1-98)

c. The number of small employer health benefit plans in force in each county (or by five digit zip code) of the state as of December 31 of the previous calendar year; (1-25-95)

d. The number of small employer health benefit plans that were voluntarily not renewed by small employers in the previous calendar year; (1-25-95)

e. The number of small employer 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 (1-25-95)

f. The number of health benefit plans that were issued to residents that were uninsured for at least sixty-three (63) days prior to issue. (7-1-98)

140. 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. (1-25-95)

151. Filing Date. The information described in Subsections 075.1309 and 075.140 shall be filed no later than March 15, each year. (1-25-95)()

162. 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. (1-25-95)

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

DOCKET NO. 18-0170-9801

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 effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Sections 41-211 and 41-4715, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 4, 1998 Idaho Administrative Bulletin, Volume 98-11, pages 128 and 129.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan A. Krosch at (208) 334-4300.

DATED this 19th day of October, 1999.

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

IDAPA 18
TITLE 01
Chapter 70

RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH INSURANCE
AVAILABILITY ACT PLAN DESIGN

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative
Bulletin, Volume 99-11, November 4, 1999, pages 128 and 129.

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 22 - BOARD OF MEDICINE

**22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE
AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY IN IDAHO**

DOCKET NO. 22-0101-9901

NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 54-1806(2) (11) and Section 54-1806A, Idaho Code.

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

At the September 11, 1999 Board of Medicine meeting following the Board's review and consideration of the written comments that were received on the proposed rules requiring continuing medical education for physicians, action was taken to withdraw the proposed rules. The Board will seek additional feedback prior to the resubmission of proposed rules requiring continuing medical education.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation, contact Darleene Thorsted, Executive Director at 334-2822.

DATED this nineteenth day of October 1999

Darleene Thorsted
Executive Director
Board of Medicine
280 North 8th Street
PO Box 83720
Boise, ID 83720-0058
208-334-2822, fax: 208-3342801

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD
25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-9901

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 upon adjournment of the legislature or July 1, 2000, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a 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 36-2107(b) and (d), Idaho Code.

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

The changes to the proposed rule protect the health, safety, and welfare of the outfitted public and provides the benefit of an outfitting opportunity to two (2) licensed outfitters on a section of the Boise River from the west or downstream side of Garden City municipal limits to the east or upstream side of the Caldwell municipal limits.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 7, 1999, Idaho Administrative Bulletin, Volume 99-7, pages 220 through 227.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact: Dean Sangrey, Executive Director, (208) 327-7380 - FAX 327-7382.

DATED this 7th day of October, 1999.

Dean Sangrey, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380 - FAX (208) 327-7382

IDAPA 25
TITLE 01
Chapter 01

RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 219 through 226.

**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 25 - OUTFITTERS AND GUIDES LICENSING BOARD
25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-9902

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. A pending rule becomes final and effective upon adjournment of the legislature OR July 1, 2000, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a 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 36-2107(b) and (d), Idaho Code.

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

The changes to Section 041 are necessary to provide for a float lead boatman to qualify for a specific reach of a section of a river only, which the current rule does not allow. The changes are also necessary to extend the time the boatman must float the river applied for because the current requirement is too restrictive and should be expanded. The changes in Section 059 are necessary in order to provide an outfitting opportunity to two (2) licensed outfitters on the previously unlicensed section of the Boise River from the west or downstream side of the Garden City municipal limits to the east or upstream side of the Caldwell municipal limits. The change in section SA4B of this rule is necessary in order to reflect past and current Board policy and the current number of licensed outfitters on this section. Section 065 is necessary in order to put current Board policy regarding license amendments into a rule form which will give the force and effect of law.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 1, 1999 Idaho Administrative Bulletin, Volume 99-9, pages 142 through 150.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact: Dean Sangrey, Executive Director, (208) 327-7380 - FAX 327-7382.

DATED this 7th day of October, 1999.

Dean Sangrey, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380 - FAX (208) 327-7382

IDAPA 25
TITLE 01
Chapter 01

RULES GOVERNING OUTFITTERS AND GUIDES LICENSING BOARD

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-9, September 1, 1999, pages 142 through 150.

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 31 - PUBLIC UTILITIES COMMISSION

31.71.01 - RAILROAD CLEARANCE RULES

DOCKET NO. 31-7101-9901

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 67-5230, 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.

To lower the minimum vertical clearance required over railroad tracks from 23 feet 6 inches to “the vertical clearance required by the owner of the railroad tracks or 22 feet 6 inches (22’ 6”), whichever is greater”.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 4, 1999 Idaho Administrative Bulletin, Volume 99-8, pages 341 and 342.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weldon B. Stutzman, Deputy Attorney General, (208) 334-0318.

DATED this 18th day of October 1999.

Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720
Boise, ID 83720-0074
Tele: (208) 334-0338
FAX: (208) 334-3762

**IDAPA 31
TITLE 71
Chapter 01**

RAILROAD CLEARANCE RULES

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 99-8, August 4, 1999, pages 341 and 342.**

**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 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-9901
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 upon adjournment 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(s) 63-105 and 63-3039, Idaho Code.

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

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

Proposed Income Tax Rule 107.01.a.iii. is being amended to correct a Rule cite. Rule 262 has been corrected to read Rule 270.

Section 280 is being amended to add the text "Section 63-3027, Idaho Code". Because the amendment is clerical in nature and nonsubstantive, Section 280 will not be republished in this docket.

Proposed Income Tax Rule 645.04 has been amended by adding a sentence to further clarify the meaning of FSC income before taxes. Rule 645.04 has also been broken into two smaller Subsections, Rule 645.04.a. and 645.04.b.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 99-9, pages 173 through 195.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 20th day of October, 1999.

Janice Boyd, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530 FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 01

INCOME TAX ADMINISTRATIVE RULES

There are substantive changes from the proposed rule text.

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

The complete original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-9, September 1, 1999, pages 173 through 195.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-9901

107. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF CORPORATIONS AND PARTNERSHIPS (Rule 107).

Section 63-3022, Idaho Code.

(3-20-97)

01. Income Of ~~Nonresident~~ Individual Officers, Directors, Shareholders, Partners, Or Members.

As provided in Section 63-3022~~(h)~~L, Idaho Code, a C corporation with fifty percent (50%) or more of its income taxable to Idaho, an S corporation, or a partnership may be required to include in its Idaho taxable income the amounts in Subsections 107.01.a. and 107.01.b. ~~(3-20-97)()~~

a. Compensation Reportable to Idaho. (3-20-97)

i. Corporations. A corporation described in Subsection 107.01 may be required to add the Idaho compensation paid by the corporation to an ~~nonresident~~ individual officer, director, shareholder, or member. ~~(3-20-97)()~~

ii. Partnerships. A partnership may be required to add the Idaho compensation paid by the partnership to an ~~nonresident~~ individual partner or member. ~~(3-20-97)()~~

iii. Idaho compensation for a part-year resident or nonresident is determined pursuant to Rule ~~26270~~ of these rules. ~~(3-20-97)()~~

b. Pass-Through Items Reportable to Idaho. (3-20-97)

i. S Corporations. An S corporation may be required to add the pass-through items reportable as Idaho source income by an ~~nonresident~~ individual shareholder. ~~(3-20-97)()~~

ii. Partnerships. A partnership may be required to add the pass-through items reportable as Idaho source income by an ~~nonresident~~ individual partner or member. ~~(3-20-97)()~~

02. Capital Loss. As provided in Section 63-3022~~(k)~~j, Idaho Code, S corporations and partnerships are required to add a capital loss provided for in Section 1212, Internal Revenue Code, when paying the tax for ~~nonresident~~ individual shareholders and partners. ~~(3-20-97)()~~

(BREAK IN CONTINUITY OF SECTIONS)

645. WATER'S EDGE -- TREATMENT OF DIVIDENDS (Rule 645).

Section 63-3027C, Idaho Code.

(3-20-97)

01. Dividends Received From Payors Incorporated Outside The United States. Dividends received from payors who are incorporated outside the fifty (50) states and District of Columbia but are not included in the combined report are treated as business income. These dividends are treated as business income of the water's edge combined group even if paid from earnings included in the taxpayer's combined report in prior years. (3-20-97)

02. Dividends Received From Payors Incorporated In The United States. Dividends received from payors who are incorporated within the fifty (50) states and District of Columbia but not included in the combined return are presumed to be business income of the water's edge combined group. (3-20-97)

03. Deemed Dividends From Possession Corporations. The income of a possession corporation, excluded in Section 63-3027B(~~ac~~), Idaho Code, shall be included in business income as a deemed dividend received from a payor incorporated outside the fifty (50) states and District of Columbia. The income of a possession corporation means taxable income greater than zero (0). Losses from possession corporations may not offset income of other possession corporations in determining the amount of deemed dividends. (~~3-20-97~~)()

04. Dividends From Foreign Sales Corporations. ()

a. As provided in Section 63-3027C(d)(1), Idaho Code, dividends received from a Foreign Sales Corporation (FSC) shall be eliminated in the proportion that FSC federal taxable income for the year during which the dividend was paid bears to the total FSC income before taxes for that year. For purposes of computing the dividend elimination, total FSC income before taxes means book income before the deduction of federal income taxes. ()

b. For example, a FSC paid one million dollars (\$1,000,000) in dividends during the taxable year. For that same taxable year, the FSC had federal taxable income totaling ten million dollars (\$10,000,000) and total FSC income before taxes of twenty million dollars (\$20,000,000). The dividends eliminated would be five hundred thousand dollars (\$500,000) computed as follows: ((\$10,000,000 federal taxable income / \$20,000,000 total FSC income before taxes) X \$1,000,000 FSC dividend paid = \$500,000 dividend elimination). ()

045. Interest Expense Offset. The interest expense offset provided in Section 63-3022(~~am~~)M, Idaho Code, does not apply to any dividends subject to the eighty-five percent (85%) or eighty percent (80%) exclusion provided in Section 63-3027C or 63-3027E, Idaho Code. (~~3-20-97~~)()

IDAPA 35 - STATE TAX COMMISSION
35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0102-9902
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 upon adjournment or the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-9, pages 196 through 220.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Husted, (208) 334-7530.

DATED this 20th day of October, 1999.

Jim Husted, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36, Boise, ID 83722
(208) 334-7530, FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 02

IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho
Administrative Bulletin, Volume 99-9, September 1, 1999,
pages 196 through 220.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9901
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 upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, June 2, 1999, Volume 99-6, pages 260 and 261.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest, at (208) 334-7530.

DATED this 20th day of October, 1999.

Alan Dornfest, Tax Policy Supervisor
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530, FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho
Administrative Bulletin, Volume 99-6, June 2, 1999,
pages 260 and 261.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9902
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 upon adjournment of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, September 1, 1999, Volume 99-9, pages 221 through 241.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7530.

DATED this 20th day of October, 1999.

Alan Dornfest, Tax Policy Supervisor
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36, Boise, ID 83722
(208) 334-7530, FAX (208) 334-7844

IDAPA 13
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho
Administrative Bulletin, Volume 99-9, September 1, 1999,
pages 221 through 241.**

**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 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-9903
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 upon adjournment 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(s) 63-105A, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, September 1, 1999, Volume 99-9, pages 242 through 255.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7530.

DATED this 20th day of October, 1999.

Alan Dornfest, Tax Policy Supervisor
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36, Boise, ID 83722
(208) 334-7530, FAX (208) 334-7844

IDAPA 13
TITLE 01
Chapter 03

PROPERTY TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho
Administrative Bulletin, Volume 99-9, September 1, 1999,
pages 242 through 255.**

**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 35 - STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-9901
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 upon adjournment of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

Proposed Motor Fuels Subsection 292.05.c.iii. is being amended to change the methodology by which the number of gallons of fuel delivered into the fuel tank of a vehicle may be reduced based on the concrete allowance.

The proposed rules have been amended in response to public comment. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 99-9, pages 256 through 266.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randy Nilson, (208) 334-7530.

DATED this 20th day of October, 1999.

Randy Nilson, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36, Boise, ID 83722
(208) 334-7530, FAX (208) 334-7844

IDAPA 35
TITLE 01
Chapter 05

MOTOR FUELS TAX ADMINISTRATIVE RULES

There are substantive changes from the proposed rule text.

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

The complete original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-9, September 1, 1999, pages 256 through 266.

This rule has been adopted as Final by the Agency and is now pending review by the 2000 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-9901

292. CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES. (RULE 292).

01. Fuel Records Required For Refund Claims. Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power-take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules. ()

02. Nontaxable Miles Defined. Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 130 of these rules regarding application of Idaho Sales and Use Taxes. ()

03. Additional Nontaxable Roadways. Roadways defined in Section 63-2401, Idaho Code, include those constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. If the special fuels user is not using the "standard MPG" for its industry found in Subsection 290.02, the special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision. Special fuels users may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways when computing their special fuels tax liability or refund if: ()

a. The cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway; and ()

b. They operate motor vehicles that weigh over twenty-six thousand (26,000) pounds maximum gross weight on that roadway. ()

04. Calculation. Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the statutory MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. ()

05. Power-Take-Off And Auxiliary Engine Allowances (Allowances). Power take-off (PTO) allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline powered vehicles. ()

a. Standard Allowances For Special Fuels. Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate or propel a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle-mounted cement mixer or off-loading product. ()

b. Standard Allowances For Gasoline. Nontaxable gallons of gasoline may be claimed when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the motor vehicle. No claim for gasoline is allowed when gasoline is used by the motor vehicle's main engine even to operate the motor vehicle's PTO unit. ()

c. Rates For Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances: ()

i. Gasoline/fuel oil: one point five (1.5) gallons per ten thousand (10,000) gallons pumped; ()

- ii. Bulk cement: four (4) gallons per twenty-two point five (22.5) tons pumped; ()
- iii. Concrete: thirty percent (30%) of total fuel consumed; ()
- iv. Refrigeration Unit (Reefer): point seventy-five (.75) gallons per hour; ()
- v. Tree length timber: .0503 gallon/ton; 19.88 tons/gallon; 3.46 gallons/hour; ()
- vi. Garbage Compaction: twenty-five percent (25%) of total fuel consumed; ()
- vii. Carpet Cleaning: point seventy-five (.75) gallons/hour. ()

06. Non- Standard Allowances. A request for an allowance not listed in Subsection 292.05 or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. Taxpayers must send requests for approval to:

FUELS TAX POLICY
IDAHO STATE TAX COMMISSION
P. O. BOX 36
BOISE, ID 83722-0036

The Idaho State Tax Commission may request additional information or documentation as needed in order to make a determination on the request. ()

07. Nontaxable Gallons of Fuel Claimed By Non-IFTA Licensees. The nontaxable gallons of fuel claimed by non-IFTA licensees may be the allowance gallons listed in Subsections 292.05 and 292.06 and/or the gallons calculated under Subsection 292.04. Only actual MPGs, computed by adjusting total fuel as defined in Subsection 292.01 by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to mileage and fuel consumption (MPG) information. ()

08. IFTA Licensees Qualifying For Power Take-Off (PTO) And Auxiliary Engine Allowances (Allowances). Allowances listed in Subsection 292.05 or established as provided in Subsection 292.06 may be granted for IFTA licensees by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet. ()

a. The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, recompute the fleet miles per gallon. Apply the new fleet miles per gallon to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. ()

b. Additionally, a copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how allowance was calculated must be included as an attachment to the Form 75. All refund claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. ()

c. IFTA licensees that used an assumed MPG when preparing their original IFTA return may not claim any additional refund. ()

IDAPA 35 - STATE TAX COMMISSION
35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES
DOCKET NO. 35-0201-9901
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 upon adjournment of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, September 1, 1999, Volume 99-9, pages 267 through 271.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Janice Boyd, (208) 334-7530.

DATED this 20th day of October, 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

IDAPA 35
TITLE 02
Chapter 01

ADMINISTRATION AND ENFORCEMENT RULES

There are no substantive changes from the proposed rule text.

**The original text of the proposed rule was published in the Idaho
Administrative Bulletin, Volume 99-9, September 1, 1999,
pages 267 through 271.**

**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 - IDAHO TRANSPORTATION DEPARTMENT
39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES
DOCKET NO. 39-0341-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective October 1, 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(s) 40-313, 49-201(3), and 67-5203A, 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 December 15, 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 rulemaking adopts recent revisions to the "Manual on Uniform Traffic Control Devices for Streets and Highways" published by the Federal Highway Administration of the U.S. Department of Transportation and incorporated by reference in this rule.

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:

Timely compliance with revisions to published federal guidelines.

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

No fees or charges are involved.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rulemaking is being promulgated to comply with Federal guidelines in the above-noted publication.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Holland, 334-8565.

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 December 22, 1999.

DATED this 20th day of October, 1999

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0341-9901

001. TITLE AND SCOPE.

The "Manual on Uniform Traffic Control Devices for Streets and Highways" is published by the Federal Highway Administration of the U.S. Department of Transportation. The 1988 edition of the Manual and amendment, revision number three (3) dated January 10, 1994, are hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following exceptions to the Manual are adopted by the Idaho Transportation Board: (10-1-94)

01. Title. This rule shall be known as IDAPA 39.03.41, "Rules Governing Traffic Control Devices." IDAPA 39, Title 03, Chapter 41. (10-1-99)T

02. Scope. It is the purpose of this rule to establish guidelines for the design, construction and implementation of traffic control devices. (10-1-99)T

002.--099. (RESERVED) WRITTEN INTERPRETATIONS.
This chapter does not provide for written interpretations. (10-1-99)T

003. ADMINISTRATIVE APPEALS.
This chapter does not provide for administrative appeals. (10-1-99)T

004. INCORPORATION BY REFERENCE.
The "Manual on Uniform Traffic Control Devices for Streets and Highways" is published by the Federal Highway Administration of the U.S. Department of Transportation. The 1988 edition of the Manual and all subsequent amendments, through and including revision number six (6) dated June 19, 1998, are hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following exceptions to the Manual are adopted by the Idaho Transportation Board: (10-1-99)T

01. Section 2A-23, Height. In the second paragraph revise the fourth sentence as follows: All route markers and warning and regulatory signs on expressways shall be at least six (6) feet above the level of the pavement edge, except "Wrong Way" and "Do not Enter" signs on interchange ramps which shall be at least four (4) feet above the level of the pavement edge. (5-16-90)

02. Section 2F-16, Vertical Clearance. In the second paragraph revise the second sentence as follows: Notwithstanding the above, all regulatory and warning signs and route markers shall be at least six (6) feet above the level of the pavement edge, except "Wrong Way" and "Do Not Enter" signs on interchange ramps which shall be at least four (4) feet above the level of the pavement edge. (5-16-90)

03. Section 3B-1, Center Lines. In the next to last paragraph change item one (1) to: In rural districts on two (2) lane pavements twenty (20) feet or more in width and five hundred (500) ADT or more with prevailing speeds of greater than thirty-five (35) MPH. (5-16-90)

04. Section 4B-5, Meaning Of Signal Indications. In paragraph 3C, substitute the following for the first sentence: Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one (1) way or two (2) way street into a one (1) way street, after stopping as required by Subsections 001.01 and 001.02 above. (5-16-90)

05. Section 7D-5, Meaning Of Signal Indications. On page 7D-3, under the heading, The Steady Circular Red or Red Arrow, shall have the following meanings: In paragraph three (3), substitute the following for the first sentence: Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one (1) way or two (2) way street into a one (1) way street, after stopping as required by Subsections 001.01 and 001.02 above. (10-1-94)

06. Section 6F-6b, Interim Markings. Delete the first sentence under Item 1 and substitute the

following two (2) sentences in its place: For federal-aid funded projects, all short term broken line pavement markings shall use the same cycle length as permanent markings and be at least four (4) feet long, except that, half cycle lengths with a minimum of two (2) foot stripes may be used for roadways with severe curvature. For state funded construction and maintenance work, all short term broken line pavement markings shall use the same cycle length as permanent markings and be at least one (1) foot long, except that, half cycle lengths with one (1) foot stripes may be used for roadways with severe curvature. (10-1-94)

07. Section 8B-9, Stop Signs At Grade Crossings (R1-1, W3-1). Delete the first two (2) paragraphs and substitute the following: Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence. (12-26-90)

005. -- 099. (RESERVED).

100. AVAILABILITY OF MANUAL.

01. Review Of Manual. Persons wishing to review the Manual and subsequent amendments, through and including revision number ~~three six (36)~~ three six (36), may do so at the Department's Headquarters in Boise or at a District Office of the Department in Boise, Coeur d'Alene, Lewiston, Pocatello, Rigby, or Shoshone. The Manual and subsequent amendments are also available for review at the Idaho State Library. (~~10-1-94~~)(10-1-99)T

02. Purchase Of Manual. Copies of the 1988 edition of the Manual and all subsequent amendments may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402. (~~5-16-90~~)(10-1-99)T

IDAPA 50 - COMMISSION OF PARDONS AND PAROLE
50.01.01 - RULES OF THE COMMISSION OF PARDONS AND PAROLE
DOCKET NO. 50-0101-9903
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 23, 1999.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, And Section 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 proposed action is authorized pursuant to Section 20-223, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearings will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 15, 1999.

Any hearing site will be accessible to the physically handicapped. Interpreters for persons with hearing impairments and Braille or taped information for persons with visual impairments can be provided upon five days notice. For arrangements, contact the undersigned at (208) 334-2520.

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

Agency rules 50.01.01.100.01.a., 04.a., 04.b.ii., 08.c. have been revised to provide the ability for a designee of the executive director to sign minutes of hearings; to remove references to the commission being under the authority of the board of correction.

Agency rules 50.01.01.150.01, 02 have been modified regarding the commission moving from the authority of the board of correction to the authority of the governor, and the length of commissioner appointments.

Agency rules 50.01.01.200.01, 02, 03, 08.b., 10 have been revised regarding the location of hearings, interview of the inmate, commission parole decision given verbally and may or may not be sent to the inmate in writing, and the hearing summary minutes are not public record until signed.

Agency rules 50.01.01.250.02.b.ii., 02.c., 05.d.iii., 06.e., and 09.c. have been revised regarding the commission use of sentence calculation information provided by the Department of Correction, the forfeiture of time on parole, unsupervised parole and early discharge from parole.

Agency rule 50.01.01.300.01.d. has been revised to remove excess language in the rule.

Agency rules 50.01.01.350.01.a., 01.c., 01.d. have been revised regarding parole plan forms, educational program participation given consideration. Agency rule 50.01.01.350.02 has been written regarding interstate parole applicants may be required to post a bond prior to acceptance.

Agency rules 50.01.01.400.06.g., 06.g.i. have been revised to provide the decision may be made during deliberation in a commission hearing or an absentia hearing.

Agency rules 50.01.01.450.01, 01.c.iii., 02.d., 02.d.i., 05.c., 05.c.ii. have been revised regarding commutation of sentence to include the ability of the commission to consider petitions from other than inmates of the Dept. of Correction, and confidential information.

Agency rules 50.01.01.500.01.e., 01.f. have been revised regarding self-initiated progress report petitions may be submitted to the commission for consideration at any time.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code, and are necessary to comply with the law Section 20-210 and Section 20-223(a), Idaho Code, to confer a benefit to prison inmates, to confer a benefit to victims who participate in the parole process, and to confer a benefit to prison inmates and others seeking clemency by commutation of sentence.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed and temporary rule, contact Barbara McIntosh, Commission of Pardons and Parole, P.O. Box 83720, Boise, ID 83720, 208-334-2520.

Anyone can submit written comment regarding the proposed rule. All written comments and data concerning the proposed rule must be directed to the undersigned and must be postmarked or delivered on or before December 22, 1999.

Dated this 8th day of September 1999.

Olivia Craven, Executive Director
Commission of Pardons and Parole
P.O. Box 83720
Boise, ID 83720
208-334-2520

THE FOLLOWING IS THE TEXT OF DOCKET NO. 50-0101-9903

100. GENERAL PROVISIONS.

The rules contained herein govern practice and procedure of the Idaho Commission of Pardons and Parole, hereafter referred to as the commission. The commission reserves the right to deviate from established rules whenever special circumstances warrant, and to act, at its discretion, in circumstances not specifically outlined but within confines established by the constitution and statutes. (3-23-98)

01. Hearings. All hearings of the commission shall be conducted in accordance with the open meeting law as provided in Chapter 23, Title 67 Idaho Code and as modified by Section 20-213A, Idaho Code. (3-23-98)

a. Deliberations concerning the granting, revoking, reinstating or refusing of paroles, or related decisions, to include commutations and pardons, may be made in executive session. ~~(3-23-98)~~(7-23-99)T

b. Votes of individual members will not be made public. (3-23-98)

i. A written record of the vote by each commission member shall be kept confidential and privileged from disclosure, provided the record shall be made available upon request, for all lawful purposes as outlined by Section 20-213A. (3-23-98)

ii. Distribution of the record by a commissioner or an employee of the commission to any person not specifically listed in this section shall be a misdemeanor. (3-23-98)

c. Any person can obtain the results of any action taken by the commission without reference to the manner in which any individual member voted, and such information shall be public information. (3-23-98)

02. Hearing Sessions. The commission may schedule regular monthly hearings but will meet at least quarterly. (3-23-98)

a. The executive director will schedule hearing sessions. (3-23-98)

b. The executive director may designate one (1) of the members of the commission as the presiding officer to conduct individual hearings or a hearing session. (3-23-98)

03. Business Meetings. The commission shall conduct a business meeting at least quarterly or at the call of the executive director and notice of such meetings will comply with the open meeting law requirements. (3-23-98)

04. Record Of Hearings And Meetings. (3-23-98)

a. Summary minutes of individual hearings and case reviews will be maintained in the commission office and will be approved and signed by the executive director, ~~or a commissioner, or designee of the executive director.~~ (3-23-98)(7-23-99)T

b. Summary minutes of business meetings will be maintained in the commission office. (3-23-98)

i. The summary minutes of the business meetings will be reviewed by the commissioners who are present at a subsequent business meeting. (3-23-98)

ii. The summary minutes as approved by the commissioners will be signed by the executive director ~~or designee.~~ (3-23-98)(7-23-99)T

05. Previous Decisions. The commission reserves the right to review or reconsider any previous decision for any reason and to take whatever action is agreed upon. (3-23-98)

06. INDIVIDUAL POLLING OF THE COMMISSION. The executive director may conduct an individual poll of the commission to obtain a majority vote regarding a case or business matter in which a decision must be made prior to the next session or meeting. (3-23-98)

07. APA Applicability. The commission shall have the power to establish rules under Chapter 52, Title 67, Idaho Code (Administrative Procedures Act). No other provision or requirement of the Administrative Procedures Act shall apply to the commission. (3-23-98)

08. Rights, Powers, And Authority Of The Commission. (3-23-98)

a. The commission succeeds to and has all rights, powers and authority of the Board of Pardons as granted and provided by the provision of the constitution of the state of Idaho, in reference to commutation, pardon, and remission of fines. (3-23-98)

b. The commission has the power to decide whether or not any prisoner who is eligible for parole may be released to parole. (3-23-98)

c. The commission may act as the advisory commission to the board of correction ~~and may exercise such powers and duties as are delegated by the board.~~ (3-23-98)(7-23-99)T

(BREAK IN CONTINUITY OF SECTIONS)

150. COMMISSION AND STAFF.

01. Commission Members. (3-23-98)

a. The commission is composed of five (5) members appointed by the ~~board of correction~~ governor. (3-23-98)(7-23-99)T

i. No more than three (3) members shall be from one (1) political party. (3-23-98)

ii. Appointments are for ~~five~~ three (3) year terms; vacancies for unexpired terms will be for the remainder of the term; and appointees may be reappointed. ~~(3-23-98)~~(7-23-99)T

iii. Appointments are subject to the advice and consent of the senate. (3-23-98)

b. The commissioners are compensated as provided by Section 59-509(I), Idaho Code and Section 20-210, Idaho Code. (3-23-98)

02. Commission Staff. (3-23-98)

a. The executive director is the official representative for the commission and is responsible for the managing and administration of the commission business and shall have other duties and responsibilities as assigned by the ~~board of correction~~ governor. ~~(3-23-98)~~(7-23-99)T

i. The commission has delegated to the executive director the authority to approve recommended conditions of parole following the hearing process, issue commission warrants, issue parole release documents, and all other official documents pertaining, but not limited to, paroles, commutations, pardons, and remissions of fines. (3-23-98)

ii. The executive director shall assume all authority and duties as may be delegated by the commission and the ~~board of correction~~ governor. ~~(3-23-98)~~(7-23-99)T

b. The commission, the executive director, and all staff will maintain professional integrity in all matters of commission business. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

200. HEARING PROCESS.

01. Information For Scheduled Commission Hearings. ~~(3-23-98)~~(7-23-99)T

a. A schedule of commission hearings will be prepared prior to a hearing session and may be updated as necessary at any time. ~~(3-23-98)~~(7-23-99)T

i. The schedule will be available one (1) week prior to a hearing session. (3-23-98)

ii. The schedule will reflect the date, location and starting time of each hearing session. (3-23-98)

iii. The schedule is subject to change at any time due to circumstances beyond the control of the commission. (3-23-98)

b. A list of inmates scheduled for hearings may be prepared ~~and submitted to~~ for district judges, county prosecutors, sheriffs, legislators, and others as requested. ~~(3-23-98)~~(7-23-99)T

02. Location Of Hearings. The executive director will determine the location of hearings, based upon available information when the schedule is set. (3-23-98)

a. Due to circumstances beyond the commission's control, it may be necessary to change the location and date of a hearing or hearing session. ~~(3-23-98)~~(7-23-99)T

b. It may be necessary to continue a hearing to a later date to allow for the inmate's personal appearance or for other unforeseen reasons. ~~(3-23-98)~~(7-23-99)T

03. Hearing/Interview Method. A hearing may be conducted by a personal interview, by telephone, or by other electronic means. (3-23-98)

a. The interview of an inmate being considered for parole may be conducted by a hearing officer or other designee of the executive director. (7-23-99)T

i. A report will be prepared for the commission. (7-23-99)T

ii. The commission will determine if they will conduct another hearing or make a decision based upon the report. (7-23-99)T

04. Psychological Reports. (3-23-98)

a. A psychological report will be reviewed by the commission for all inmates serving a commitment for a sex offense as described in 20-223, Idaho Code. (3-23-98)

b. The commission, the executive director, or a hearing officer can order a psychological report for an inmate serving a commitment for any crime. (3-23-98)

c. All psychological reports will be maintained in a confidential manner. (3-23-98)

05. Interview/Hearing. The subject of a hearing may be required to be present at a scheduled hearing. (3-23-98)

a. Parole. If the inmate declines to be present at a parole consideration hearing, the inmate is encouraged to submit a statement to the commission stating that he declines attending the hearing; a decision may be made by the commission based upon available information. (3-23-98)

b. Parole Revocation. The parolee/inmate is required to be present at the revocation hearing, with the exception of an absentia revocation hearing as explained in Subsection 400.04.h. (3-23-98)

c. Commutation. The subject is encouraged to be present at the scheduled commutation hearing. (3-23-98)

d. Pardon and Remission of Fine. The subject of the hearing is encouraged to be present at the hearing; the commission may make such appearance mandatory or may make a final decision based upon the information which is available. (3-23-98)

06. Witnesses And Documents. The commission allows for the participation of attorneys, families of the subject, victims, and others who have a direct relationship to the specific hearing or subject of the hearing. (3-23-98)

a. Persons who want to participate in a hearing shall notify the commission staff five (5) days in advance of the scheduled hearing, but children under the age of sixteen (16) may not be allowed to attend the hearings without prior approval of the executive director. (3-23-98)

b. All written documents and letters to be considered at a particular hearing must be submitted seven (7) days in advance of the scheduled hearing in order to ensure that it will be considered; other documents may be allowed by unanimous consent of the commissioners present. (3-23-98)

c. An attorney or others as determined by the executive director or commission may be seated with the subject of the hearing. (3-23-98)

d. Verbal testimony by witnesses, victims, and attorneys may be limited by the number of persons allowed to give testimony and by a certain time limit. (3-23-98)

e. Contacts from the public to an individual commissioner outside of the hearing process, are to be

forwarded to the executive director in order that all commissioners will receive the information. (3-23-98)

07. Conflict Of Interest. A commissioner who has personal knowledge of a case, will make such knowledge available, and the sitting members of the commission will make the decision if that commissioner should be disqualified from participating in deliberation and voting. (3-23-98)

08. Decisions. (3-23-98)

a. Any decision of the commission requires a vote of three (3) commissioners, which is a majority decision. (3-23-98)

b. As a rule, decisions will be given orally following the interview and deliberation of a case by the commission, and written notice of the decision ~~will follow within a reasonable time~~ may be submitted. ~~(3-23-98)~~(7-23-99)T

i. In the case of a review by the commission without a commission hearing, the decision will be published within a reasonable time. (7-23-99)T

ii. Individual written decisions may not be submitted, but will be available in a published list of a session's action taken. (7-23-99)T

c. Following the decision being given orally, further testimony is allowed only at the discretion of the commission, executive director, or hearing officer. (3-23-98)

d. Any decision made by the commission may be reconsidered at any time. (3-23-98)

09. Rules Of Conduct At Hearings. (3-23-98)

a. All persons attending any hearing will conduct themselves in a manner which does not disrupt the proceedings or they may be removed from the hearing room and/or facility. (3-23-98)

b. All persons attending a hearing or hearing session, must abide by security policies of the department of correction and pertinent statutes, to include but not be limited to: no smoking; no unauthorized food or drink in the hearing room; no purses or other belongings; follow department of correction dress code; number of witnesses will be in line with life and safety codes; and all persons may be screened through metal detectors and will be subject to search. (3-23-98)

c. Tape recording or video-taping of any hearing or any hearing session may be allowed at the discretion of the commission; such recordings will proceed only at the direction of the commission as to the placement and manner and type of equipment. (3-23-98)

d. The media is invited to attend any hearing or session of the commission. (3-23-98)

i. Interviews with inmates or witnesses will not be allowed during the hearing process and the commission and staff will not be responsible for arranging any interviews. (3-23-98)

ii. During the hearing process, interviews with victims are not allowed without the express consent of the victim. (3-23-98)

iii. Arrangements for interviewing the commission or staff should be made in advance. (3-23-98)

10. Official Record Of Hearing/Review. The official record of a hearing or case review will be the summary minutes of that hearing or review, once signed, and the original record will be maintained in the commission office. ~~(3-23-98)~~(7-23-99)T

(BREAK IN CONTINUITY OF SECTIONS)

250. PAROLE.

- 01. Parole Determination.** Parole determination is at the complete discretion of the commission. (3-23-98)
- all. a. The commission may release an inmate to parole on or after the date of parole eligibility, or not at (3-23-98)
- b. Parole consideration is evaluated by the individual merits of each case. (3-23-98)
- c. The commission allows for parole consideration criteria, but no prediction regarding the granting of parole can be based upon any hearing standard or criteria. (3-23-98)
- i. Seriousness and aggravation and/or mitigation involved in the crime. (3-23-98)
- ii. Prior criminal history of the inmate. (3-23-98)
- iii. Failure or success of past probation and parole. (3-23-98)
- iv. Institutional history to include conformance to established rules, involvement in programs and jobs custody level at time of the hearing, and overall behavior. (3-23-98)
- v. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen. (3-23-98)
- vi. Information or reports regarding physical or psychological condition. (3-23-98)
- vii. The strength and stability of the proposed parole plan, including adequate home placement and employment or maintenance and care. (3-23-98)
- 02. Primary Review.** A review for the purpose of setting the initial parole hearing will be conducted on all inmates, except those serving a court-retained jurisdiction and those inmates sentenced to death; the commission is not responsible for the setting of a hearing until an official sentence calculation sheet has been received. (3-23-98)
- a. The executive director or a designee will conduct the review following receipt of the sentence calculation from the department of correction, records office. (3-23-98)
- b. The month and year of the initial parole hearing will be established based upon the sentence calculation. (3-23-98)
- i. In cases of offenses committed prior to February 1, 1987 or offenses committed after February 1, 1987 with no specified fixed minimum term, the following guideline outlined in "Table 1" will be utilized in scheduling the initial hearings.

TABLE 1	
LENGTH OF SENTENCE	MINIMUM TIME TO BE SERVED BEFORE INITIAL HEARING
Three (3) Years Or Less	Nine (9) Months
More Than Three (3) Years To Less Than Five (5) Years	Twelve (12) Months
Five (5) Years To Less Than Seven (7) Years	Fifteen (15) Months

TABLE 1	
LENGTH OF SENTENCE	MINIMUM TIME TO BE SERVED BEFORE INITIAL HEARING
Seven (7) Years To Less Than Ten (10) Years	Twenty (20) Months
Ten (10) Years To Less Than Sixteen (16) Years	Twenty-Four (24) Months
Sixteen (16) Years To Less Than Twenty-six (26) Years	Thirty-Six (36) Months
Twenty-six (26) Years Up To Life Sentence	Forty-Eight (48) Months
Life Sentence	Sixty (60) Months

(3-23-98)

ii. In cases of offenses committed on or after February 1, 1987, and a minimum fixed term has been specified, the initial hearing may be scheduled prior to the parole eligibility date, during the month of parole eligibility, or as soon as possible if parole eligibility has been reached noted in Subsection 250.02.b.vi.

~~(3-23-98)~~(7-23-99)T

iii. Consecutive Sentences. All fixed terms will be served before the indeterminate terms commence.

(3-23-98)

iv. When more than one (1) sentence is being served concurrently, the initial hearing will not be scheduled until all fixed terms have been served.

(3-23-98)

v. If an inmate escapes prior to the primary review or the initial hearing, the review or hearing will be conducted within a reasonable time of notification of the inmate's return, taking into consideration any additional commitments.

(3-23-98)

vi. If an inmate is committed to the department of correction and such inmate is eligible for parole immediately or within a short period of time, the initial parole hearing will be scheduled six (6) months from the month the commission was notified of the commitment.

(1-1-99)T

c. The commission is not responsible for the accuracy of the sentence calculation as determined by the department of correction, records office. The commission utilizes the documents as being accurate.

~~(3-23-98)~~(7-23-99)T

03. General Conditions Of Parole. The commission establishes rules and conditions for every inmate released to parole, and those conditions are.

(3-23-98)

a. Parolee will go directly to the destination approved by the commission and, upon arrival, report as instructed to the parole officer or person whose name and address appear on the arrival notice; any deviation in travel plans will require prior permission from the commission staff.

(3-23-98)

b. The parolee shall.

(3-23-98)

i. Work diligently in a lawful occupation or a program approved by the commission or supervising officer and not change employment or designated program without written permission from the commission or supervising officer.

(3-23-98)

ii. Support dependents to the best of his ability.

(3-23-98)

iii. Live within lawful income without incurring unnecessary indebtedness.

(3-23-98)

c. The parolee shall submit a complete and truthful report to the assigned parole officer, or other

person designated by the commission, on forms available, before the fifth day of each month, or as otherwise instructed. (3-23-98)

d. If at any time it becomes necessary to communicate with the assigned parole officer or other official designee and he is unavailable, communication will be directed to the district supervisor. (3-23-98)

e. The parolee will: (3-23-98)

i. Obey all municipal, county, state and federal laws. (3-23-98)

ii. Conduct himself, in a manner which is not, nor intended to be, harmful to himself or others. (3-23-98)

iii. Follow written or oral instructions of the parole officer or commission. (3-23-98)

iv. Not purchase, own, sell, or have in his control, to include storing in residence, vehicle, etc., any type of firearm for whatever purpose. (3-23-98)

v. Not have any dangerous weapons used or intended to be used for other than normal purposes, such as knives for household use. (3-23-98)

f. The parolee shall: (3-23-98)

i. Abstain from excessive use of alcoholic beverages. (3-23-98)

ii. Abstain completely from the possession, procurement, use, or sale of narcotics or controlled substances, except as prescribed by a licensed medical practitioner. (3-23-98)

iii. Freely cooperate and voluntarily submit to medical and chemical tests and examinations for the purpose of determining if parolee is using or under the influence of alcohol or narcotics, which may be at the parolee's expense. (3-23-98)

iv. Participate in treatment programs as specified by the commission or ordered by the parole officer. (3-23-98)

g. The parolee will submit to a search of person and/or property, to include residence and vehicle, at any time and place, by any agent of field services or the commission, and he does waive his constitutional right to be free from such searches. (3-23-98)

h. The parolee is fully advised that written permission is required to: (3-23-98)

i. Wilfully change employment; (3-23-98)

ii. Wilfully change residence; and (3-23-98)

iii. Leave the assigned district. (3-23-98)

i. The parolee will make himself available for supervision and will not actively avoid supervision. (3-23-98)

04. Special Conditions Of Parole. (3-23-98)

a. In addition to general rules of parole, the commission may add special conditions appropriate to the individual case. (3-23-98)

b. The commission delegates the authority to the executive director to add special conditions, before an inmate has been released to parole or while on parole, once the subject has signed a statement agreeing to the

special conditions. (3-23-98)

05. Institutional Parole. (3-23-98)

a. An inmate committed to the department of correction, who has a consecutive sentence and one (1) or more commitments do not have a fixed minimum term to serve prior to parole eligibility, may be considered for institutional parole while remaining incarcerated. (3-23-98)

b. Institutional parole may be considered at the discretion of the commission. (3-23-98)

c. While serving institutional parole, the parolee/inmate is subject to all the rules of the housing facility and conditions ordered by the commission, to include, but not be limited to, submitting monthly reports as directed. (3-23-98)

d. If rules of the institution or orders of the commission are violated, the executive director or a commissioner will determine when a report of conduct/violation should be submitted. (3-23-98)

i. In the case of a report of violation, established rules of the violation/revocation process will apply. (3-23-98)

ii. The executive director will determine the site of all hearings. (3-23-98)

iii. If institutional parole is revoked, the time spent on institutional parole ~~shall~~ may be forfeited in whole or in part, and may not be deemed a part of the sentence for which the offender was committed; however, time served on the consecutive sentence will be credited once that sentence commences to be served. (3-23-98)(7-23-99)T

e. Conversion. Upon release from custody on any subsequent parole or upon completion of the consecutive sentence, and time remains on the institutional parole sentence, there will be an automatic conversion from institutional parole to regular parole, subject to all regular and special conditions of parole. (3-23-98)

06. Unsupervised Parole. In extraordinary cases, the commission may elect to grant an unsupervised parole. (3-23-98)

a. The parolee will be subject to all regular conditions of parole and any ordered special conditions, with the exception of the regular supervision of a parole officer. (3-23-98)

b. Monthly reports must be submitted to the commission office. (3-23-98)

c. Communication from the parolee is to be directed to the commission office. (3-23-98)

d. At any time, the parolee may be placed under regular supervision of a parole officer. (3-23-98)

e. If a parolee is medically unable to fulfill the obligations of parole, the commission may suspend any or all parole obligations. (7-23-99)T

07. Medical Parole. The commission may parole an inmate for medical reasons during the determinate portion of a sentence. (3-23-98)

a. An inmate may be considered for medical parole during the determinate portion of a sentence only when the prisoner is permanently incapacitated or terminally ill and when the commission reasonably believes the prisoner no longer poses a threat to the safety of society. (3-23-98)

b. An inmate or designated department of correction personnel may petition the commission to consider medical parole. (3-23-98)

c. For any consideration or hearing to consider medical parole, the commission will require specific

medical information reference the condition, the treatment or care plan if released, and any other information as deemed necessary. (3-23-98)

d. The commission may conduct an actual hearing or review of the case, or may designate commission staff to provide additional information. (3-23-98)

e. An annual report will be submitted to the house and senate judiciary committees and will contain the inmates' names, medical condition, current status and crime for which the inmates were incarcerated. (3-23-98)

08. Intensive Supervision. The commission may order a program of intensive supervision which has been designed by and may be amended by the department of correction. (3-23-98)

09. Discharge From Parole. (3-23-98)

a. When the maximum sentence has expired, a final discharge will be issued by the commission, unless a commission warrant was issued before the full term or the good time release date. (3-23-98)

b. The commission may make a final order of discharge prior to completion of the maximum sentence when the commission believes such a discharge is compatible with the parolee's welfare and that of society, and subject to the following requirements. (3-23-98)

i. The commission will not consider an early discharge from parole in any case until the parolee has served at least one (1) year on parole. (3-23-98)

ii. The commission will not consider an early discharge for a parolee who has a sex crime or violent crime until one-third (1/3) of the remaining time from the parole release date to the maximum expiration date has been served on parole; or until five (5) years have been served on parole on a life sentence for any crime. (3-23-98)

iii. A parole officer or other designated agent may petition the commission to consider an early discharge. (3-23-98)

iv. Any decision by the commission to grant an early discharge will not be effective until the official discharge document has been signed by the executive director or a commissioner. (3-23-98)

v. If a decision has been made by the commission to grant an early discharge, and adverse information is received that was not previously available, the document will not be signed and the discharge will not be effective. (3-23-98)

vi. The executive director may issue a commission warrant based upon the new information and the discharge grant will automatically be voided without further action by the commission. (3-23-98)

vii. If the executive director does not issue a warrant, the information will be referred to the commission for reconsideration. (3-23-98)

c. If the parolee is incapacitated, the commission may consider and/or grant an early discharge after one (1) year for any crime. (7-23-99)T

10. Detainers. (3-23-98)

a. The commission may grant a parole to any county, state, or federal detainer which has been lodged against an inmate. (3-23-98)

i. While in the custody of the detaining jurisdiction, the parolee is subject to all rules of the housing facility and must submit monthly reports to commission staff or others as designated. (3-23-98)

ii. If the parolee is released from custody by the detaining jurisdiction, the parolee must contact the commission office immediately and must report to the nearest probation and parole office within five (5) days of

release or as otherwise instructed by the commission staff. (3-23-98)

iii. If the parolee is released from custody by the detaining jurisdiction, the parolee must abide by all regular rules of parole and any special conditions ordered by the commission. (3-23-98)

b. The commission may grant a parole to a federal immigration detainer in order that the inmate may be deported to the country of citizenship. (3-23-98)

i. If the parolee is granted a release on bond or it is determined by the federal authorities that the parolee can remain in the United States, the parolee must contact the commission office immediately and must contact the nearest probation and parole office within five (5) days of release or as otherwise instructed by the commission staff. (3-23-98)

ii. If the parolee is deported from the United States to the country of citizenship, the parolee is not to return to the United States; any such return to the United States during the parole period and after deportation, is considered a violation of the parole contract. (3-23-98)

iii. The commission considers this type of parole grant an unsupervised parole, but the parolee is not obligated to submit monthly reports nor maintain contact with the commission as long as he remains outside of the United States. (3-23-98)

11. Special Progress Reports. A special progress report may be submitted by field supervision personnel to request modification of a special condition of parole, advise of problems that have developed, or to request interstate transfer of a case. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

300. VICTIMS.

01. Program For Victims. The commission has established a program for victims of criminal offenses for which an inmate has been committed to the institution and is not serving a court-retained jurisdiction term. (3-23-98)

a. The commission will establish a record for victims of inmates who may be considered for parole, commutation, or pardon. (3-23-98)

i. To establish a victim record, the commission must receive official written notice from the clerk of the sentencing court or the county prosecutor's office; the commission will not be responsible to notify victims of their rights if this official notice has not been received. (3-23-98)

ii. If the commission has not received official notice of the victim, the commission or staff may be advised directly by the victim, family or other; commission staff will verify the name or names of the victim(s) with the county prosecutor and a record will be established. (3-23-98)

b. The commission will notify legal victims of their right to be notified of parole, commutation, and pardon hearings and decision of these hearings; their right to submit written statements or information; and, their right to provide testimony. (3-23-98)

c. Notice of rights, hearings, decisions, and parole releases will be sent to the victim of record to the last known address, and it is the responsibility of the victim to provide any change of address. (3-23-98)

d. A victim may request that he not be notified or contacted, and such request will be honored. (3-23-98)(7-23-99)T

e. Victims will receive notices of releases to parole, but the commission is not responsible to advise of any other releases such as inmate transfers to other facilities, release by completion of the sentence, or escapes from custody as these are not under the authority of the commission. (3-23-98)

02. Confidentiality Of Victim's Address And Written Testimony. The victim's record maintained by the commission to include the address and written testimony or information will be maintained in a confidential manner and is not subject to disclosure to anyone for any reason. (3-23-98)

03. Testimony Of Victim. (3-23-98)

a. The victim is invited to attend any and all hearings pertinent to the case and to provide testimony. (3-23-98)

b. The executive director and the commission may choose to allow for the victim's testimony away from the actual hearing process. (3-23-98)

i. The victim may give information to the executive director or commissioner(s) at the commission office or other location as determined and such information may be maintained in a confidential manner. (3-23-98)

ii. The victim may be allowed to testify before the commission during a hearing session but a time separate from the actual hearing with the inmate, and such testimony will be made a part of the record. (3-23-98)

c. If the commission was not officially notified of the victim and does become aware of the victim's desire to be heard following a hearing, any scheduled release to parole may be held in abeyance until a decision is made by the commission. (3-23-98)

i. The commission may review any written testimony by the victim and may elect to take no further action, may schedule another hearing, or may void the release date and reconsider the parole grant. (3-23-98)

ii. The executive director may schedule a hearing without the vote of the commission to allow for the victim's testimony. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

350. PAROLE PLAN AND RELEASE PROCEDURES.

01. Parole Plan. The parole plan needs to provide for the positive re-entry of the inmate back into the community. (3-23-98)

a. The inmate must submit the proposed parole plan on designated forms provided by the commission through the institution. (3-23-98)(7-23-99)T

b. The proposed parole plan must be available at the parole consideration hearing and must address the following: (3-23-98)

i. A stable residence must be developed which will provide for the most positive re-entry into the community if a release to parole is granted. (3-23-98)

ii. If the inmate is unable to work, information must be provided as to the maintenance and care which will be provided. (3-23-98)

iii. The particular needs of the offender must be addressed, such as treatment for alcohol or drug problems, mental health problems, sex offender treatment, or other. (3-23-98)

c. Educational programs may be considered, ~~provided the offender presents evidence of his ability to complete the proposed program, can function at the proposed academic or vocational level, and that he can provide evidence of adequate economic funding to include living expenses.~~ (3-23-98)(7-23-99)T

d. In cases where the commission does not approve the proposed parole plan and a tentative parole date is granted, ~~the commission will determine what type of plan would be acceptable and will determine if the commission must review the new plan or whether the executive director can approve or deny the a subsequent plan.~~ (3-23-98)(7-23-99)T

e. All parole plans will be investigated by field services staff in the area in which the prospective parolee plans to reside, and necessary information will be submitted along with the investigation request. (3-23-98)

i. An Idaho parole plan may take a minimum of six (6) weeks to submit the information, investigate the plan, and plan for release. (3-23-98)

ii. An out-of-state plan may take at least three (3) months to investigate and process the plan. (3-23-98)

02. Interstate Compact Parole Plan. Any offender who is granted parole through the interstate compact may be required to post a bond prior to release from incarceration or prior to such acceptance under the compact. (10-22-99)T

a. The bond fee shall be used for the purpose of returning offenders who are charged with violating conditions of their parole. (10-22-99)T

b. The amount of the bond is set by the commission at five hundred dollars (\$500). (10-22-99)T

i. The bond shall be posted at the commission office by the offender, the offender's family, or other interested party. A cashier check or money order shall be the only acceptable means of posting bond. (10-22-99)T

ii. The amount of the bond includes an indigent fee of sixty dollars (\$60) to provide for offenders without financial means or support to post the bond. (10-22-99)T

iii. The amount of the bond includes an administrative fee of thirty-five dollars (\$35) to operate this program. (10-22-99)T

c. Upon successful completion of parole, the amount of the bond will be returned, less the amount for administrative costs and the indigent fee. (10-22-99)T

d. An application for bond fee exemption may be filed if an offender has no ability to post the bond. (10-22-99)T

i. An application form may be obtained from the commission office. (10-22-99)T

ii. The application shall be reviewed by the commission and their decision will be final. (10-22-99)T

023. Tentative Parole Dates. All parole release dates granted by the commission are tentative. (3-23-98)

a. The parole plan must be approved and received at the commission office before the actual release date can be set to allow time for processing the release. (3-23-98)

b. If the inmate should have disciplinary problems following the parole grant hearing, the commission may reconsider the decision, and the tentative parole date may be voided. (3-23-98)

c. If the commission receives information that was not available at the time of the parole grant hearing, the commission may review the information or may schedule another hearing, and the tentative parole date

may be voided. (3-23-98)

034. Contract. Prior to any release to parole, the prospective parolee must sign a contract with the commission and must agree to all general and special conditions of parole. (3-23-98)

045. Reporting And Release Instructions. (3-23-98)

a. The parolee will be given instructions who to report to, which will include the address and the telephone number of the supervising office. (3-23-98)

b. It is the responsibility of the parolee to arrange for transportation upon release. (3-23-98)

i. The parolee must go directly to the destination approved by the commission or executive director. (3-23-98)

ii. The parolee must request permission to deviate from direct travel to the approved location, and such request must be in writing to the commission office at least two (2) weeks in advance of the established release date. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

400. PAROLE REVOCATION PROCESS.

01. Initiated. The parole revocation process is initiated by a written or verbal report describing the rules of parole which are alleged to have been violated. (3-23-98)

a. Verbal information may be provided to the executive director. (3-23-98)

b. A progress report may be submitted to the executive director. (3-23-98)

c. A report of violation may be submitted to the executive director. (3-23-98)

02. Warrants. A warrant may be issued for the offender's arrest. (3-23-98)

a. A supervising agency may issue an investigative warrant which may be referred to as an agent's warrant. (3-23-98)

b. A commission warrant may be issued by the executive director or a commissioner, and issuance of this warrant suspends the offender's parole until a determination has been made on the merits of the case. (3-23-98)

i. If the location of the parolee is known, the warrant may be served on the offender or placed as a detainer. (3-23-98)

ii. If the location of the offender is unknown, the warrant will be entered into NCIC or I-HOT and will designate which states the commission will extradite the offender from once arrested. (3-23-98)

iii. If another state is holding the offender in custody on new charges in their state, the warrant may be placed as a detainer only and written notice of this action will be submitted to the holding facility; if the detainer is officially served on the offender without notice of this action to the commission, the commission will not be held responsible for the time limits prescribed by law for service of charges. (3-23-98)

iv. If the offender is arrested in a state other than Idaho and refuses extradition to Idaho, it may be necessary to request a governor's warrant; during the time period in which the subject refuses to waive extradition, time incarcerated will not be credited toward the sentence. (3-23-98)

03. Due Process. Every parolee arrested on a commission warrant for alleged violation(s) of parole is entitled to pertinent due process. (3-23-98)

a. The alleged parole violator is entitled to reasonable notice of the date, time and location of any and all hearings involved in the revocation process. (3-23-98)

b. The alleged parole violator has the right to appear at a hearing and address the allegations. (3-23-98)

c. The alleged parole violator may confront and cross-examine person(s) who have given adverse information on which the charges have been based. (3-23-98)

04. Witnesses. The alleged parole violator or the accusing parole officer may present witnesses in support of the claims of the allegations or in defense of the charges. (3-23-98)

a. The commission has no subpoena power to compel any witness to attend a hearing. (3-23-98)

b. The alleged parole violator may make a timely written request to the commission office for certain adverse witnesses to be available for cross-examination, and such request must include the name, address, telephone number, and relationship to the case; the hearing officer will make reasonable efforts to request their participation. (3-23-98)

c. If it is determined by the hearing officer or the executive director that the identification of an informant or the personal appearance of a witness would subject such person to risk or harm, confrontation or cross-examination will not be allowed and the record will reflect such determination. (3-23-98)

d. The personal appearance of a witness may not be feasible; the hearing officer may determine if the witness should be interviewed by telephone and whether the information specifically addresses the allegations. (3-23-98)

e. It is the alleged parole violator's responsibility and the accusing parole officer's responsibility to notify the witnesses of the date, time, and location of any and all hearings or change of hearings. (3-23-98)

05. Attorney. The alleged parole violator may utilize the services of an attorney at any hearing conducted during the revocation process. (3-23-98)

a. An attorney will be paid at the alleged parole violator's expense unless it is determined by a hearing officer for the commission, the executive director, or the commission that there is a colorable claim that the alleged violation(s) did not occur, that the alleged parole violator does not understand the proceedings, or is otherwise incapable of representing himself. (3-23-98)

b. It is the alleged parole violator's responsibility to notify his attorney of the date, time, and location of any and all hearings or change of hearings. (3-23-98)

c. It is the alleged parole violator's responsibility to provide the attorney with any and all reports and documents; in addition, the subject's attorney may also obtain copies by making a request to the commission office. (3-23-98)

06. Hearings. The alleged parole violator will be advised of any and all hearing dates and locations within a reasonable time frame. (3-23-98)

a. The hearing officer or executive director will determine the location of all hearings. (3-23-98)

b. The subject may request continuance or waiver of any hearing which is subject to the final determination of the hearing officer, executive director, or the commission. (3-23-98)

c. The type of charges addressed in the allegations will determine the kinds of hearings available to the alleged parole violator. (3-23-98)

i. Non-Technical violations. If the alleged parole violator is charged with a conviction for a misdemeanor or felony criminal conviction or is charged with absconding from supervision, the subject is not entitled to a preliminary or on-site hearing, and is entitled to a hearing to determine guilt or innocence within a reasonable time following service of the charges. (3-23-98)

ii. Technical violations. If the alleged parole violator is charged with a violation of the rules of parole other than a misdemeanor or felony criminal conviction or absconding from supervision, the subject is entitled to a preliminary hearing and an on-site hearing, and is entitled to a hearing to determine guilt or innocence within thirty (30) days from the date the accused was served with the charges of the violation. (3-23-98)

d. Preliminary hearing. A technical parole violator is entitled to a preliminary hearing to establish whether or not there is probable cause to believe the violations may have occurred, and such hearing will be conducted by staff of field and community services or as otherwise directed by the executive director. (3-23-98)

e. On-Site Hearing. A technical parole violator is entitled to an on-site hearing. (3-23-98)

i. The on-site hearing is conducted reasonably near the site of the alleged parole violation(s). (3-23-98)

ii. In situations where the violation(s) occurred outside the state of Idaho, the executive director or hearing officer will determine the location of the hearing. (3-23-98)

f. Violation hearing. In most cases, a hearing officer will conduct a fact-finding or violation hearing and will make a finding on each allegation as to the guilt or innocence and may dismiss some or all allegations. (3-23-98)

g. Revocation. Pursuant to a violation hearing or waiver of such hearing, the commission will consider whether or not parole will be revoked. (3-23-98)

i. A commission hearing with the offender may be conducted or the decision may be made along with deliberation on an Absentia Parole Revocation. (see Subsections 400.06.h.i. and 400.06.h.ii.) ~~(3-23-98)~~(7-23-99)T

ii. The commission will consider whether the parole will be revoked. (3-23-98)

iii. The commission will consider parole and state the reasoning if parole is not granted. (3-23-98)

h. Absentia hearing. The commission can revoke parole without the subject's appearance if the subject has signed the proper commission form waiving the right to appear before the commission. The Commission will determine if parole will be considered once the revocation decision has been made. (3-23-98)

i. If new criminal charges result in a new commitment and incarceration, the subject can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)

ii. If the subject has absconded supervision and is reincarcerated in another state without a new conviction, the subject can admit guilt and waive an appearance at a violation or revocation hearing. (3-23-98)

07. Miscellaneous Revocation Information. (3-23-98)

a. The executive director will determine who will conduct all hearings involved in the revocation process. (3-23-98)

b. The commission, through the executive director shall designate the county, state, or other facility where the alleged parole violator shall be held. The commission's order shall be sufficient authority by law to direct any county sheriff or the board of correction to hold an alleged parole violator in custody until such time as the

commission directs his removal or transfer. (3-23-98)

c. The alleged parole violator can request a continuance of any hearing. (3-23-98)

i. The hearing officer, executive director, or the commission will determine if the continuance will be granted. (3-23-98)

ii. If the alleged parole violator requests a continuance of any hearing, he, thereby, waives any and all time limits involved. (3-23-98)

08. Inability To Assist In Defense. (3-23-98)

a. Specific time limits pertinent to the case may be waived. (3-23-98)

b. At the hearing officer or executive director's discretion, an attorney may be appointed at commission expense. (3-23-98)

c. A psychological evaluation may be requested and mental health treatment may be deemed appropriate. (3-23-98)

d. A status update of the case will be made at regular intervals, and the executive director will determine how the case will proceed. (3-23-98)

09. Findings/Decisions. (3-23-98)

a. At any time following arrest on a commission warrant, the parole officer may request that the parolee be released to continue parole and the executive director or the commission will decide if the parolee will be released to continue parole. (3-23-98)

b. If it is determined at the preliminary hearing that there is no probable cause to support the charges, the parolee will be released to continue parole. (3-23-98)

c. After a violation hearing, the hearing officer will prepare a report of findings. (3-23-98)

i. The report will be a summary of the violation hearing, to include testimony, and will make specific findings for each allegation. (3-23-98)

ii. The hearing officer may make a finding of guilt but may recommend to the executive director that the offender be reinstated on parole without further proceedings. (3-23-98)

iii. The offender is entitled to receive a copy of all reports of findings of hearings. (3-23-98)

iv. The offender is entitled to a verbal or written decision within twenty (20) days of the hearing. (3-23-98)

10. Forfeiture Of Time On Parole. If parole is revoked, the time during which the offender was on parole from the parole release date to the arrest date on an investigative warrant and/or commission warrant may be forfeited, in whole or in part, and may not be deemed a part of the sentence for which the offender was committed. (1-1-99)T

a. The time the offender is incarcerated on an investigative agent's warrant and a commission warrant will be credited toward the sentence. (3-23-98)

b. If the offender was incarcerated at any time during the parole period and such incarceration was on an agent's warrant and/or commission warrant, this time will be credited toward the sentence; this includes a reinstatement case. (3-23-98)

c. The offender will not receive credit for incarceration time if the incarceration was for a new crime and the commission and parole officer did not initiate violation proceedings. (3-23-98)

d. The offender must provide the hearing officer or the executive director with dates of incarceration and the location of the incarceration. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

450. COMMUTATION.

Commutation is a process whereby clemency may be considered and granted to modify a sentence imposed by the sentencing jurisdiction. ~~This process pertains only to inmates currently incarcerated and requires both the submission of a petition and a hearing.~~ (3-23-98)(7-23-99)T

01. Petition. ~~An inmate requesting a commutation must submit a petition for commutation. A petition must be submitted to initiate the process.~~ (3-23-98)(7-23-99)T

a. The only acceptable form is the one provided by the commission, and it must be signed by the petitioner. (3-23-98)

b. The petition must be completed correctly per instructions on the form or it may be returned. (3-23-98)

c. The petition must contain the reason a modification of sentence is requested and the precise modification which is requested, such as the following. (3-23-98)

i. Change a consecutive sentence to concurrent. (3-23-98)

ii. Reduce the maximum length of sentence. (3-23-98)

iii. Reduce the minimum fixed term of a sentence. (7-23-99)T

~~iiiv.~~ Change a fixed sentence to indeterminate. (3-23-98)

iv. Change a sentence in any other manner not described. (3-23-98)

d. The commission may consider but one (1) application from any one (1) person in any twelve (12) month period. (3-23-98)

e. Petitions may be considered at any time by the commission, but are usually scheduled for consideration for the quarterly sessions of January, April, July, and October. (3-23-98)

f. Petitions must be received no later than the first day of the month of a designated quarterly session. (3-23-98)

g. Review or deliberation on the petition by the commission will be conducted in executive session. (3-23-98)

h. Any petition may be continued for additional information or for further consideration. (3-23-98)

i. The petitioner will be sent written notice of the decision. (3-23-98)

j. The petition is limited to no more than four (4) pages; the petition may be returned before submission to the commission if the document exceeds this number. (3-23-98)

02. Hearing. The scheduling of a hearing is at the complete discretion of the commission; if a commutation hearing is scheduled, the commission will determine the date of the hearing. (3-23-98)

a. Notice of a commutation hearing will be published in a newspaper of general circulation at Boise, Idaho at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)

b. A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was committed. (3-23-98)

c. All rules of procedure governing hearings will apply to a commutation hearing. (3-23-98)

d. The decision and supporting documents regarding a commutation which is granted, will be filed with the secretary of state. ~~(3-23-98)~~(7-23-99)T

i. All written material considered in the decision process of a the granted commutation will be a matter of public record with the exception of the presentence investigation report, ~~and~~ victim information, psychological reports, and other confidential documents. ~~(3-23-98)~~(7-23-99)T

ii. Dissenting votes of the commissioners voting will be a matter of public record. (3-23-98)

03. Approving And Granting. Only rarely will circumstances be extraordinary enough to approve a petition for a commutation hearing or to grant a commutation. (3-23-98)

a. The granting of a commutation hearing shall not be interpreted as intent to commute a sentence. (3-23-98)

b. Habilitative progress alone will not be regarded as sufficient to grant a commutation hearing or to commute a sentence. (3-23-98)

04. Authority To Grant. The commission has full and final authority to grant commutations except with respect to sentences for murder, voluntary manslaughter, rape, kidnaping, lewd and lascivious conduct with a minor child, and manufacture or delivery of a controlled substance. (3-23-98)

a. In the cases of offenses listed in this section, the commission's decision shall constitute a recommendation only to the governor. (3-23-98)

b. Following such hearing, the commission will provide all information that was considered and a copy of the summary minutes to the governor. (3-23-98)

c. No commutation for the offenses listed in this section will be effective until presented to and approved by the governor, and any commutation recommendations not so approved within thirty (30) days of the commutation hearing shall be deemed denied. (3-23-98)

05. Death Sentence. (3-23-98)

a. An individual file of each inmate under sentence of death will be maintained in the commission office and the status of each case will be updated annually. (3-23-98)

b. At any time, the commission may review a file, information, or interview an inmate without activating the commutation process. (3-23-98)

c. Commutation consideration must be initiated by the ~~inmate~~ petitioner or his legal counsel. ~~(3-23-98)~~(7-23-99)T

i. The petition must contain the signature of the petitioner. (3-23-98)

ii. Legal counsel must provide verification that he has been retained by the ~~inmate~~ petitioner or his

family to prepare and submit the petition.

~~(3-23-98)~~(7-23-99)T

d. The commission may elect to receive and consider a petition for a death penalty modification at any time. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

500. SELF-INITIATED PROGRESS REPORT.

An inmate may appeal the last parole decision of the commission. (3-23-98)

01. Petition. An inmate making a request for reconsideration of parole denial must initiate the process by submitting an application. (3-23-98)

a. The only acceptable form is the one provided by the commission, and it must be signed by the petitioner. (3-23-98)

b. The petition must be completed correctly per instructions on the form or it may be returned. (3-23-98)

c. The petition must state the reason reconsideration is requested and the circumstances that have changed since the last hearing. (3-23-98)

d. The commission may consider but one (1) application from any one (1) person in any twelve (12) month period. (3-23-98)

e. Petitions may be considered at any time by the commission, ~~but are usually scheduled for consideration for the quarterly session of January, April, July, and October.~~ (3-23-98)(7-23-99)T

f. Petitions must be received no later than the first day of the month of a designated quarterly session. (3-23-98)(7-23-99)T

g. The petition may be submitted no sooner than six (6) months following the last hearing. (3-23-98)

h. Review or deliberation on the petition by the commission will be conducted in executive session. (3-23-98)

i. Any petition may be continued for additional information or for further consideration. (3-23-98)

j. The petitioner will be sent written notice of the decision. (3-23-98)

k. The petition is limited to no more than four (4) pages; the petition may be returned before submission to the commission if the document exceeds this number. (3-23-98)

02. Hearing. The scheduling of a hearing is at the complete discretion of the commission. (3-23-98)

a. If a special hearing is scheduled, the commission will determine the date of the hearing. (3-23-98)

b. If a special hearing is scheduled, the previous decision of the commission may be considered null and void. (3-23-98)

03. Amended Decision. The commission may elect to amend any decision without conducting another hearing. (3-23-98)

IDAPA 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION

55.01.01 - GENERAL ADMINISTRATION RULES

DOCKET NO. 55-0101-9901

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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2211, Idaho Code.

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

The Rules of the Division of Professional-Technical Education that are being repealed are obsolete and reflect outdated federal and state legislation requirements. In addition, Senate Bill 1246 AA, which was signed into law by Governor Kempthorne in 1999, mandates the name change of the Division of Vocational Education to the Division of Professional-Technical Education and the State Board for Vocational Education to the State Board for Professional-Technical Education. Therefore, IDAPA 55.01.01, "General Administration Rules" have been repealed in their entirety and rewritten into IDAPA 55.01.01, "Rules Governing Administration".

The pending rule is 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 253 and 254.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule, contact Mike Rush at (208) 334-3216.

DATED this 20th day of October, 1999.

Mike Rush, State Administrator
Idaho Division of Professional-Technical Education
650 West State Street, Room 324
P.O. Box 83720, Boise, ID 83720-0095
Phone: (208) 334-3216 / Fax: (208) 334-2365

**IDAPA 55
TITLE 01
Chapter 01**

GENERAL ADMINISTRATION RULES

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 253 and 254.

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 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION

55.01.01 - RULES GOVERNING ADMINISTRATION

DOCKET NO. 55-0101-9902

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 33-2211, Idaho Code.

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

The Rules of the Division of Professional-Technical Education that are being repealed are obsolete and reflect outdated federal and state legislation requirements. In addition, Senate Bill 1246 AA was signed into law by Governor Kempthorne in 1999, and mandates the name change of the Division of Vocational Education to the Division of Professional-Technical Education and the State Board for Vocational Education to the State Board for Professional-Technical Education. IDAPA 55.01.01, "Rules Governing Administration," defines the duties of the State Division of Professional-Technical Education.

The pending rule is 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 255 through 258.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule contact Mike Rush at (208) 334-3216.

DATED this 20th day of October, 1999.

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**IDAPA 55
TITLE 01
Chapter 01**

RULES GOVERNING ADMINISTRATION

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 255 through 258.

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 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION
55.01.02 - POSTSECONDARY VOCATIONAL TECHNICAL EDUCATION RULES

DOCKET NO. 55-0102-9901

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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2211, Idaho Code.

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

The Rules of the Division of Professional-Technical Education that are being repealed are obsolete and reflect outdated federal and state legislation requirements. In addition, Senate Bill 1246 AA, which was signed into law by Governor Kempthorne in 1999, mandates the name change of the Division of Vocational Education to the Division of Professional-Technical Education and the State Board for Vocational Education to the State Board for Professional-Technical Education. Therefore, IDAPA 55.01.02, "Postsecondary Vocational Technical Education Rules," have been repealed in their entirety and rewritten into IDAPA 55.01.02, Rules Governing Postsecondary Program Reduction or Termination".

The pending rule is 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 259 and 260.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule contact Mike Rush at (208) 334-3216.

DATED this 20th day of October, 1999.

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IDAPA 55
TITLE 01
Chapter 02

POSTSECONDARY VOCATIONAL TECHNICAL EDUCATION RULES

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 259 and 260.

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 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION
55.01.02 - RULES GOVERNING POSTSECONDARY PROGRAM REDUCTION OR TERMINATION

DOCKET NO. 55-0102-9902

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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2211, Idaho Code.

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

The Rules of the Division of Professional-Technical Education that are being repealed are obsolete and reflect outdated federal and state legislation requirements. In addition, Senate Bill 1246 AA, which was signed into law by Governor Kempthorne in 1999, mandates the name change of the Division of Vocational Education to the Division of Professional-Technical Education and the State Board for Vocational Education to the State Board for Professional-Technical Education. IDAPA 55.01.02, "Rules Governing Postsecondary Program Reduction or Termination," sets forth the conditions and procedures for reduction or termination of postsecondary professional-technical programs.

The pending rule is 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 261 through 267.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule contact Mike Rush at (208) 334-3216.

DATED this 20th day of October, 1999.

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IDAPA 55
TITLE 01
Chapter 02

RULES GOVERNING POSTSECONDARY PROGRAM REDUCTION OR TERMINATION

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 261 through 267.**

**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 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION

55.01.03 - PROGRAMMATIC RULES

DOCKET NO. 55-0103-9901

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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2211, Idaho Code.

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

The Rules of the Division of Professional-Technical Education that are being repealed are obsolete and reflect outdated federal and state legislation requirements. In addition, Senate Bill 1246 AA, which was signed into law by Governor Kempthorne in 1999, mandates the name change of the Division of Vocational Education to the Division of Professional-Technical Education and the State Board for Vocational Education to the State Board for Professional-Technical Education. IDAPA 55.01.03, "Programmatic Rules," is being rewritten into IDAPA 55.01.03, "Rules Governing Perkins Title III Secondary Funding Formula Waiver".

The pending rule is 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 268 and 269.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule contact Mike Rush at (208) 334-3216.

DATED this 20th day of October, 1999.

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**IDAPA 55
TITLE 01
Chapter 03**

PROGRAMMATIC RULES

THIS RULE IS BEING REPEALED IN ITS ENTIRETY.

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 268 and 269.**

**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 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION
55.01.03 - RULES GOVERNING PERKINS TITLE III SECONDARY FUNDING FORMULA WAIVER

DOCKET NO. 55-0103-9902

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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2211, Idaho Code.

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

The Rules of the Division of Professional-Technical Education that are being repealed are obsolete and reflect outdated federal and state legislation requirements. In addition, Senate Bill 1246 AA, which was signed into law by Governor Kempthorne in 1999, mandates the name change of the Division of Vocational Education to the Division of Professional-Technical Education and the State Board for Vocational Education to the State Board for Professional-Technical Education. IDAPA 55.01.03, "Rules Governing Perkins Title III Secondary Funding Formula Waiver," defines the terms of distribution of federal funds.

The pending rule is 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 270 through 272.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule contact Mike Rush at (208) 334-3216.

DATED this 20th day of October, 1999.

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IDAPA 55
TITLE 01
Chapter 03

RULES GOVERNING PERKINS TITLE III SECONDARY FUNDING FORMULA WAIVER

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 270 through 272.

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 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION

55.01.04 - SECONDARY VOCATIONAL EDUCATION RULES

DOCKET NO. 55-0104-9901

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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2211, Idaho Code.

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

The Rules of the Division of Professional-Technical Education that are being repealed are obsolete and reflect outdated federal and state legislation requirements. In addition, Senate Bill 1246 AA, which was signed into law by Governor Kempthorne in 1999, mandates the name change of the Division of Vocational Education to the Division of Professional-Technical Education and the State Board for Vocational Education to the State Board for Professional-Technical Education. Therefore, IDAPA 55.01.04, "Secondary Vocational Education Rules," is being repealed in its entirety.

The pending rule is 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 273 and 274.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule contact Mike Rush at (208) 334-3216.

DATED this 20th day of October, 1999.

Mike Rush, State Administrator
Idaho Division of Professional-Technical Education
650 West State Street, Room 324
P.O. Box 83720, Boise, ID 83720-0095
Phone: (208) 334-3216 / Fax: (208) 334-2365

**IDAPA 55
TITLE 01
Chapter 04**

SECONDARY VOCATIONAL EDUCATION RULES

THIS RULE IS BEING REPEALED IN ITS ENTIRETY.

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 273 and 274.

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 55 - DIVISION OF PROFESSIONAL-TECHNICAL EDUCATION

55.01.05 - REDUCTION OF POSTSECONDARY VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION PROGRAMS

DOCKET NO. 55-0105-9901

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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2211, Idaho Code.

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

The Rules of the Division of Professional-Technical Education that are being repealed are obsolete and reflect outdated federal and state legislation requirements. In addition, Senate Bill 1246 AA, which was signed into law by Governor Kempthorne in 1999, mandates the name change of the Division of Vocational Education to the Division of Professional-Technical Education and the State Board for Vocational Education to the State Board for Professional-Technical Education. Therefore, IDAPA 55.01.05, "Reduction of Postsecondary Vocational and Applied Technology Education Programs," is being repealed in its entirety.

The pending rule is 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 275 and 276.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning pending rule contact Mike Rush at (208) 334-3216.

DATED this 20th day of October, 1999.

Mike Rush, State Administrator
Idaho Division of Professional-Technical Education
650 West State Street, Room 324
P.O. Box 83720, Boise, ID 83720-0095
Phone: (208) 334-3216 / Fax: (208) 334-2365

**IDAPA 55
TITLE 01
Chapter 05**

REDUCTION OF POSTSECONDARY VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION PROGRAMS

THIS RULE IS BEING REPEALED IN ITS ENTIRETY.

There are no substantive changes from the proposed rule text.

The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 275 and 276.

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 (PERSI)

59.01.03 - CONTRIBUTION RULES OF PERSI

DOCKET NO. 59-0103-9901

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Sections 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously initiated under this docket. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

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

This temporary rule is rescinded effective October 1, 1999. The temporary rate reduction ordered by the Retirement Board for the period beginning November 1, 1997 through October 31, 1999 has been extended. These changes are reflected in temporary rules in docket number 59-0103-9902, effective October 1, 1999.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rescission, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 12th day of October, 1999.

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-334-3365
FAX: 208-334-3804

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59.01.03 - CONTRIBUTION RULES OF PERSI

DOCKET NO. 59-0103-9901

NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

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

This rulemaking is vacated effective October 1, 1999. The temporary rate reduction ordered by the Retirement Board for the period beginning November 1, 1997 through October 31, 1999 has been extended. These changes are reflected in temporary rules in docket number 59-0103-9902, effective October 1, 1999.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 12th day of October, 1999

Alan H. Winkle
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IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59.01.03 - CONTRIBUTION RULES OF PERSI

DOCKET NO. 59-0103-9902

NOTICE OF TEMPORARY RULE

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

AUTHORITY: In compliance with Sections 67-5222(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

Section 59-1322(1), Idaho Code, requires the Board to establish contribution rates within certain requirements. The Retirement Board has determined, based on actuarial valuation of reserves and liabilities, that it is able to continue a temporary reduction in the standard PERSI contribution rates. Temporary and proposed rules published in docket number 59-0103-9901, which would have raised rates effective November 1, 1999, are being rescinded and vacated by separate notices to be published in this bulletin. These changes are being made, in part, due to the uncertainties created by the existence of an interim legislative committee that is reviewing PERSI benefits. After legislative changes, if any, the board anticipates further rulemaking. These reductions will not reduce the contribution rate below the required normal cost and minimum amortization payment rates required by law.

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

That this rule change will confer a benefit on PERSI employees and employers.

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

None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 12th day of October, 1999.

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-334-3365
FAX: 208-334-3804

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0103-9902

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (Rule 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll effective with salaries paid on or after November 1, 1997 through October 31, ~~1999~~2000. Effective for salaries paid on or after November 1, ~~1999~~2000, the PERSI employer contribution rate for general members shall be eleven point zero-one percent (11.01%) unless further modified by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (~~Amended 10-1-99~~) (~~10-1-98~~)(10-1-99)T

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I And II Firefighters. For option I and II firefighters hired before October 1, 1980, thirty-five point ninety percent (35.90%) of payroll, as follows: :

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point zero-one percent (10.01%) for salaries paid on or after November 1, 1997 through October 31, 1999 <u>2000</u> . Effective for salaries paid on or after November 1, 1999 <u>2000</u> the rate will be eleven point twenty-five percent (11.25%) unless further modified by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) for salaries paid on or after November 1, 1997 through October 31, 1999 <u>2000</u> . Effective for salaries paid on or after November 1, 1999 <u>2000</u> the rate will be sixteen percent (16.00%) unless further modified by the Board.
TOTAL Contribution:	Thirty-five point ninety percent (35.90%)

(~~10-1-98~~)(10-1-99)T

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund) twenty-seven point twenty-five percent (27.25%) of payroll, as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point zero-one percent (10.01%) for salaries paid on or after November 1, 1997 through October 31, 1999 <u>2000</u> . Effective for salaries paid on or after November 1, 1999 <u>2000</u> the rate will be eleven point twenty-five percent (11.25%) unless further modified by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) for salaries paid on or after November 1, 1997 through October 31, 1999 <u>2000</u> . Effective for salaries paid on or after November 1, 1999 <u>2000</u> the rate will be sixteen percent (16.00%) unless further modified by the Board.
TOTAL Contribution:	Twenty-seven point twenty-five percent (27.25%)

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (~~Amended 10-1-99~~) (~~10-1-98~~)(10-1-99)T

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police member excluding those listed in Rule 29 of this chapter and firefighters excluding those listed in Rule 27 of

this chapter shall be ten point zero-one percent (10.01%) of payroll effective with salaries paid on or after November 1, 1997 through October 31, ~~1999~~2000. Effective for salaries paid on or after November 1, ~~1999~~2000, the PERSI employer contribution rate shall be eleven point twenty-five percent (11.25%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (~~Amended 10-1-99~~)
(~~10-1-98~~)T(10-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (Rule 100).

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary effective with salaries paid on or after November 1, 1997 and through October 31, ~~1999~~2000. Effective for salaries paid on or after November 1, ~~1999~~2000, the PERSI employee contribution rate for general members shall be six point six-zero percent (6.60%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (~~Amended 10-1-99~~)
(~~10-1-98~~)T(10-1-99)T

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (Rule 101).

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police member is seven point twenty-one percent (7.21%) of salary effective with salaries paid on or after November 1, 1997 through October 31, ~~1999~~2000. Effective for salaries paid on or after November 1, ~~1999~~2000, the PERSI employee contribution rate shall be eight point one-zero percent (8.10%) unless further modified by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (~~Amended 10-1-99~~)
(~~10-1-98~~)T(10-1-99)T

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59.01.03 - CONTRIBUTION RULES OF PERSI

DOCKET NO. 59-0103-9903

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 1997.

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. 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 December 15, 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 29 is amended to eliminate the excess merger costs associated with the Idaho Falls Police Retirement Fund effective July 1, 1997. This change was originally included in the Notice of Temporary and Proposed Rule, Docket No. 59-0103-9901, published in January, 1999. That Docket is being vacated and rescinded by notices published in this edition of the Administrative Bulletin. Rule 177 is now inconsistent with Section 59-1325, Idaho Code, as a result of amendments made by 1999 House Bill 23, which became law on July 1, 1999, and is no longer necessary. Accordingly, the rule is being stricken.

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

The rule is being amended to comply with governing law and/or confers a benefit.

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 temporary and proposed rule, contact Alan Winkle, Executive Director, 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 December 22, 1999.

DATED this 12th day of October, 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. 59-0103-9903

029. CITY OF IDAHO FALLS CLASS II CONTRIBUTION RATE (Rule 29).

The City of Idaho Falls employer rate for an employee classified as a police member shall be as follows: ~~(10-1-97)P~~
~~PERSI employer contribution rate: 10.01% for salaries paid on or after November 1, 1997 through October 31, 1998.~~
~~Effective for salaries paid on or after November 1, 1998 the rate will be eleven point eighty five percent (11.85%)~~
~~equal to the rate provided in Rule 28, unless further modified by the Board.~~

~~Excess merger costs: 8.50%~~

~~TOTAL Contributions: 18.51% for salaries paid on or after November 1, 1997 through October 31, 1998.~~
~~Effective for salaries paid on or after November 1, 1998 the rate will be twenty point thirty five percent (20.35%)~~
~~unless further modified by the Board.~~

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended Retroactively to 7-1-97)
~~(10-1-97)P(7-1-97)T~~

(BREAK IN CONTINUITY OF SECTIONS)

~~177. INTEREST CHARGES ON DELINQUENT CONTRIBUTIONS (Rule 177):~~

~~If an employer fails or refuses to make contribution remittances by the twentieth (20th) day of the month in which contributions are due, interest shall be charged against such delinquent contributions for each day the contributions are delinquent. Interest shall be at the rate of twelve percent (12%) per annum as provided in Section 28-22-104(1), Idaho Code. Contributions are delinquent on the twenty first (21st) day of the month in which they are due. If, however, PERSI receives the contributions within ten (10) days of the date due, no interest will be charged.~~

Statutory References: Sections 59-1325(1) and 28-22-104, Idaho Code. ~~(1-1-94)~~

~~178~~. -- 999. (RESERVED).

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59.01.05 - SEPARATION FROM SERVICE RULES OF PERSI

DOCKET NO. 59-0105-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2000.

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. 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 December 15, 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 clarify the requirements for reinstatement of credited service via repayment of separation benefits and provide for multiple irrevocable payroll deductions.

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:

This rule change will confer a benefit on PERSI members.

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 Alan Winkle, Executive Director, 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 December 22, 1999.

DATED this 12th day of October, 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. 59-0105-9901

103. --- 999. ~~(RESERVED)~~ METHODS OF REPAYMENT OF SEPARATION BENEFITS (Rule 103).

01. Periodic And Lump-Sum Payments. Where an active member elects to repay a separation benefit to reinstate previous service as provided in Section 59-1360, Idaho Code, the member may request that repayment be made in periodic payments or in a lump-sum payment. No service will be reinstated until the full repayment has been made. (1-1-00)T

02. Repayments Initiated On Or After March 1, 2000. For all repayments initiated on or after March 1, 2000, except as provided in Rule 101 of this chapter, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at the reinstatement rate in effect on the date of the first periodic payment. (1-1-00)T

03. Repayments Initiated Before March 1, 2000. For all periodic repayments initiated before March 1, 2000, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at four point seventy-five percent (4.75%) interest. This is a grandfathered rate based on the rate in effect December 31, 1999, and will apply so long as payments exceed interest charges on a calendar year basis. If payments fail to exceed interest charges in any calendar year, the grandfathered rate will be forfeited and replaced by the reinstatement rate beginning in January immediately after the year in which the failure occurs. For purposes of these rules, a repayment is initiated by signing an agreement and making a payment. (1-1-00)T

104. EMPLOYER "PICKUP" OF REINSTATEMENT PAYMENTS (Rule 104).

01. Periodic Pre-Tax Payments. Payroll deduction payments may be made pre-tax under the employer pickup provision referenced in Section 59-1332, Idaho Code, only if the member authorizes an irrevocable payroll deduction. Once executed, the deduction cannot be changed or revoked. If the member terminates employment the member may continue making payments directly to PERSI but they will not be considered pre-tax until they are picked up by a subsequent irrevocable payroll deduction, approved by PERSI, and executed with another PERSI employer. (1-1-00)T

02. Multiple Irrevocable Payroll Deductions. Members who have previously authorized an irrevocable payroll deduction for purposes of making periodic pre-tax payments to reinstate previous credited service as provided in Section 59-1360, Idaho Code, may increase repayments by executing additional irrevocable payroll deductions to supplement the previously authorized deductions so long as the previous irrevocable deductions are not modified or terminated. (1-1-00)T

105 -- 999. ~~(RESERVED)~~.

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.07 – MISCELLANEOUS RULES OF PERSI

DOCKET NO. 59-0107-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2000.

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. 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 December 15, 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 Retirement Board has determined regular interest should more closely reflect actual investment returns experienced by the PERSI fund. Accordingly, rather than using local CD rates as a basis for regular interest, regular interest will be determined by net investment returns. To reduce volatility and conform more closely to market rates, a separate rate is created, based on the prime rate, for service repurchases. For changes to rules related to service repurchases, see Notice of Temporary and Proposed Rule, Docket No. 59-0105-9901.

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

The rule is being amended to comply with governing law, and/or confers a benefit on PERSI members.

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 Alan Winkle, Executive Director, 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 December 22, 1999.

DATED this 12th day of October, 1999.

Alan H. Winkle, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th St., Boise, ID 83702
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Phone: (208) 334-3365 FAX: (208) 334-3804

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0107-9901

100. REGULAR INTEREST (Rule 100).

~~The Board shall review the regular interest in June and December of for each calendar year shall be the greater of the rate of return on the PERSI fund net of all expenses for the fiscal year ending immediately prior to the calendar year as reported in the actuary's annual valuation report or the average interest rate of 13 week United States Treasury Bills on the last business day of each calendar quarter of the fiscal year ending immediately prior to the calendar year as reported in the "Money Rates" section of the Wall Street Journal. For the month the review is performed, the Board shall determine the average interest rate credited in the Boise, Idaho, area to one (1) and two (2) year certificates of deposits with a five thousand dollar (\$5,000) minimum balance. The Board shall adopt this average rate, rounded to the nearest quarter percent (1/4%), as the regular interest rate, with an effective date starting the first of the month following the review. Statutory References: Sections 59-1302(26), 59-1331, and 59-1335, Idaho Code. Cross References: (Amended (7-1-95, 9-26-95) (3-20-97)(1-1-00)T~~

101. REGULAR INTEREST--MEMBER CONTRIBUTIONS--REPAYMENT (Rule 101).

~~Regular interest as defined in Section 59-1302(26), Idaho Code, and Rule 100, in this chapter, shall accrue to and be credited monthly to a member's accumulated contributions. Additionally, regular interest, as defined in Section 59-1302(26), Idaho Code, and Rule 100, in this chapter, may be charged to the member on repayment of separation benefits, delinquent employee contributions, and other amounts owed to PERSI by the member. Statutory Reference: Sections 59-1305(16), 59-1331(2), and 59-1360, Idaho Code. (1-1-94) (1-1-00)T~~

102. -- 999. (RESERVED) REINSTATEMENT INTEREST (Rule 102).

~~Reinstatement interest for each calendar year shall equal the average of the prime rate on June 30 of the latest three (3) years, plus one percent (1%). For purposes of this rule, the prime rate is the "prime rate" listed in the "Money Rates" section of the Wall Street Journal on June 30, or in the event no rate is listed on June 30, on the latest date preceding June 30 for which a prime rate is listed. Unless otherwise provided by statute or rule, reinstatement interest shall apply to all amounts owed to the fund. (1-1-00)T~~

103. RATE DETERMINATION FAILURE (Rule 103).

~~If regular or reinstatement interest cannot be readily determined by reference to the publications cited, the Board will determine the rate or rates and publish them in the Idaho Administrative Bulletin. (1-1-00)T~~

104. -- 999. (RESERVED).

Subjects Affected Index

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.17 - RULES CONCERNING THE DISPOSAL OF CULL ONIONS AND POTATOES

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Bulletin Summary of Proposed Rulemakings

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 02 – DEPARTMENT OF AGRICULTURE P.O. Box 790, Boise, ID 83701-0790

Docket No. **02-0617-9901**, Rules Concerning the Disposal of Cull Onions and Potatoes. Revises chapter name and updates section; adds additional legal authority to provide penalty provisions; adds cull potatoes definition; deletes outdated pesticide references; specifies that quantity of cull onions to be disposed by feeding shall be governed by the number of animals to be fed; adds additional disposal systems and references best management practices for pit disposal; establishes regulated areas; adds cull potato disposal sections; and requires that written notification of allowed disposal methods be given to those doing the disposal. Comment By: 12/22/99.

Docket No. **02-0633-9901**, Rules Concerning the Late Blight of Potato, *Solanum Tuberosum* L. Repeal of chapter. Comment By: 12/22/99.

Docket No. **02-0640-9901**, Rules Relating to Ginseng Crop Management Area for Magic Valley. New chapter establishes definitions; provides for licensing and registration of persons growing, purchasing, and selling ginseng; provides for the inspection of and accounting for all ginseng exported from Idaho; specifies the records to be kept by ginseng growers and dealers; and provides a schedule of fees for services. Comment By: 12/22/99.

IDAPA 11 – DEPARTMENT OF LAW ENFORCEMENT PO Box 700, Meridian, ID 83680-0700

Docket No. **11-1101-9902**, Rules of the Peace Officers Standards and Training Council. Simplifies and clarifies the minimum standards of performance for the certification of Idaho police canine teams. Comment By: 12/22/99.

IDAPA 18 – DEPARTMENT OF INSURANCE PO Box 83720, Boise, ID 83720-0043

Docket No. **18-0147-9901**, Valuation of Life Insurance Policies Including the Introduction and Use of New Select Mortality Factors. Provides tables of select mortality factors and rules for calculating basic reserves concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits and secondary guarantees, which shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the effective date of this Rule.

Comment By: 1/26/00.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT P O Box 7129, Boise ID 83707-1129

Docket No. **39-0341-9901**, Rules Governing Traffic Control Devices. Incorporates by reference recent revisions to the “Manual on Uniform Traffic Control Devices for Streets and Highways” of the Federal Highway Administration. Comment By: 12/22/99.

IDAPA 50 – COMMISSION OF PARDONS AND PAROLE**P.O. Box 83720, Boise, ID 83720**

Docket No. **50-0101-9903**, Rules of the Commission of Pardons and Parole. Provides for executive director's designee to sign minutes of hearings; changes references to commission being under the authority of the governor not the board of correction; changes length of commissioner appointments; revises hearing locations, inmate interviews, that commission parole decisions given verbally and may or may not be sent to the inmate in writing, and that hearing summary minutes are not public record until signed; revises commission use of sentence calculation information provided by the Department of Correction, the forfeiture of time on parole, unsupervised parole and early discharge from parole; changes parole plan forms; gives consideration to educational program participation; adds that interstate parole applicants may be required to post a bond prior to acceptance; states that a decision to revoke parole may be made during deliberation in a commission hearing or an absentia hearing; includes the ability of commission to consider petitions from other than inmates and confidential information in commutation of sentence; and self-initiated progress report petitions may be submitted to the commission for consideration at any time. Comment By: 12/22/99.

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**P.O. Box 83720, Boise, ID 83720-0078**

Docket No. **59-0103-9903**, Contribution Rules of PERSI. Conforms to HB 23 by eliminating excess merger costs associated with the Idaho Falls Police Retirement Fund effective July 1, 1997. Comment By: 12/22/99.

Docket No. **59-0105-9901**, Separation from Service Rules of PERSI. Clarifies requirements for reinstatement of credited service via repayment of separation benefits and provides for multiple irrevocable payroll deductions. Comment By: 12/22/99.

Docket No. **59-0107-9901**, Miscellaneous Rules of PERSI. Regular interest will be determined by net investment returns to more closely reflect actual investment returns experienced by the PERSI fund; creates a separate rate, based on the prime rate, for service repurchases to reduce volatility and conform more closely to market rates. Comment By: 12/22/99.

PUBLIC HEARINGS – Public Hearings have been scheduled for the following dockets:

Department of Health and Welfare

Docket No. **16-0309-9911** and **16-0309-9913**, Rules Governing Medical Assistance.

Please refer to the Idaho Administrative Bulletin, **December 1, 1999, Volume 99-12** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

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