

# IDAHO ADMINISTRATIVE BULLETIN

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January 5, 2000

Volume 00-1

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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.

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## 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
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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 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO**  
**DOCKET NO. 16-0310-9902**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective July 1, 1999. This 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(s) SB1074; 56-202(f), 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 rule has been amended in response to public comment and to make transcriptional corrections. In Section 004 expands on the definition of "Common Ownership". Added to Section 203, the cost reports less than six months will not be used for rate setting. In Section 302, changes case-mix indices used from first day of second month to first day of first month. In Section 304, added two other exceptions to treatment of new beds. In Section 310, clarification of determination for special rate was made and in Section 311, changed to shadow rate period to end June 30, 2000 instead of December 31, 1999. These rules are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the August 4, 1999 Administrative Bulletin, Volume 99-8, pages 155 through 210.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Robbie Charlton at (208) 364-1809.

DATED this 8th day of November, 1999.

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**IDAPA 16**  
**TITLE 03**  
**Chapter 10**

**RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO**

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-8, August 4, 1999, pages 155 through 210.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0310-9902**

**004. DEFINITIONS.**

**01. Accrual Basis.** An accounting system based on the matching principle. Revenues are recorded when they are earned; expenses are recorded in the period incurred. (1-16-80)

**02. Allowable Cost.** Costs which are reimbursable, and sufficiently documented to meet the requirements of audit. (1-16-80)

**03. Amortization.** The systematic recognition of the declining utility value of certain assets, usually not owned by the organization or intangible in nature. (1-16-80)

**04. Appraisal.** The method of determining the value of property as determined by a MAI appraisal. The appraisal must specifically identify the values of land, buildings, equipment and goodwill. (9-15-84)

**05. Assets.** Economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. (1-11-82)

**06. Bad Debts.** Amounts due to provider as a result of services rendered, but which are considered uncollectible. (1-16-80)

**07. Bed-Weighted Median.** A numerical value determined by arraying the average per diem cost per bed of all facilities from high to low and identifying the bed at the point in the array at which half of the beds have equal or higher per diem costs and half have equal or lower per diem costs. The identified bed is the median bed. The per diem cost of the median bed is the bed-weighted median. (7-1-99)T

**08. Beneficiaries.** Persons who are eligible for and receive benefits under federal health insurance programs such as Title XVIII and Title XIX. (1-16-80)

**09. Betterments.** Improvements to assets which increase their utility or alter their use. (1-16-80)

**10. Capitalize.** The practice of accumulating expenditures related to long-lived assets which will benefit later periods. (1-16-80)

**11. Case Mix Component.** The portion of the facility's rate, direct care component, that is determined from quarterly case mix indices. The case mix component of a facility's rate is established at the beginning of each calendar quarter, based on the case mix indices calculated on the picture date of the preceding quarter. (7-1-99)T

**12. Case Mix Index.** A numeric score assigned to each facility resident, based on the resident's physical and mental condition, which projects the amount of relative resources needed to provide care to the resident. (7-1-99)T

a. **Facility Wide Case Mix Index.** The average of the entire facility's case mix indices identified at each picture date during the cost reporting period. If case mix indices are not available for applicable quarters due to lack of data, case mix indices from available quarters will be used. (7-1-99)T

b. **Medicaid Case Mix Index.** The average of the weighting factors assigned to each Medicaid resident in the facility on the picture date, based on their RUG's classification. Medicaid or non-Medicaid status will be based upon information contained in claims and MDS databases. To the extent that Medicaid identifiers are found to be incorrect at the time of the audit, the Department may adjust the Medicaid case mix index and reestablish the reimbursement rate. (7-1-99)T

c. **State-Wide Average Case Mix Index.** The simple average of all facilities "facility wide" case mix indices used in establishing the reimbursement limitation July 1 of each year. The state-wide case mix index will be calculated annually during each July 1 rate setting. (7-1-99)T

**13. Common Ownership.** An individual, individuals, or other entities which have equity, or evidence ownership in two (2) or more organizations which conduct business transactions with each other. Common ownership exists ~~when if~~ an individual or individuals possess significant ownership to the extent that significant control can be exercised or equity in the provider and the institution or organization serving the provider. (7-1-99)T(7-1-99)T

**14. Compensation.** The total of all remuneration received, including cash, expenses paid, salary advances, etc. (1-16-80)

**15. Control.** Control exists where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution. (7-1-99)T

**16. Cost Center.** A "collection point" for expenses incurred in the rendering of services, supplies, or material which are related or so considered for cost-accounting purposes. (1-16-80)

**17. Cost Component.** The portion of the facility's rate that is determined from a prior cost report, including property rental rate. The cost component of a facility's rate is established annually at July 1 of each year. (7-1-99)T

**18. Cost Reimbursement System.** A method of fiscal administration of Title XIX which compensates the provider on the basis of expenses incurred. (1-16-80)

**19. Cost Report.** A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (7-1-99)T

**20. Cost Statements.** An itemization of costs and revenues, presented on the accrual basis, which is used to determine cost of care for facility services for a specified period of time. These statements are commonly called income statements. (1-16-80)

**21. Costs Related To Patient Care.** All necessary and proper costs which are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities. Necessary and proper costs related to patient care are usually costs which are common and accepted occurrences in the field of the provider's activity. They include costs such as depreciation, interest expenses, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, normal standby costs, and others. (7-1-99)T

**22. Costs Not Related To Patient Care.** Costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are not allowable in computing reimbursable costs. They include, for example, cost of meals sold to visitors or employees; cost of drugs sold to other than patients; cost of operation of a gift shop; and similar items. Travel and entertainment expenses are not allowable unless it can be specifically shown that they relate to patient care and for the operation of the nursing

facility. (7-1-99)T

**23. Customary Charges.** Customary charges are the regular rates for various services which are recorded for Medicare beneficiaries and charges to patients liable for such charges. Those charges are to be adjusted downward, where the provider does not impose such charges on most patients liable for payment on a charge basis or, fails to make reasonable collection efforts. The reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt (see Chapter 3, Sections 310 and 312, PRM). (7-1-99)T

**24. Day Treatment Services.** Day treatment services are developmental services provided regularly during normal working hours on weekdays by, or on behalf of, the provider. However, day treatment services do not include recreational therapy, speech therapy, physical therapy, occupational therapy, or services paid for or required to be provided by a school or other entity. (7-1-97)

**25. Department.** The Department of Health and Welfare of the state of Idaho. (1-16-80)

**26. Depreciation.** The systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated life of the assets. (1-1-82)

**27. Direct Care Costs.** Costs directly assigned to the nursing facility or allocated to the nursing facility through the Medicare cost finding principles and consisting of the following: (7-1-99)T

a. Direct nursing salaries which include the salaries of registered nurses, licensed professional nurses, certified nurse's aides, and unit clerks; and (7-1-99)T

b. Routine nursing supplies; and (7-1-99)T

c. Nursing administration; and (7-1-99)T

d. Direct portion of Medicaid related ancillary services; and (7-1-99)T

e. Social services; and (7-1-99)T

f. Raw food; and (7-1-99)T

g. Employee benefits associated with the direct salaries. (7-1-99)T

**28. Director.** The Director of the Department of Health and Welfare or his designee. (1-1-82)

**29. Equity.** The net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles. (9-15-84)

**30. Facility.** An entity which contracts with the Director to provide services to recipients in a structure owned, controlled, or otherwise operated by such an entity, and which entity is responsible for operational decisions in conjunction with the use of the term "facility": (1-1-82)

a. The term "Nursing Facility" or "NF" is used to describe all non-ICF/MR facilities certified to provide care to Medicaid and Medicare patients; (2-1-91)

b. "Free-standing Nursing Facility" means a skilled nursing facility, as defined in and licensed under Chapter 13, Title 39, Idaho Code, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in Section 39-1301(a), Idaho Code; or (9-28-90)

c. "Hospital-based facility" means a nursing facility, as defined in and licensed under Chapter 13, Title 39, Idaho Code, which is owned, managed, or operated by, or is otherwise a part of a hospital, as defined in Section 39-1301(a), Idaho Code. (7-1-97)



- d. "Rural Hospital-Based Nursing Facilities." Those hospital-based nursing facilities not located within metropolitan statistical area (MSA) as defined by the United States Bureau of Census. (7-1-99)T
- e. "Urban Hospital-Based Nursing Facilities." Those hospital-based nursing facilities located within a metropolitan statistical area (MSA) as defined by the United States Bureau of the Census. (7-1-99)T
- 31. Fiscal Year.** The business year of an organization. (1-16-80)
- 32. Forced Sale.** A forced sale is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner which requires ownership transfer to existing partner or partners, or a sale required by the ruling of a federal agency or by a court order. (11-4-85)
- 33. Funded Depreciation.** Amounts deposited or held which represent recognized depreciation. (1-16-80)
- 34. GAAP.** Generally accepted accounting principles, pronounced "gap". (1-16-80)
- 35. Generally Accepted Accounting Principles.** Those concepts, postulates, axioms, etc., which are considered standards for accounting measurement. (1-16-80)
- 36. Goodwill.** The amount paid by the purchaser that exceeds the value of the net tangible assets. The value of goodwill is derived from the economic benefits that a going concern may enjoy, as compared with a new one, from established relations in the related markets, with government departments and other noncommercial bodies and with personal relationships. These intangible assets cannot be separated from the business and sold as can plant and equipment. Under the theory that the excess payment would be made only if expected future earnings justified it, goodwill is often described as the price paid for excess future earnings. The amortization of goodwill is nonallowable, nonreimbursable expense. (9-15-84)
- 37. Historical Cost.** The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies. (1-1-82)
- 38. ICF/MR.** An intermediate care facility for the mentally retarded. (9-15-84)
- 39. ICF/MR Living Unit.** The specific property or portion thereof that an ICF/MR uses to house patients. (7-1-97)
- 40. Improvements.** Improvements to assets which increase their utility or alter their use. (1-16-80)
- 41. Indirect Care Costs.** The following costs either directly coded to the nursing facility or allocated to the nursing facility through the Medicare step-down process described in the PRM: (7-1-99)T
- a. Administrative and general care costs: and (7-1-99)T
  - b. Activities; and (7-1-99)T
  - c. Central service and supplies; and (7-1-99)T
  - d. Laundry and linen; and (7-1-99)T
  - e. Dietary (non-"raw food" costs); and (7-1-99)T
  - f. Plant operations and maintenance (excluding utilities); and (7-1-99)T
  - g. Medical records; and (7-1-99)T
  - h. Employee benefits associated with the indirect salaries; and (7-1-99)T

- i. Housekeeping; and (7-1-99)T
- j. Other costs not included in direct care costs or costs exempt from cost limits. (7-1-99)T
- 42. Inflation Adjustment.** Cost used in establishing a facility's reimbursement rate shall be indexed forward from the midpoint of the cost report period to the midpoint of the rate year using the inflation factor plus one percent (+1%) per annum. (7-1-99)T
- 43. Inflation Factor.** For use in establishing nursing facility rates, the inflation factor is the Skilled Nursing Facility (SNF) Market Basket as established by Data Resources, Inc. (DRI), or its successor. If subsequent to the effective date of these rules, Data Resources, Inc., or its successor develops an Idaho-specific nursing facility index, it will be used. The Department is under no obligation to enter into an agreement with DRI or its successor to have an Idaho-specific index established. (7-1-99)T
- 44. Interest.** The cost incurred for the use of borrowed funds. (1-16-80)
- 45. Interest On Capital Indebtedness.** The cost incurred for borrowing funds used for acquisitions of capital assets, improvements, etc. These costs are differentiated from those related to current indebtedness by the payback period of the related debt. (1-16-80)
- 46. Interest On Current Indebtedness.** The costs incurred for borrowing funds which will be used for "working capital" purposes. These costs are differentiated from others by the fact that the related debt is scheduled for repayment within one (1) year. (1-16-80)
- 47. Interest Rate Limitation.** The interest rate allowed for working capital loans and for loans for major movable equipment for ICF/MR facilities is the prime rate as published in the western edition of the Wall Street Journal or successor publication, plus one percent (1%) at the date the loan is made. (7-1-99)T
- 48. Interim Reimbursement Rate (IRR).** A rate paid for each Medicaid patient day which is intended to result in total Medicaid payments approximating the amount paid at audit settlement. The interim reimbursement rate is intended to include any payments allowed in excess of the percentile cap. (10-22-93)
- 49. Intermediary.** Any organization which administers the Title XIX program; in this case the Department of Health and Welfare. (1-16-80)
- 50. Intermediate Care Facility For The Mentally Retarded.** A habilitative facility designed and operated to meet the educational, training, habilitative and intermittent medical needs of the developmentally disabled. (9-15-84)
- 51. Keyman Insurance.** Insurance on owners or employees with extraordinary talents in which the direct or indirect beneficiary is the facility or its owners. (1-16-80)
- 52. Lease.** A contract arrangement for use of another's property, usually for a specified time period, in return for period rental payments. (1-16-80)
- 53. Leasehold Improvements.** Additions, adaptations, corrections, etc., made to the physical components of a building or construction by the lessee for his use or benefit. Such additions may revert to the owner. Such costs are usually capitalized and amortized over the life of the lease. (1-16-80)
- 54. Level Of Care.** The classification in which a patient/resident is placed following a medical/social review decision. (1-16-80)
- 55. Licensed Bed Capacity.** The number of beds which are approved by the Licensure and Certification Agency for use in rendering patient care. (1-16-80)
- 56. Lower Of Cost Or Charges.** Payment to providers (other than public providers furnishing such

services free of charge or at nominal charges to the public) shall be the lesser of the reasonable cost of such services or the customary charges with respect to such services. Public providers which furnish services free of charge or at a nominal charge shall be reimbursed fair compensation; which is the same as reasonable cost. (7-1-99)T

**57. MAI Appraisal.** An appraisal which conforms to the standards, practices, and ethics of the American Institute of Real Estate Appraisers and is performed by a member of the American Institute of Real Estate Appraisers. (9-15-84)

**58. Major Movable Equipment.** Major movable equipment means such items as beds, wheelchairs, desks, furniture, vehicles, etc. The general characteristics of this equipment are: (12-28-89)

- a. A relatively fixed location in the building; (11-4-85)
- b. Capable of being moved, as distinguished from building equipment; (11-4-85)
- c. A unit cost of five thousand dollars (\$5000) or more; (7-1-99)T
- d. Sufficient size and identity to make control feasible by means of identification tags; and (11-4-85)
- e. A minimum life of three (3) years. (7-1-99)T

**59. Minimum Data Set (MDS).** A set of screening, clinical, and functional status elements, including common definitions and coding categories, that forms the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in Medicare or Medicaid. The version of the document initially used for rate setting is version 2.0. Subsequent versions of the MDS will be evaluated and incorporated into rate setting as necessary. (7-1-99)T

**60. Medicaid.** The 1965 amendments to the Social Security Act (P.L. 89-97), as amended. (1-1-82)

**61. Medicaid Related Ancillary Costs.** For the purpose of these rules, those services considered to be ancillary by Medicare cost reporting principles. Medicaid related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid residents by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid related ancillaries. (7-1-99)T

**62. Minor Movable Equipment.** Minor movable equipment includes such items as wastebaskets, bedpans, syringes, catheters, silverware, mops, buckets, etc. Oxygen concentrators used in lieu of bottled oxygen shall, at the facility's option, be considered minor movable equipment with the cost thereof reported as a medical supply. The general characteristics of this equipment are: (12-28-89)

- a. In general, no fixed location and subject to use by various departments of the provider's facility; (11-4-85)
- b. Comparatively small in size and unit cost under five thousand dollars (\$5000); (7-1-99)T
- c. Subject to inventory control; (11-4-85)
- d. Fairly large quantity in use; and (11-4-85)
- e. Generally, a useful life of less than three (3) years. (7-1-99)T

**63. Necessary.** The purchase of goods or services that is required by law, prudent management, and for normal, efficient and continuing operation of patient related business. (7-1-99)T

**64. Net Book Value.** The historical cost of an asset, less accumulated depreciation. (1-1-82)

**65. New Bed.** A bed is considered new if it is an additional nursing facility bed that is licensed

- subsequent to July 1, 1999. (7-1-99)T
- 66. Nominal Charges.** A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the related services. (7-1-99)T
- 67. Nonambulatory.** Unable to walk without assistance. (11-4-85)
- 68. Nonprofit Organization.** An organization whose purpose is to render services without regard to gains. (1-1-82)
- 69. Normalized Per Diem Cost.** Refers to direct care costs that have been adjusted based on the facility's case mix index for purposes of making the per diem cost comparable among facilities. Normalized per diem costs are calculated by dividing the facility's direct care per diem costs by its facility-wide case mix index, and multiplying the result by the statewide average case mix index. (7-1-99)T
- 70. Nursing Home Facility.** A "Nursing Facility" or "NF". See facility. (9-28-90)
- 71. Nursing Facility Inflation Rate.** The most specific skilled nursing facility inflation rate applicable to Idaho established by Data Resources, Inc. or its successor. If a state or regional index has not been implemented, the national index will be used. (7-1-99)T
- 72. Ordinary.** Ordinary means that the costs incurred are customary for the normal operation of the business. (7-1-99)T
- 73. Patient Day.** A calendar day of care which will include the day of admission and exclude the day of discharge unless discharge occurs after 3:00 p.m. or it is the date of death, except that, when admission and discharge occur on the same day, one (1) day of care shall be deemed to exist. (1-1-82)
- 74. Picture Date.** A point in time when case mix indices are calculated for every facility based on the residents in the facility on that day. The picture date to be used for rate setting will be the first day of the ~~second~~ first month of a quarter. The picture date from that quarter will be used to establish the facility's rate for the next quarter. ~~(7-1-99)T~~(7-1-99)T
- 75. Private Rate.** Rate most frequently charged to private patients for a service or item. (1-16-80)
- 76. PRM.** The Providers Reimbursement Manual, a federal publication which specifies accounting treatments and standards for the Medicare program, HCFA Publications 15-1 and 15-2, which are incorporated by reference into these rules. (7-1-99)T
- 77. Property Costs.** The total of allowable interest expense, plus depreciation, property insurance, real estate taxes, amortization, and allowable lease/rental expense. The Department may require and utilize an appraisal to establish those components of property costs which are identified as an integral part of an appraisal. (9-15-84)
- 78. Property Rental Rate.** A rate paid per Medicaid patient day to other than hospital based nursing homes in lieu of reimbursement for property costs other than property taxes, property insurance, and the property costs of major movable equipment at ICF/MR facilities. (7-1-97)
- 79. Proprietary.** An organization operated for the purpose of monetary gains. (1-16-80)
- 80. Provider.** A licensed and certified skilled nursing or intermediate care facility which renders care to Title XIX recipients. (1-16-80)
- 81. Prudent Buyer.** A prudent buyer is one who seeks to minimize cost when purchasing an item of standard quality or specification (PRM, Chapter 2100). (7-1-99)T
- 82. Public Provider.** A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality. (7-1-99)T

**83. Related To Provider.** The provider, to a significant extent, is associated or affiliated with, or has control of, or is controlled by, the organization furnishing the services, facilities, or supplies. (7-1-99)T

**84. Raw Food.** Food used to meet the nutritional needs of the residents of a facility, including liquid dietary supplements, liquid thickeners, and tube feeding solutions. (7-1-99)T

**85. Reasonable Property Insurance.** Reasonable property insurance means that the consideration given is an amount that would ordinarily be paid by a cost-conscious buyer for comparable insurance in an arm's length transaction. Property insurance per licensed bed in excess of two (2) standard deviations above the mean of the most recently reported property insurance costs per licensed bed of all facilities in the reimbursement class as of the end of a facility's fiscal year shall not be considered reasonable. (11-4-85)

**86. Recipient.** An individual determined eligible by the Director for the services provided in the state plan for Medicaid. (1-1-82)

**87. Related Entities.** The provider, to a significant extent, is associated or affiliated with, or is controlled by, or has control of another entity. (1-16-80)

**88. Resource Utilization Groups (RUG's).** A process of grouping residents according to the clinical and functional status identified by the responses to key elements of the MDS. For purposes of initial rate setting, RUG's III, version 5.12, 34 Grouper, nursing weights only, with index maximization will be used for grouping residents and is hereby incorporated into these rules. The RUG's Grouper is available from HCFA, 7500 Security Blvd., Baltimore, MD, 21244-1850. Subsequent versions of RUG's, or its successor, will be evaluated and may be incorporated into the rate setting process as necessary. (7-1-99)T

**89. Skilled Nursing Care.** The level of care for patients requiring twenty-four (24) hour skilled nursing services. (1-16-80)

**90. Skilled Nursing Facility.** A nursing care facility licensed by the Department to provide twenty-four (24) hour skilled nursing services and certified as a "Nursing Facility" under Title XVIII. (9-28-90)

**91. Title XVIII.** The Medicare program administered by the federal Social Security Administration. (1-16-80)

**92. Title XIX.** The medical assistance program known as Medicaid administered by the state of Idaho, Department of Health and Welfare. (1-16-80)

**93. Utilities.** All expenses for heat, electricity, water and sewer. (9-15-84)

**(BREAK IN CONTINUITY OF SECTIONS)**

**203. REPORTING PERIOD.**

When required for establishing rates, New providers will be required to submit three (3) quarterly costs statements, including one (1) adjusted-quarter report (if applicable), before the annual reporting option may be exercised. If a provider enters the program at some point in mid-quarter, his first quarter reporting dates will be adjusted to reflect not less than two (2) months operation nor more than four (4). Thereafter the normal reporting period would apply. If a provider withdraws from the program and subsequently re-enters, the new provider reporting requirements will apply. For purposes of nursing facility rate setting, cost report periods of less than six (6) months will not be used. If a provider changes their fiscal year-end or experiences a change in ownership, the last cost report filed by that facility that is greater than six (6) months will be used until a cost report exceeding six (6) months is received from the new owner, or is based on the new fiscal year. (7-1-99)T(7-1-99)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**302. DEVELOPMENT OF THE RATE.**

Rates shall be rebased annually. Rate setting shall be prospective with new rates effective July 1 of each year. There will be no settlement between actual costs incurred during the rate year and the rate itself. Rates for skilled care nursing facilities with unaudited cost reports will be interim rates established by the Department until a rate is calculated based on an audited cost report. The draft audit of a cost report submitted by a facility shall be issued by the Department no later than five (5) months from the date all information required for completion of the audit is filed with the Department. Data used to develop the reimbursement rate for nursing facilities will be made up of the following components: (7-1-99)T

**01. Property Reimbursement.** Per diem property costs as shown on the latest twelve (12) month cost report or audit report whichever is to be used in accordance with the cost reporting standards specified in Subsections 254.03.a. and 254.03.b. and the property rental rate as determined by Section 060, for facilities which receive this rate in lieu of property costs. No inflationary increase will be considered for property costs for the purpose of developing the interim rate. The property reimbursement component will be calculated in accordance with Section 060 of these rules. (7-1-99)T

**02. Utility Costs.** Projected utility costs for the facility's upcoming fiscal year may be submitted to the Department not less than ninety (90) days prior to the beginning date of the facility's upcoming fiscal year. In the absence of such submission the Department will project the facility's utility costs utilizing the methodologies found in Subsection 254.06. (12-31-91)

**03. Direct Care Component.** The direct care component of a facility's rate is the lesser of the facility's inflated direct care per diem costs, or the case mix adjusted per diem cost limit for that type of provider (free-standing nursing facility and urban hospital-based facilities, or rural hospital-based facilities). The lesser of the cost or limitation is then case mix adjusted, based on the facility's Medicaid case mix index. (7-1-99)T

a. All costs included in the direct care component will be adjusted based on the facility's case mix indices, with the exception of raw food and Medicaid related ancillary costs. (7-1-99)T

b. The direct care limitation will be adjusted based on each facility's case mix index. The calculated direct care limit will be divided by the statewide average facility-wide case mix index, and then multiplied by the individual facility-wide case mix index. (7-1-99)T

c. The lesser of the cost or limit will be divided by the facility-wide case mix index, and then multiplied by the most recent quarterly Medicaid case mix index to arrive at the direct care component. (7-1-99)T

**04. Indirect Care Component.** The indirect care component of a facility's rate is the lesser of the facility's inflated indirect care per diem costs, or the indirect per diem cost limit for that type of provider (freestanding nursing facilities and urban hospital-based facilities, or rural hospital-based facilities). (7-1-99)T

**05. Efficiency Incentive.** The efficiency incentive is available to those providers, both freestanding and hospital-based, which have inflated per diem indirect care costs less than the indirect per diem cost limit for that type of provider. The efficiency incentive is calculated by multiplying the difference between the per diem indirect cost limit and the facility's inflated per diem indirect care costs by seventy percent (70%). There is no incentive available to those facilities with per diem costs in excess of the indirect care limit, or to any facility based on the direct care component. (7-1-99)T

**06. Calculated Reimbursement Rate.** The reimbursement rate for a facility will be the sum of the Direct Care Component, Indirect Care Component, Efficiency Incentive, Cost Exempt from Limitation, and Property Reimbursement. In no case will the interim reimbursement rate be set higher than the charge for like services to private pay patients in effect for the period for which payment is being made as computed by the lower of costs or customary charges. (7-1-99)T

**07. Cost Component.** The cost component of each facility's rate shall be established effective July 1 of

each year and remain in effect through the following June 30. The cost data used in establishing the cost component of the rate calculation will be from the audited or unaudited cost report which ended during the previous calendar year (i.e., cost reports ending during the period from January 1, 1998 - December 31, 1998 will be used in setting rates effective July 1, 1999). If unaudited data is used, the rate will be considered an interim rate until the audited data is available, at which time a retroactive adjustment to the payment rate will be made. (7-1-99)T

**08. Case Mix Component.** The Medicaid case mix indices used in establishing each facility's rate will be recalculated quarterly and each facility's rate will be adjusted accordingly. The case mix indices will be calculated based on the most recent assessment for each resident in the facility on the first day of the ~~second~~ first month of the preceding quarter (i.e., assessments as of ~~May~~ April 1, 1999 would be used to establish the case mix indices needed to establish rates for the quarter beginning July 1, 1999. (~~7-1-99~~)T(7-1-99)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**304. TREATMENT OF NEW BEDS.**

Facilities which add beds subsequent to the effective date of these rules (July 1, 1999), will have their reimbursement rate subjected to an additional limitation for the next three (3) full years. This limitation will apply beginning with the first rate setting period which utilizes a cost report that includes the date when the beds were added. The facility's rate will be limited to the bed-weighted average of two (2) rates. Those two (2) rates are: (7-1-99)T

**01. Limitation Of Facilities Rate.** The facility's rate will be limited to the bed-weighted average of the facility's rate calculated in accordance with Section 302, and the current median rate for skilled care facilities of that type (freestanding or hospital-based) established each July 1. (7-1-99)T

**02. Calculation Of New Bed Rate.** The current calculated facility rate will be multiplied by the number of beds in existence prior to the addition. The median rate will be multiplied by the number of added beds (weighted for the number of days in the cost reporting period for which they were in service). These two (2) amounts will be added together and divided by the total number of beds (with the new beds being weighted if they were only in service for a portion of the year). The resulting per diem will represent an overall limitation on the facility's reimbursement rate. Providers with calculated rates that do not exceed the limitation will receive their calculated rate. (7-1-99)T

**03. Exception To New Bed Rate.** ~~Any beds converted from nursing facility to assisted living beds may not be reclassified to new nursing facility beds until three (3) years have elapsed from the date the beds were reclassified to assisted living beds.~~ The following situations will not be treated as new beds for reimbursement purposes: (~~7-1-99~~)T(7-1-99)T

a. Any beds converted from nursing facility to assisted living beds may not be reclassified to new nursing facility beds until three (3) years have elapsed from the date the beds were reclassified to assisted living beds. (7-1-99)T

b. Beds which are added as a result of expansion plans which the Department was made aware of in writing prior to July 1, 1999. The facility must have already expended significant resources on the purchase of land, site planning, site utility planning and/or development. Simply the existence of adequate land and/or space will not constitute having expended significant resources for the purposes of expansion. A written request with adequate supporting documentation for an exception under this provision must be received by the Department no later than December 31, 1999. In no case will beds added subsequent to July 1, 2003 qualify for the exception to the new bed criteria. (~~7-1-99~~)T(7-1-99)T

c. Beds which are decertified as a requirement of survey and certification due to deficiencies at the facility may be re-certified as existing beds with the approval of the Department. (7-1-99)T

**310. SPECIAL RATES.**

Section 56-117, Idaho Code, provides authority for the Director to pay facilities a special rate for care given to

patients who have long term care needs beyond the normal scope of facility services. These patients must have needs which are not adequately reflected in the rates calculated pursuant to the principles set forth in Section 56-102, Idaho Code. The payment for such specialized care will be in addition to any payments made in accordance with other provisions of this chapter. The incremental cost to a facility that exceeds the rate for services provided pursuant to the provisions of this section will be excluded from the computation of payments or rates under other provisions of Section 56-102, Idaho Code, and these rules. (7-1-99)T

**01. Determinations.** A determination to approve or not approve a special rate will be made on a patient-by-patient basis. No rate will be allowed if reimbursement for these needs is available from a non-Medicaid source. A special rate request will be for an expected condition that will be on-going for a period of greater than two (2) weeks. (~~7-1-99~~)T(7-1-99)T

**02. Application.** Until the facility applies for a special rate, patients with such needs will be included in the computation of the facility's rates following the principles described in Section 56-102, Idaho Code. (7-1-99)T

**03. Approval.** Approved special rates will become effective on the date the application is received, but no earlier than the first day of the month in which the application for a special rate was received. (7-1-99)T

**04. Reporting.** Costs equivalent to payments at the special rate will be removed from the cost components subject to limits, and will be reported separately. (7-1-99)T

**05. Limitation.** The reimbursement rate paid will not exceed the provider's charges to other patients for similar services. (7-1-99)T

**311. PHASE-IN PROVISIONS.**

The rates established pursuant to these rules shall be phased in over a three-year period as follows: (7-1-99)T

**01. July 1, 1999 Through ~~December 31, 1999~~ June 30, 2000.** During this period, providers will continue to be reimbursed under the previous retrospective system; however, the Department will also issue by ~~July~~ January 1, 1999 ~~2000~~ and October 1, 1999, "shadow rates" which will inform facilities what their rate would be under the provisions of these rules. (~~7-1-99~~)T(7-1-99)T

**02. ~~January~~ July 1, 2000 Through ~~June 30~~ December 31, 2000.** Rates calculated under the provisions of these rules will be compared to the rates that were available to the same facility as of June 30, 1999. Facilities which would experience decreases in their rate of one dollar (\$1) or less per resident day will receive the rate established under the provisions of these rules with no phase-in. Facilities which would experience decreases in their rate of greater than one dollar (\$1) per resident day will have the decrease in their rate limited to the greater of one dollar (\$1) per resident day or twenty-five percent (25%) of the decrease. Facilities which would experience increases in their reimbursement rate will receive the increased rate. (~~7-1-99~~)T(7-1-99)T

**03. ~~July~~ January 1, 2000 Through June 30, 2001.** Rates calculated under the provisions of these rules will be compared to the rates that were available to the same facility as of June 30, 1999. Facilities which would experience decreases in their rate of two dollars (\$2) or less per resident day will receive the rate established under the provisions of these rules with no phase-in. Facilities which would experience decreases in their rate of greater than two dollars (\$2) per resident day will have the decrease in their rate limited to the greater of two dollars (\$2) per resident day or fifty percent (50%) of the decrease. Facilities which would experience increases in their reimbursement rate will receive the increased rate. (~~7-1-99~~)T(7-1-99)T

**04. July 1, 2001.** Beginning with July 1, 2001, the rates established under the provisions of these rules will be fully implemented with no phase-in. (7-1-99)T



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO**  
**DOCKET NO. 16-0310-9903**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective July 1, 1999. This 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(s) 56-202(f), 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.

In Section 451 of these rules, the definition of Medicare's Metropolitan Statistical Area (MSA) was added. The proposed rules have been amended in response to public comment and transcriptional correction to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the September 1, 1999 Administrative Bulletin, Volume 99-9, pages 120 through 128.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Judith Shipley at (208) 364-1841.

DATED this 1st day of November, 1999.

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DHW - Legal Services Division  
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**IDAPA 16**  
**TITLE 03**  
**Chapter 10**

**RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO**

**There are substantive changes from the proposed rule text.**

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

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-9, September 1, 1999, pages 120 through 128.**

**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. 16-0310-9903**

**451. DEFINITIONS.**

In determining hospital reimbursement on the basis either of Customary Charges or of the Reasonable Cost of services under Medicaid guidelines, whichever is less, the following will apply: (7-1-99)T

**01. Allowable Costs.** The Current Year's Title XIX apportionment of a hospital's Allowable Costs determined at final or interim settlement consist of those costs permitted by the principles of reimbursement contained in the Provider Reimbursement Manual (PRM) and do not include costs already having payment limited by Medicaid rate file or any other Medicaid charge limitation. (7-1-99)T

**02. Apportioned Costs.** Apportioned Costs consist of the share of a hospital's total Allowable Costs attributed to Medicaid program recipients and other patients so that the share borne by the program is based upon actual services received by program recipients, as set forth in the applicable Title XVIII principles of cost reimbursement as specified in the PRM and in compliance with Medicaid reimbursement rules. (7-1-99)T

**03. Capital Costs.** For the purposes of hospital reimbursement, Capital Costs are those allowable costs considered in the settlement that represent the cost to each hospital for its reasonable property related and financing expense, and property taxes. (7-1-99)T

**04. Case-Mix Index.** The Case-Mix Index for a hospital is the average weight of values assigned to a range of diagnostic related groups, including but not limited to, those used in the Medicare system or adjoining states and applied to Medicaid discharges included in a hospital's fiscal year end settlement. The index will measure the relative resources required to treat Medicaid inpatients. The Case-Mix Index of the Current Year will be divided by the index of the principal year to assess the percent change between the years. (7-1-97)

**05. Charity Care.** Charity Care is care provided to individuals who have no source of payment, third-party or personal resources. (7-1-97)

**06. Children's Hospital.** A Children's Hospital is a Medicare certified hospital as set forth in 42 CFR Section 412.23(d). (7-1-97)

**07. Cost Report.** A Cost Report is the complete Medicare cost reporting form HCFA 2552, or its successor, as completed in full and accepted by the Intermediary for Medicare cost settlement and audit. (7-1-97)

**08. Current Year.** Any hospital cost reporting period for which Reasonable Cost is being determined will be termed the Current Year. (7-1-97)

**09. Customary Charges.** Customary Charges reflect the regular rates for inpatient or outpatient services charged to patient(s) liable for payment for their services on a charge basis. Implicit in the use of charges as the basis for comparability (or for apportionment under certain apportionment methods) is the objective that services are related to the cost of services billed to the Title XIX program. No more than one hundred percent (100%) of covered charges will be reimbursed for the separate Operating Costs for either total inpatient services or total outpatient services at the time of final cost settlement for any fiscal year with the exception set forth in Subsection 453.02. (7-1-97)

**10. Disproportionate Share Hospital (DSH) Allotment Amount.** The DSH Allotment Amount determined by Health Care Financing Administration which is eligible for federal matching funds in any federal fiscal period for disproportionate share payments. (7-1-97)

**11. Disproportionate Share Hospital (DSH) Survey.** The DSH Survey is an annual data request from the Department to the hospitals to obtain the information necessary to compute DSH pursuant to Subsection 454.01. (7-1-97)

- 12. Disproportionate Share Threshold.** The Disproportionate Share Threshold shall be: (7-1-97)
- a. The arithmetic mean plus one (1) standard deviation of the Medicaid Utilization Rates of all Idaho Hospitals; or (7-1-97)
- b. A Low Income Revenue Rate exceeding twenty-five percent (25%). (7-1-97)
- 13. Excluded Units.** Excluded Units are distinct units in hospitals which are certified by Medicare according to 42 CFR Sections 412.25, 412.27 and 412.29 for exclusion from the Medicare prospective payment system. (7-1-97)
- 14. Hospital Inflation Index.** For purposes of determining the rate of increases of historical and forecasted Title XIX Inpatient Operating Cost Limits, and interim rates, the DRI, Data Resources Incorporated, Type Hospital Market Basket quarterly moving average, or its successor, is the Hospital Inflation Index. (7-1-97)
- 15. Low Income Revenue Rate.** The Low Income Revenue Rate is the sum of the following fractions, expressed as a percentage, calculated as follows: (7-1-97)
- a. Total Medicaid inpatient revenues paid to the hospital, plus the amount of the cash subsidies received directly from state and local governments in a cost reporting period, divided by the total amount of revenues and cash subsidies of the hospital for inpatient services in the same cost reporting period; plus (7-1-88)
- b. The total amount of the hospital's charges for inpatient hospital services attributable to charity care in the same cost reporting period, divided by the total amount of the hospital's charges for inpatient services in the hospital in the same period. The total inpatient charges attributed to charity care shall not include contractual allowances and discounts and reduction in charges given to Medicare, Medicaid, other third-party payors, or cash for patient services received directly from state and local governments county assistance programs. (7-1-97)
- 16. Medicaid Inpatient Day.** For purposes of DSH payments, an inpatient day is defined as a Medicaid inpatient day in a hospital for which there is also no Medicare inpatient day counted. (7-1-97)
- 17. Medicaid Utilization Rate (MUR).** The MUR for each hospital will be computed using the Department's record of paid inpatient days for the fiscal year divided by the total inpatient days for the same fiscal year as reported in the DSH Survey. In this paragraph, the term "inpatient days" includes Medicaid swing-bed days, administratively necessary days, newborn days, days in specialized wards, days provided at an inappropriate level of care, and Medicaid inpatient days from other states. In this paragraph, "Medicaid inpatient days" includes paid days not counted in prior DSH Threshold computations. (7-1-99)T
- 18. Obstetricians.** For purposes of an adjustment for hospitals serving a disproportionate share of low income patients, and in the case of a hospital located in a rural area, as defined by the federal Executive Office of Management and Budget, the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. (7-1-88)
- 19. On-Site.** A service location over which the hospital exercises financial and administrative control. "Financial and administrative control" means a location whose relation to budgeting, cost reporting, staffing, policy-making, record keeping, business licensure, goodwill and decision-making are so interrelated to those of the hospital that the hospital has ultimate financial and administrative control over the service location. The service location shall be in close proximity to the hospital where it is based, and both facilities serve the same patient population (e.g. from the same area, or catchment, ~~no further away than 15 miles from a~~ within Medicare's defined Metropolitan Statistical Area (MSA) for urban hospitals or thirty-five (35) miles from a rural hospital). ~~(7-1-99)T~~ (7-1-99)T
- 20. Operating Costs.** For the purposes of hospital reimbursement, Operating Costs are the allowable costs included in the cost centers established in the finalized Medicare Cost Report to accumulate costs applicable to providing routine and ancillary services to patients for the purposes of cost assignment and allocation in the step-down process. (7-1-97)
- 21. Other Allowable Costs.** Other Allowable Costs are those Reasonable Costs recognized under the

Medicaid Reasonable Cost principles for services not subject to Medicaid limitations of coverage or reimbursement limits. Costs which are not reimbursed as Operating Costs, but recognized by Medicare principles as Allowable Costs will be included in the total Reasonable Costs. Other Allowable Costs include, but are not necessarily limited to, physician's component which was combined-billed, Capital Costs, ambulance costs, excess costs, carry-forwards and medical education costs. (7-1-97)

**22. Principal Year.** The Principal Year is the period from which the Title XIX Inpatient Operating Cost Limit is derived. (7-1-97)

a. For services rendered from July 1, 1987 through July 5, 1995, the Principal Year shall be the provider's fiscal year ending in calendar year 1984 in which a finalized Medicare Cost Report or its equivalent is prepared for Title XIX cost settlement. (7-1-97)

b. For inpatient services rendered after July 5, 1995, through June 30, 1998, the Principal Year shall be the provider's fiscal year ending in calendar year 1992 in which a finalized Medicare Cost Report, or its equivalent, is prepared for Title XIX cost settlement. (7-1-97)

c. For inpatient services rendered after June 30, 1998, the Principal Year shall be the provider's fiscal year ending in calendar year 1995 in which a finalized Medicare Cost Report or its equivalent is prepared for Title XIX cost settlement. (7-1-97)

**23. Public Hospital.** For purposes of Subsection 453.02, a Public Hospital is a hospital operated by a federal, state, county, city, or other local government agency or instrumentality. (7-1-97)

**24. Reasonable Costs.** Except as otherwise provided in Section 453, Reasonable Costs include all necessary and ordinary costs incurred in rendering the services related to patient care which a prudent and cost-conscious hospital would pay for a given item or service which do not exceed the Title XIX cost limit. (7-1-97)

**25. Reimbursement Floor Percentage.** The percentage of allowable Medicaid costs guaranteed to hospitals with more than forty (40) licensed and Medicare certified inpatient beds during the following state fiscal years is as follows: (7-1-97)

- a. State Fiscal Year Ending June 30, 1996 - eighty percent (80%); (7-1-97)
- b. State Fiscal Year Ending June 30, 1997 - eighty-one percent (81%); (7-1-97)
- c. State Fiscal Year Ending June 30, 1998 - eighty-two percent (82%); (7-1-97)
- d. State Fiscal Year Ending June 30, 1999 - eighty-three percent (83%); (7-1-97)
- e. State Fiscal Year Ending June 30, 2000 - eighty-four percent (84%); (7-1-97)
- f. State Fiscal Year Ending June 30, 2001 - eighty-five percent (85%). (7-1-97)

**26. TEFRA.** TEFRA is the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248. (7-1-97)

**27. Uninsured Patient Costs.** For the purposes of determining the additional costs beyond uncompensated Medicaid costs that may be reimbursed as a DSH payment without exceeding the state Allotment Amount, only inpatient costs of uninsured patients will be considered. An inpatient with insurance but no covered benefit for the particular medically necessary service, procedure or treatment provided is an uninsured patient. (7-1-99)T

**28. Upper Payment Limit.** The Upper Payment Limit for hospital services shall be as defined in the Code of Federal Regulations. (7-1-97)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES**  
**DOCKET NO. 16-0319-9901**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective July 1, 1999. This 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(s) 39-3505 and 39-3525(2), Idaho Code.

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

The proposed rules have been amended in response to public comment and have been changed to allow the use of late-model mobile homes. Added is the requirement to report to the local authorities abuse, neglect, or exploitation of funds and to make transcriptional corrections to the rules. These rules are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the August 4, 1999 Administrative Bulletin, Volume 99-8, pages 212 through 244.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact John Hathaway, 208-334-1863.

DATED this 19th day of October, 1999.

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**IDAPA 16**  
**TITLE 03**  
**Chapter 19**

**RULES GOVERNING CERTIFIED FAMILY HOMES**

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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-8, August 4, 1999, pages 212 through 244.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0319-9901**

**008. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference.

(7-1-99)T

**01. The Uniform Building Code, 1988 Edition.** Available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, CA, 90601.

(7-1-99)T

**02. IDAPA 16.03.22, "Rules For Licensed Residential And Assisted Living Facilities In Idaho,"** Sections 927 and 930.

(7-1-99)T

**03. Administrative Rules of the Idaho State Board of Nursing.** IDAPA 23.01.01, "Rules of the Board of Nursing".

(7-1-99)T

**04. Americans with Disabilities Act Accessibility Guidelines.** 28CFR Par 36, Appendix A.

(7-1-99)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. ISSUANCE OF CERTIFICATES.**

**01. Provisional Certificate.** Homes found to be in substantial compliance with these rules but which fail to comply in every detail may be issued a provisional certificate when failure to comply will not adversely affect the health and safety of the residents. A certificate issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with an agreed upon plan. Provisional certificates may be issued for up to six (6) months.

(7-1-99)T

**02. Full Certificate.** A full certificate shall be valid for a period of time not to exceed twelve (12) months from the date of approval. The certificate shall expire at the end of its stated period unless it is continued in effect by agreement with the Department or by operation of law.

(7-1-99)T

a. Each certificate issued shall be only for the premises and persons named in the application and shall not be transferable or assignable;

(7-1-99)T

b. The certificate shall be available at the home upon request; and

(7-1-99)T

c. The provisional certificate may be replaced with a full certificate when the certifying agency has completed a revisit to the home prior to the expiration of the provisional certificate and has determined that the home qualifies for a full certificate. (7-1-99)T

**03. Expiration And Renewal Of Certificates.** (7-1-99)T

a. The application for renewal of a certificate shall be submitted on a form prescribed by the certifying agency. The completed application shall be returned to the certifying agency at least thirty (30) days prior to the expiration of the existing certificate. (7-1-99)T

b. The existing certificate, unless suspended or revoked, shall remain in force and effect until the Department has acted upon the application renewal when such application for renewal is timely filed. (7-1-99)T

**04. Change Of Ownership Certification Requirements.** (7-1-99)T

a. Because certificates are not transferable from one (1) individual to another or from one (1) lessee to another or from one (1) location to another, when a change of ownership, lease, or location is undertaken, the home must be recertified and must follow the same procedure as a home that has never been certified; (7-1-99)T

b. 1501 home status may not be recertified on a transfer between individuals or from one (1) location to another. On recertification of any such home that is transferred, the general provisions of these rules will apply, and the home will be limited to two (2) residents; (7-1-99)T

c. The application for a change of ownership must be submitted to the certifying agency at least sixty (60) days prior to the proposed date of change; and (7-1-99)T

d. An application for change of ownership of a home that is leased from a person who is in litigation for failure to meet licensure standards, or who has had his license revoked, shall include evidence that there is a bonafide arms length agreement and relationship between the two (2) parties. See Subsection 111.02.h. (7-1-99)T

**05. Denial Of Certificate.** The Department may deny the issuance of a certificate when such conditions exist as to endanger the health, safety, or welfare of any resident or when the home is not in substantial compliance with these rules. Additional causes for denial of a certificate include the following: (7-1-99)T

a. The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; or (7-1-99)T

b. The applicant or provider has been guilty of fraud, gross negligence, abuse, assault, battery or exploitation in relationship to the operation of a health facility or certified family home; or (7-1-99)T

c. The applicant or provider has been convicted of a criminal offense described in Section 39-3321(1), Idaho Code, within the past five (5) years; or (7-1-99)T

d. The applicant or provider has been ~~denied or has had revoked any health facility license, residential and assisted living facility license, or certified family home certificate~~ convicted of a criminal offense other than a minor traffic violation; or ~~(7-1-99)T~~(7-1-99)T

e. The applicant or provider has been ~~convicted~~ denied or has had revoked of operating any health facility, residential and assisted living facility license, or certified family home ~~without a license/certificate;~~ or ~~(7-1-99)T~~(7-1-99)T

f. The applicant or provider has been ~~enjoined~~ convicted from of operating a health facility, residential and assisted living facility, or certified family home ~~without a license/certificate;~~ or ~~(7-1-99)T~~(7-1-99)T

g. The applicant or provider ~~is directly under the control or influence of any person who is described by Subsections 150.05.a. through 150.05.f.~~ has been enjoined from operating a health facility, residential and assisted living facility, or certified family home; or ~~(7-1-99)T~~(7-1-99)T

h. The applicant or provider is directly under the control or influence of any person who is described by Subsections 150.05.a. through 150.05.f. (7-1-99)T

i. The applicant is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years. (7-1-99)T

**06. Revocation Of Certificate.** The Department may revoke any certificate when conditions exist which endanger the health, safety, or welfare of any resident, or when the home is not in substantial compliance with these rules. (7-1-99)T

**07. Emergency Powers Of The Director.** In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any certified family home certificate. As soon thereafter as practicable, the Director shall provide an opportunity for a hearing in accordance with the provisions of IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (7-1-99)T

**08. Uncertified Family Homes.** No uncertified family home shall operate in this state: (7-1-99)T

a. An "uncertified family home" shall not operate in the state if it is "operated to provide family home services," is not certified, is not exempt from certification, provides care commercially, and any one (1) of the following conditions exists: (7-1-99)T

i. The home is, or is held out as or represented as, providing care, supervision, and services; or (7-1-99)T

ii. The home accepts or retains residents who demonstrate the need for care, supervision, and services, as defined by these rules. (7-1-99)T

b. Upon discovery of an uncertified family home, the Department shall refer residents to the appropriate placement or adult protective services agency if there is an immediate threat to any resident's health and safety or if the home does not cooperate with the certifying agency to apply for certification, meet certification standards, and obtain a valid certificate. (7-1-99)T

c. A person found to be operating a certified family home without first obtaining a certificate may be referred for criminal prosecution pursuant to Section 39-3381, Idaho Code. (7-1-99)T

**09. Placement Of Persons Into An Uncertified Family Home.** No person or public agency employee shall place, refer, or recommend placement of a person into a family home which is operating without a certificate. (7-1-99)T

**10. Procedure For Hearings For Denial Or Revocation Of A Certificate.** (7-1-99)T

a. Immediately upon the denial of any application for a certificate, or the revocation of a certificate, the Department shall notify the applicant or operator in writing by certified mail or by personal service of its decision and the reason for its decision; (7-1-99)T

b. The notification shall also offer the applicant or the operator the opportunity to request an informal prehearing conference during which alternatives to revocation or denial may be discussed; and (7-1-99)T

c. If the case cannot be resolved in the prehearing conference, or if the applicant or operator does not request a prehearing conference, the case shall be subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (7-1-99)T



**(BREAK IN CONTINUITY OF SECTIONS)**

**710. REQUIREMENTS FOR EXISTING HOMES TO BE CONVERTED TO CERTIFIED FAMILY HOMES.**

In addition to Subsections 700.01 through 700.12, homes to be converted to certified family homes shall comply with the following: (7-1-99)T

**01. Site Requirements.** The home location shall be: (7-1-99)T

a. In a lawfully constituted fire district; and (7-1-99)T

b. Served by an all-weather road kept open to motor vehicles at all times of the year; and (7-1-99)T

c. Accessible to physician or emergency medical services within thirty (30) minutes driving time; and (7-1-99)T

d. Accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (7-1-99)T

**02. Use Of Modular (i.e., Factory Built) Buildings And Manufactured Homes.** ~~Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the Uniform Building Code unless approved for use as a home prior to July 1, 1999, and may continue to be certified when evaluated on a case-by-case basis for fire and life safety issues for the current owner. Manufactured Homes as defined in Section 39-4105, Idaho Code, shall not be used unless approved for use as a home prior to July 1, 1999, and may continue to be certified when evaluated on a case-by-case basis for fire and life safety issues for the current owner.~~ Use of Manufactured Homes. (7-1-99)T(7-1-99)T

a. The home shall be constructed after August 8, 1987; and (7-1-99)T

b. The home shall comply with applicable standards set forth under HUD and shall bear the HUD seal; and (7-1-99)T

c. The home shall be installed on a concrete foundation meeting the requirements as set forth by the local jurisdiction (i.e., city/county) in which the home is located. (7-1-99)T

d. Exception: Manufactured homes approved for use as a home prior to July 1, 1999 may continue to be certified when evaluated on a case-by-case basis for the fire and life safety issues for the current owner. (7-1-99)T

e. Manufactured homes brought up to equivalent standards may be considered for use subject to the certifying agency. (7-1-99)T

**03. Occupancy Approval.** Any building proposed for conversion to a home shall be approved by the certifying agency prior to issuance of a certificate. Any items of noncompliance shall be corrected prior to issuance of the certificate. (7-1-99)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.20 - RULES GOVERNING ELECTRONIC PAYMENTS OF PUBLIC ASSISTANCE,**  
**FOOD STAMPS, AND CHILD SUPPORT**

**DOCKET NO. 16-0320-9901**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective January 1, 2000. This 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(s) 39-106(l), 52-208(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 effective date in the temporary rules have been changed to January 1, 2000, the sections affected are; 000-001, 004-007, 010, 030, 130, 200, 210, 240, and 300. In Section 140 of these rules, the last sentence has been deleted, as cash benefits do not expunge. In Section 235 of these rules, the last sentence has been revised to distinguish between the participant and the primary cardholder. In Section 242, the EP card can be deactivated by the regional EP specialist, the text has been added accordingly. The proposed rules have been amended in response to public comment and transcriptional corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes to the text are printed in this bulletin. The original text of the proposed rule was published in the October 6, 1999 Administrative Bulletin, Volume 99-10, pages 297 through 303.

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

DATED this 4th day of November, 1999.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
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**IDAPA 16**  
**TITLE 03**  
**Chapter 20**

**RULES GOVERNING ELECTRONIC PAYMENTS OF PUBLIC ASSISTANCE,**  
**FOOD STAMPS, AND CHILD SUPPORT**

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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 297 through 303.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0320-9901**

**140. CONVERSION OF FOOD STAMP BENEFIT ACCOUNT BALANCES.**

When a participant moves to an area where EP benefits cannot be used, the Department will convert all unused Food Stamp benefits to a cash benefit account. ~~Benefits in the converted account will expunge in seven (7) days as provided in 7 CFR Section 274.12.~~ ~~(11-1-99)F(1-1-00)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**235. PRIMARY CARD HOLDER.**

The primary card holder is the individual whose client identification number is used to establish an account. An individual who is a guardian, a parent of a minor child, a protective payee, or a person granted limited power of attorney because the participant is unable to use his EP card may also be the primary card holder in lieu of the person whose client identification number is used on the card. The primary card holder has primary responsibility for a benefit account. A primary card holder other than the participant is responsible for the participant's EP benefit account transactions. This person accepts and exercises responsibility over the participant's EP benefit account. The participant shall not be issued an EP card when the primary card holder is a person other than the participant, whose client identification number is used to establish the account. ~~(11-1-99)F(1-1-00)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**242. DEACTIVATING AN EP CARD.**

An EP card must only be deactivated by the Vendor's CSC or the Regional EP Specialist. A card holder may request deactivation of his own card or the card of an authorized family member or authorized representative. The participant may request deactivation of the card held by his limited power of attorney for EP. An EP card must not be deactivated at the request of a participant who is not the primary card holder. A group home's EP card must not be deactivated at the request of a Food Stamp participant. ~~(11-1-99)F(1-1-00)T~~

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.22 - RULES GOVERNING RESIDENTIAL AND ASSISTED LIVING FACILITIES**  
**DOCKET NO. 16-0322-9901**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective July 1, 1999. This 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(s) 39-3505 and 39-3525(2), Idaho Code.

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

The proposed rule has been amended in response to public comment. Section 111 added text relating to the denial of a license if convicted of a criminal offense other than a minor traffic violation with the past five (5) years. In Section 420, a change was made to the requirement to report to the local authorities abuse, neglect, or exploitation of funds. In Section 427, access to residents funds will be made available during reasonable hours. These corrections to the rule are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the August 4, 1999 Administrative Bulletin, Volume 99-8, pages 249 through 310.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact John Hathaway at (208) 364-1863.

DATED this 19th day of November, 1999.

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**IDAPA 16**  
**TITLE 03**  
**Chapter 22**

**RULES GOVERNING RESIDENTIAL AND ASSISTED LIVING FACILITIES**

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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-8, August 4, 1999, pages 249 through 310.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0322-9901**

**111. DENIAL OF LICENSE.**

**01. Endangerment Of Resident's Health And Safety.** The Department may deny the issuance of a license when conditions exist that endanger the health or safety of any resident. (7-1-99)T

**02. Substantial Compliance With These Rules.** The licensing agency may deny the issuance of a license when the facility is not in substantial compliance with these rules. Additional causes for denial of a license may include the following: (7-1-99)T

a. The applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; or (7-1-99)T

b. The applicant has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility or residential care facility or certified family home; or (7-1-99)T

c. The applicant is actively affected in his performance by alcohol or the use of drugs classified as controlled substances; or (7-1-99)T

d. The applicant has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; or (7-1-99)T

~~de.~~ The applicant is of poor moral and responsible character or has been convicted of a felony or defrauding the government; or (7-1-99)T

~~ef.~~ The applicant has been denied or the applicant's wrongdoing has caused the revocation of the license/certificate of any health facility, residential and assisted living facility, or certified family home; or (7-1-99)T

~~fg.~~ The applicant has been convicted of operating any health facility or residential care facility without a license or certified family home without a certificate; or (7-1-99)T

~~gh.~~ The applicant is directly under the control or influence of any person who has been subject to the proceedings described in Subsection 111.02.c.; or (7-1-99)T

~~hi.~~ The applicant is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government; ~~or~~ (7-1-99)T (7-1-99)T

j. The applicant is directly under the control or influence of any person who has been convicted of a

criminal offense other than a minor traffic violation in the past five (5) years.

(7-1-99)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**420. OPERATIONAL STANDARDS AND PROCEDURES.**

**01. Operational Policies.** Each facility shall develop and implement a written set of operational policies; which shall be available at all times and shall include, but not be limited to: (7-1-99)T

a. Appropriate transfer to other facilities for acute medical or other care to include timely transfer when needed; (7-1-99)T

b. Signed release by the resident or legal guardian/conservator for transfer of pertinent information to the receiving facility; (7-1-99)T

c. Arrangements made for emergency medical, dental, or other services; (7-1-99)T

d. Temporary detention of a resident against his will to protect him or others from harm, which shall include how this is to be accomplished, and persons to be notified including the resident's legal guardian/conservator or family, the Department and local law enforcement; (7-1-99)T

e. Maintenance of a log to include documentation indicating any significant change in a resident's physical or mental status and the facility's action or response. A twelve (12) month record of logs shall be maintained in the facility; (7-1-99)T

f. Notification of significant changes in physical or mental condition to the family, legal guardian/conservator, or should there be none, the Department; (7-1-99)T

g. Conditions under which transfer of a resident can be made without prior notification to, or consent of, the family or legal guardian/conservator; (7-1-99)T

h. Assurance that physician's orders are adhered to; (7-1-99)T

i. Death of a resident while in the facility; (7-1-99)T

j. Provision and maintenance of a system of identifying each resident's personal property and methods for safekeeping of his valuables. Each resident's clothing and other property shall be reserved for his own use; (7-1-99)T

k. Provision for the timely return of the resident's valuables and personal purchases at the time of his transfer, discharge, or death; (7-1-99)T

l. Provisions for smoking or non-smoking; (7-1-99)T

m. Provisions for alerting or calling an operator or attendant during the night and permitting any resident to secure the attention of personnel at any time; (7-1-99)T

n. Plans and procedures for the operation of the physical plant, which include, but are not limited to, utilities, fire safety, and plant maintenance; (7-1-99)T

o. Investigations and review of written reports by the administrator of every incident/accident involving a resident; and (7-1-99)T

p. Notification of the resident's family or legal guardian/conservator, or in the case of Department

clients, the regional office of the Department, of any unusual happenings to a resident such as accidents, sudden illness, disease, unexplained absence, or death. (7-1-99)T

q. Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, Ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited shall immediately report such information to the Idaho Commission on Aging or its Area Agencies on Aging (Section 39-5303, Idaho Code). (7-1-99)T

r. It is the facility's responsibility to immediately report ~~within four (4) hours to the appropriate law enforcement agency~~ suspected abuse, neglect or exploitation of any vulnerable adult to the Commission on Aging. ~~When there is reasonable cause to believe that abuse, neglect, misappropriation of resident's property, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult resident, the facility must report such information within four (4) hours to the appropriate law enforcement agency.~~ (refer to Sections 39-5303 and 39-5310, Idaho Code). ~~Failure to report can result in negative action up to and including revocation of the facility's license.~~ (7-1-99)T(7-1-99)T

**02. Resident Medications.** There shall be a policy describing the facility's system for handling resident medications in accordance with Section 428 of these rules. (7-1-99)T

**03. Behavior Management Programs.** If any behavior management is used, there shall be a policy describing the facility's behavior management program which is: (7-1-99)T

a. Designed and closely monitored to assure that the interventions of the program are positive; (7-1-99)T

b. The least restrictive and least aversive means of obtaining the desired result; and (7-1-99)T

c. Must be approved by an individual qualified in resident behavior management and must be approved by the Department if the client is a client of the Department. (7-1-99)T

**04. Habilitation/Training.** If appropriate, there shall be a policy describing the facility's habilitation/training program which: (7-1-99)T

a. Is designed to promote optimal independence; (7-1-99)T

b. Maximize the developmental or independence potential of the resident; and (7-1-99)T

c. Is provided in the setting that is the least restrictive of the resident's personal liberties. (7-1-99)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**427. RESIDENT CHARGES AND FINANCIAL RECORDS.**

**01. Resident Funds Policies.** If a resident's funds are turned over to the facility or administrator for any purpose other than payment for services allowed under these rules, or if the facility administrator, his relative, or personnel act as resident payee, the facility will be deemed to be handling residents' funds. Each facility shall develop and implement a policy and procedure outlining how residents' funds shall be handled. This policy and procedure shall include, but not be limited to, the following: (7-1-99)T

a. The facility policy and procedure shall state whether the facility shall or shall not handle residents' funds. (7-1-99)T

b. This policy or procedure shall be clearly stated in the admission policy and in the admission agreement. (7-1-99)T

c. If the facility is deemed to manage funds and the resident leaves the facility under any circumstances, the facility can only retain room and board funds prorated to the last day of the fifteen (15) day notice period, or thirty (30) day notice period per agreement, or upon moving from the facility, whichever is later. All remaining funds must follow the resident, and resident funds must be used for resident expenses until a new payee is appointed. (7-1-99)T

**02. Handling Of Resident Funds.** If the facility agrees to handle residents' funds, the following shall apply: (7-1-99)T

a. A separate trust account must be established for each resident. There can be no commingling of resident funds with facility funds. Borrowing between resident accounts is prohibited; (7-1-99)T

b. Each resident shall be notified that a trust fund is available for his use if he needs this service; (7-1-99)T

c. If it is determined that a resident needs the use of a trust fund service, the facility shall be required to deposit the residents' funds into a trust fund; (7-1-99)T

d. A provision to bill each resident for his facility care charges on a monthly basis from the trust account; (7-1-99)T

e. A provision to document on a monthly or on a weekly basis any financial transactions in excess of five dollars (\$5) between the resident and the facility or any of the facility's personnel. A separate transaction record shall be maintained for each resident; (7-1-99)T

f. In any case in which the facility cannot produce proper accounting records of residents' funds or property, the facility shall be presumed to owe the funds not accounted for to the resident and restitution of the funds to the resident shall be a condition for continued operation of the facility; (7-1-99)T

g. The facility shall not require the resident to purchase goods or services from the facility for other than those designated in the admission policies, or the admission agreement, or both; (7-1-99)T

h. The facility shall afford the resident or the resident's legal guardian/conservator or person of the resident's choosing access to the resident's financial record; (7-1-99)T

i. The facility ~~shall afford~~ must assure that the resident has access to ~~the~~ his personal funds at least between the hours of 7 a.m. to 11 p.m. seven (7) days per week during reasonable hours; (7-1-99)T(7-1-99)T

j. Upon the death of a private-pay resident, with a trust fund, the facility must convey the resident's personal funds and a final accounting of such funds to the individual administering the resident's estate within ninety (90) days; and (7-1-99)T

k. Upon the death of a client of the Department, with a trust fund, the facility must convey the resident's personal funds and a final accounting of such funds to the Department within thirty (30) calendar days. (7-1-99)T

#### **428. MEDICATION STANDARDS AND REQUIREMENTS.**

**01. Medication Policy.** Each facility shall develop and implement a written medication policy and procedure that outlines in detail the procedures to be followed regarding the delegation of medications and to include the requirements of the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 010.05, Section 400, Subsections 400.02, 400.04, and 400.05 where applicable. The medication policy shall include, but not be limited to, the following: (7-1-99)T



a. If the resident is granted responsibility for his own medication, a written approval stating that the resident is capable of self-administration of medications, must be obtained from the resident's primary physician; (7-1-99)T

b. The facility shall take the necessary precautions to protect residents from obtaining medications that are being stored either in individual resident rooms or by the facility; (7-1-99)T

c. The facility administrator shall be responsible for providing the necessary assistance to the resident in taking his medication; (7-1-99)T

d. Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication shall be documented with the reason for taking the medication. (7-1-99)T

**02. Medication Distribution System.** Each facility shall use Medi-sets, or blister pack, or other system as approved by the department. The Medication System must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards. A licensed nurse may fill Medi-sets which must be appropriately labeled with medication name, dosage, amount and time to be taken, and special instructions if appropriate. (7-1-99)T(7-1-99)T

**03. Assistance With Medication.** PRN medications and temporary routine medications of fourteen (14) days or less may be maintained in an appropriately labeled multidose container. Each medication must be given to the resident directly from the medi-set or blister pack or medication container. The resident must be observed taking the medication. (7-1-99)T

**04. Unused Medication.** Unused or discontinued medications shall not accumulate at the facility for longer than thirty (30) days, unless there is reason to believe that the medication will be reordered by the attending physician within a reasonable length of time. The unused medication shall be disposed of in a manner that assures that it cannot be retrieved. A written record of all disposal of drugs shall be maintained in the facility and shall include: (7-1-99)T

- a. A description of the drug, including the amount; (7-1-99)T
- b. The resident for whom the medication was prescribed; (7-1-99)T
- c. The reason for disposal; (7-1-99)T
- d. The method of disposal; and (7-1-99)T
- e. Signatures of responsible facility personnel and a witness. (7-1-99)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**526. REQUIREMENTS FOR EXISTING BUILDINGS TO BE CONVERTED TO A FACILITY.**

In addition to requirements set forth in Section 525, buildings to be converted to facilities shall comply with the following: (7-1-99)T

- 01. Site.** The building/home location shall be: (7-1-99)T
  - a. In a lawfully constituted fire district; and (7-1-99)T
  - b. Served by an all-weather road kept open to motor vehicles at all times of the year; and (7-1-99)T
  - c. Accessible to physician or emergency medical services within thirty (30) minutes driving time; and

(7-1-99)T

d. Accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (7-1-99)T

**02. Occupancy Approval.** Any building proposed for conversion to a facility shall be approved by the licensing agency prior to issuance of a license. Any items of noncompliance shall be corrected prior to issuance of the license. (7-1-99)T

~~**03. Use Of Modular (i.e., Factory Built) Buildings And Manufactured Homes.** Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the Uniform Building Code unless approved for use as a facility prior to July 1, 1999, and may continue to be licensed when evaluated on a case-by-case basis for fire and life safety issues. Manufactured Homes as defined in Section 39-4105, Idaho Code, shall not be used. (7-1-99)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**528. USE OF MODULAR (I.E., FACTORY BUILT) BUILDINGS AND MANUFACTURED HOMES.**  
Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the Uniform Building Code unless approved for use as a facility prior to July 1, 1999, and may continue to be licensed when evaluated on a case-by-case basis for fire and life safety issues. Manufactured Homes as defined in Section 39-4105, Idaho Code, that meet Uniform Building Code requirements can be considered for use as residential and assisted living facilities. (7-1-99)T

**5289. -- 549. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.23 - RULES GOVERNING UNIFORM ASSESSMENTS FOR STATE-FUNDED CLIENTS**  
**DOCKET NO. 16-0323-9901**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective October 1, 1999. This 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(s) 39-3508, 39-3308 and 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 proposed rule has been amended in response to public comment and to make a transcriptional correction to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the July 7, 1999 Administrative Bulletin, Volume 99-7, pages 187 through 189.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Kathleen Allyn at (208) 364-1804.

DATED this 28th day of October, 1999.

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**IDAPA 16**  
**TITLE 03**  
**Chapter 23**

**RULES GOVERNING UNIFORM ASSESSMENTS FOR STATE-FUNDED CLIENTS**

**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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-7, July 7, 1999, pages 187 through 189.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0323-9901**

**~~015. IMPLEMENTATION SCHEDULE.~~**

The schedule for a completed uniform assessment as a condition of payment for supported living services will be implemented using the schedule in Table 015.

<b><del>Table 015 – Implementation Schedule</del></b>	<b>Effective Date</b>
<b><del>Counties</del></b>	
<del>01. Bannock, Bear Lake, Bingham, Caribou, Franklin, Power, Oneida, Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls, Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton</del>	October 1, 1999
<del>02. Benewah, Bonner, Boundary, Kootenai, Shoshone, Clearwater, Idaho, Latah, Lewis and Nez Perce</del>	December 1, 1999
<del>03. Adams, Canyon, Gem, Owyhee, Payette, Washington, Ada, Boise, Elmore and Valley</del>	February 1, 2000

(10-1-99)T

**0165. -- 999. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES**

**DOCKET NO. 16-0411-9902**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** 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, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-4602, 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 rule has been amended in response to public comment to make corrections to the rules. Intensive behavioral intervention services were supported by public comment and this service will be add in Section(s) 808 through 812. The proposed rules are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 6, 1999 Administrative Bulletin, Volume 99-10, pages 310 through 312.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Paul Swatsenbarg at (208) 334-5512.

DATED this 5th day of November, 1999.

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**IDAPA 16**  
**TITLE 04**  
**Chapter 11**

**RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES**

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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 310 through 312.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0411-9902**

**808. INTENSIVE BEHAVIORAL INTERVENTION.**

Individualized and comprehensive interventions used on a short term, one-to-one basis that have been shown to be effective and produce measurable outcomes which diminish behaviors that interfere with the development and use of language and appropriate social interaction skills or broaden an otherwise severely restricted range of interest. Intensive Behavioral Intervention is available only to children birth through age twenty-one (21) who have self-injurious, aggressive or severely maladaptive behavior and severe deficits in the following areas: ( )

- 01. Verbal And Nonverbal Communication:** or ( )
- 02. Social Interaction:** or ( )
- 03. Leisure And Play Skills.** ( )

**809. QUALIFICATIONS TO PROVIDE INTENSIVE BEHAVIORAL INTERVENTION.**

A professional qualified to provide or direct the provision of Intensive Behavioral Intervention must meet the following requirements: ( )

**01. Degree Or License.** Have at least a bachelor's degree in psychology, special education, social work, applied behavior analysis, speech and language pathology, occupational therapy, physical therapy, deaf education, elementary education or a related field or be a Licensed Professional Counselor-Private Practice; and ( )

**02. Training And Certification.** Have Department approved training and certification which addresses course work, experience, ethical standards, continuing education and demonstrated competencies. ( )

**03. Use Of Paraprofessionals.** An aide or therapy technician who has completed Department approved training and certification may be used to provide Intensive Behavioral Intervention under the supervision of a professional who is certified by the Department to provide Intensive Behavioral Intervention. ( )

- a. The agency shall assure adequate professional supervision during its services hours; and ( )
- b. Paraprofessionals shall not conduct evaluations or establish the Implementation Plan. These activities shall be conducted by a professional qualified to provide or direct the provision of Intensive Behavioral Intervention; and ( )
- c. The professional shall, on a weekly basis or more often if necessary, give instructions, review

progress and provide training on the program(s) and procedures to be followed; and ( )

d. A professional shall, on a monthly basis or more often if necessary, observe and review the work performed by the paraprofessional to assure the paraprofessional has been trained on the program(s) and demonstrates the necessary skills to correctly implement the program(s). ( )

**04. Limitation To Service Provision By A Paraprofessional.** Intensive Behavioral Intervention provided by a paraprofessional is limited to ninety percent (90%) of the direct intervention time. The remaining ten percent (10%) of the direct intervention time must be provided by the professional qualified to provide or direct the provision of Intensive Behavioral Intervention. ( )

**810. INITIAL PRIOR AUTHORIZATION.**

Initial Intensive Behavioral Intervention services or consultation must be prior authorized by the Department. The DDA must submit evidence of each child's eligibility for Intensive Behavioral Intervention, the Implementation Plan, the number of hours of service requested, and the measurable outcomes expected as the result of the intervention. ( )

**811. PROGRESS REPORTS, EVALUATION, AND CONTINUED PRIOR AUTHORIZATION.**

The provider must submit a report on the child's progress toward Intensive Behavioral Intervention outcomes to the Department every one hundred twenty (120) days and seek prior authorization for continuation or modification of services. On an annual basis, a multi disciplinary treatment team that includes at a minimum, the parent(s), staff psychologist and staff providing services to the child, will review current evaluations and make a recommendation for continuation or modification of the intervention. ( )

**812. PARENT AND STAFF CONSULTATION.**

Professionals may provide consultation to parents and to other staff who provide therapy or care for the child in other disciplines to assure successful integration and transition from Intensive Behavioral Intervention to other therapies. ( )

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

**DOCKET NO. 16-0414-9901**

**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 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), 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 October 6, 1999 Administrative Bulletin, Volume 99-10, pages 313 through 317.

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

DATED this 29th 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

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**IDAPA 16  
TITLE 04  
Chapter 14**

**RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 313 through 317.**

**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**  
**16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING**  
**DOCKET NO. 16-0602-0001**  
**NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency intends to propose rules and desires public comment prior to initiating formal rulemaking procedures. The action is negotiated rulemaking authorized pursuant to Section(s) 39-111, 39-1208, 39-1209, 36-1210, 39-1211, 39-1213 AND 39-107(8), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Idaho Child Care Licensing Rules are inconsistent, confusing and out of date. This creates problems for Department staff, and private service providers in implementing the purposes of the Child Care Licensing Reform Act (I.C. 39-1200). The goal is to provide state of the art health, safety and well being practice standards for children in individual family foster care, group foster care, children's residential treatment programs, children's alcohol/drug treatment programs, maternity care and children's agencies. Additionally, the Department does not have standards established for the more recent service of family kinship care, or for the provision of care for youth age 18 to 21 who have not finished their full time participation in their secondary educational program, independent living program and/or treatment program. Finally, there may be a need to establish standards for wilderness, or, outdoor treatment programs that by their very nature present different needs to protect the health, safety and well being of youth served.

Current Rules are confusing to private providers who must meet standards that don't fit their particular service programs. IDAPA 16.06.02, "Rules and Standards for Child Care Licensing," were written in the 1970's, '80's, and 90's by various committees that did not consider the uniqueness of each type of program service as they relate to the regulations. For example, current rules are number driven, with foster care having 1 to 6 youths, group foster homes 7 to 12 youths, and children's treatment 13 and more youth. Private programs vary widely in treatment services provided, and this is not necessarily based on the numbers of youth served, thus confusion abounds. In addition, they include juvenile detention centers that are now regulated by a different set of rules administered by the Department of Juvenile Corrections. Private providers and agency staff have asked for new, consistent standards, and want to be part of the regulation writing process.

**Proposed Regulation Revision:** Through a process of public participation in negotiated rulemaking, we will jointly develop, consistent standards for providing safe out of home residential care for youth. Excluded from this process are day care rules and juvenile detention center programs.

Rewritten sections would be as follows:

- a) **Health and Safety:** This section will be rewritten to combine all basic health, (District Health Dept.) safety, (Uniform Fire Code) into one section that would apply to all residential care facilities.
- b) **Foster Care:** Rewrite foster care rules to establish a standardized process for qualifying a family to provide child foster care services. This will require updating the definition of foster care services, reviewing and revising the standards for licensure, addressing the provisions for kinship care, establishing training requirements for foster families, and creating the documents, forms, etc. to support this work. Specific provisions will be written to attend to such issues as the mix of adults & children in foster care, licensing sanctions- suspension, revocation, and provisional licensure, Personal care services, and other matters needing upgrading.
- c) **Children's Residential Treatment:** This section will include consistent standards for all of the following: Group Foster Homes, Children's Treatment, Children's Alcohol and Drug Treatment, Maternity Homes and Non-accredited Schools.
- d) **Children's Camps:** This section may include standards for "Wilderness," or "Therapeutic Outdoor Youth Programs".
- e) **Children's Agencies:** This section will provide standards for placement and adoption of children.

Copies of the preliminary drafts of discussion rules are available for review by interested parties on the Children's Treatment Project website: [www2.state.id.us./dhw](http://www2.state.id.us./dhw), click on the Public Participation button, or by calling the Idaho CareLine at 1-800-926-2588. TDD 208-332-7205.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rule, contact Terri Meyer at (208) 334-5700.

Anyone may submit written comments regarding this proposed negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before February 15, 2000.

DATED this 10th day of November, 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 17 - INDUSTRIAL COMMISSION**  
**17.04.05 - ACCREDITATION OF ASBESTOS WORKERS**  
**DOCKET NO. 17-0405-9901**  
**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(s) 72-508, 72-720, and 72-721, Idaho Code, and the Asbestos Hazard Emergency Response Act of 1986 (15 USC, Subchapter II), which mandates state accreditation of asbestos professionals who work on asbestos projects in schools (15 USC 2646).

**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 rule is amended to clarify the scope of the rule by changing the title; to delete the course content requirements for asbestos accreditation because the training course requirements are now mandated by federal law and regulation; and to correct ministerial errors caused by the reformatting of the original version of the rule under the APA in 1993. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, pages 318 through 336.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mike Poulin, Division of Building Safety, (208)334-3950, extension 315.

DATED this 2nd day of November 1999.

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

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**IDAPA 17**  
**TITLE 04**  
**Chapter 05**

**ACCREDITATION OF ASBESTOS WORKERS**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 318 through 336.**

**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 17 - INDUSTRIAL COMMISSION**

**17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION**

**DOCKET NO. 17-0602-9901**

**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(s) 72-508, 72-720, and 72-721, 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 rule is amended to incorporate by reference the 1997 amendments to the American Society of Mechanical Engineers (ASME) Controls and Safety Devices for Automatically Fired Boilers (CSD-1). The rule is renumbered to save on future costs of revision. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, Volume II, pages 337 through 343.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mike Poulin, Division of Building Safety, (208)334-3950, extension 315.

DATED this 2nd day of November 1999.

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

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**IDAPA 17  
TITLE 06  
Chapter 02**

**BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 337 through 343.**

**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**  
**18.01.27 - SELF-FUNDED EMPLOYEE HEALTH CARE PLANS**  
**DOCKET NO. 18-0127-9901**  
**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 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 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 344 through 347.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Robert Murphy, Bureau Chief, at (208) 334-4250.

Dated this 16th day of November 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

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**IDAPA 18**  
**TITLE 01**  
**Chapter 27**

**SELF-FUNDED EMPLOYEE HEALTH CARE PLANS**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 344 through 347.**

**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**  
**18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES**

**DOCKET NO. 18-0144-9901**

**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 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 41-401, 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, page 348.

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

Dated this 16th day of November, 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

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**IDAPA 18**  
**TITLE 01**  
**Chapter 44**

**SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES**

**This Rule Is Being Repealed In Its Entirety.**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, page 348.**

**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**  
**18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES**  
**DOCKET NO. 18-0144-9902**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with 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 41-211 and 41-401, 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 020.02.b. and 020.02.c. are being amended to increase the amount of each respective fee by \$500.

Subsection 020.03 is amended to eliminate repetitive language.

Subsection 020.04.a. is amended to broaden the scope of the language.

Subsection 020.05.c. is amended to include costs when attorney fees are allowed by code as an item the continuation fee does not cover. Language in Section 040 is stricken to be consistent with this approach.

Subsection 020.05.f. is added to provide that miscellaneous fees set forth in Section 040 are not included in the continuation fee.

Subsections 030.01.b.ix. and 030.06.f. are deleted because the fee for title agents is explicitly set forth in Section 41-2710, Idaho Code.

Subsection 030.04 is deleted because the fee for vending machines is explicitly set forth in Section 41-1060(2), Idaho Code.

Subsection 040.06 is amended to more accurately describe the catch line.

Subsection 040.07 is amended to more accurately describe the catch line and to make the fee the same as for service of process on insurers.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 349 through 354.

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

Dated this 16th day of November, 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 44**

**SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES**

**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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 349 through 354.**

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

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

**020. INSURER FEES.**

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

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

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

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

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

b. If insurer's surplus as regards policyholders at the preceding December 31 is \$10,000,000 or more, but less than \$100,000,000 - Two thousand five hundred dollars (\$2,500). ( )

c. If insurer's surplus as regards policyholders at the preceding December 31 is \$100,000,000 or greater - Four thousand five hundred dollars (\$4,500). ( )

**03. Fees Of Other Entities.** For the following entities, the amount of the annual continuation fee shall be - Five hundred dollars (\$500): ( )

a. Accredited reinsurers, listed pursuant to Section 41-514(1)(b), Idaho Code. ( )



- b. Trusteed reinsurers, listed pursuant to Section 41-514(1)(d), Idaho Code. ( )
- c. Authorized surplus line insurers. ( )
- d. County mutual insurers. ( )
- e. Fraternal benefit societies. ( )
- f. Hospital and/or professional service corporations. ( )
- g. Hospital liability trusts. ( )
- h. Self funded employee health care plans. ( )
- i. Risk retention groups. ( )
- j. Purchasing groups. ( )
- k. Petroleum clean water trusts. ( )
- l. Rating organizations. ( )
- m. Advisory organizations. ( )

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

- a. Certificate of authority renewal, license renewal, and annual registration. ( )
- b. Arson, Fire and Fraud. ( )
- c. Annual statement filing. ( )
- d. Filing of policy rates and forms. ( )
- e. Agent appointment and renewal of appointment. ( )
- f. Filings under Chapter 38, Title 41, Idaho Code, Acquisition of control and insurance holding company systems. ( )
- g. Filing of amendments to Articles of Incorporation. ( )
- h. Filing of amendments to Bylaws. ( )
- i. Amendments to Certificate of Authority. ( )
- j. Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code. ( )
- k. Quarterly statement filing. ( )
- l. Examination expenses. ( )

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

- a. Fees for application for producer license. ( )

- b. Costs incurred by the Department for investigation of an applicant for producer license. ( )
- c. Attorney's fees and costs incurred by the Department when allowed pursuant to Idaho Code. ( )
- d. Costs incurred for experts and consultants when allowed by Idaho Code. ( )
- e. Penalties or fines levied by or payable to the Department of Insurance. ( )
- f. All fees set forth under Section 040. ( )

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

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

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. PRODUCER FEES.**

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

- a. Administrators - Three hundred dollars (\$300). ( )
- b. Agents: ( )
  - i. Life and/or disability insurance - Ninety dollars (\$90). ( )
  - ii. Property and/or casualty (general lines) insurance - Ninety dollars (\$90). ( )
  - iii. Motor vehicle physical damage insurance (only) - Ninety dollars (\$90). ( )
  - iv. Transportation ticket-selling insurance (only) - Ninety dollars (\$90). ( )
  - v. Credit life and credit disability insurance (only) - Ninety dollars (\$90). ( )
  - vi. Credit property insurance (only) - Ninety dollars (\$90). ( )
  - vii. Involuntary unemployment insurance (only) - Ninety dollars (\$90). ( )
  - viii. Surety insurance (only) - Ninety dollars (\$90). ( )
  - ix. Designation as a managing general agent - One hundred ninety dollars (\$190). ( )
  - x. Variable annuity fee - Sixty dollars (\$60). ( )
- c. Adjusters - Ninety dollars (\$90). ( )
- d. Brokers: ( )
  - i. Life insurance - Three hundred seventy dollars (\$370). ( )

- ii. General lines insurance - Three hundred seventy dollars (\$370). ( )
- e. Reinsurance intermediary - Three hundred dollars (\$300). ( )
- f. Surplus line brokers - Ninety dollars (\$90). ( )
- 02. Examination Fees.** Application and/or Examination Fees: ( )
  - a. Agents, adjusters, brokers, solicitors - application for examination and each time taken, other than as to variable contracts - Sixty dollars (\$60). ( )
  - b. Consultants: ( )
    - i. Life and Disability - application and each time taken - Ninety dollars (\$90). ( )
    - ii. Property and Casualty - application and each time taken - Ninety dollars (\$90). ( )
- 03. Temporary License.** Temporary license - Ninety dollars (\$90). ( )
- 04. Fingerprint Processing.** Processing fingerprints, where required - Sixty dollars (\$60). ( )
- 05. License Renewal.** Renewal or continuation of license, per license: ( )
  - a. Adjusters, agents (biennial) - Forty dollars (\$40). ( )
  - b. Redesignation as managing general agent (annual) - One hundred forty dollars (\$140). ( )
  - c. Administrators (annual) - One hundred forty dollars (\$140). ( )
  - d. Brokers, consultants (biennial) - Seventy dollars (\$70). ( )
  - e. Surplus line brokers (biennial) - Seventy dollars (\$70). ( )
- 06. Duplicate License.** Duplicate license - administrators, adjusters, agents, brokers, consultants - Fifty dollars (\$50). ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

- 040. MISCELLANEOUS FEES.** Miscellaneous fees shall be as follows. ( )
  - 01. Certified Copy.** Certified copy of certificate of authority, license or registration - Fifty dollars (\$50). ( )
  - 02. Solicitation Permit.** Organization and financing of insurer: ( )
    - a. Filing application for solicitation permit - Nine hundred dollars (\$900). ( )
    - b. Issuance of solicitation permit - One hundred eighty dollars (\$180). ( )
  - 03. Certificate Under Seal.** Director's certificate under seal (except for those under Subsection 040.01 of this rule) - Twenty dollars (\$20). ( )

- 04. Documents Filed.** For each copy of document filed in his office, a reasonable cost as fixed by the director. ( )
- 05. Life Insurance Valuation.** For valuing life insurance, actual cost of valuation but not to exceed one cent (\$.01) for each one thousand dollars (\$1,000) of insurance. ( )
- 06. Insurer Service Of Process.** For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer – Thirty dollars (\$30). ( )
- 07. Agent Service Of Process.** For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident agent, broker or consultant – Thirty dollars (\$30). ( )
- 08. Letter Of Verification.** For letters of license verification for agents, brokers, and consultants - Ten dollars (\$10). ( )
- 09. Publications:** ( )
- a. Newsletter - One dollar (\$1). ( )
  - b. Annual Report - Five dollars (\$5). ( )
- 10. Continuing Education.** Filing continuing education applications for approval and certification of subjects of courses (each application) - Twenty-five dollars (\$25). ( )
- 11. Small Employer Health Program.** Administrative expenses incurred in implementing and approving Idaho small employer health reinsurance program and plan of operation: ( )
- a. Initial deposit for program setup, approval and processing - One thousand dollars (\$1,000). ( )
  - b. Any additional reasonable expenses incurred in establishing and maintaining the program. ( )
  - c. Annual filings of Board, pursuant to Section 41-4711(12), Idaho Code - Three hundred dollars (\$300). ( )

**IDAPA 18 - DEPARTMENT OF INSURANCE**

**18.01.53 - CONTINUING EDUCATION**

**DOCKET NO. 18-0153-9901**

**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 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 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 355 through 357.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jim Genetti, Bureau Chief, at (208) 334-4250.

Dated this 16th day of November 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

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**IDAPA 18  
TITLE 01  
Chapter 53**

**CONTINUING EDUCATION**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 355 through 357.**

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

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS**

**DOCKET NO. 18-0160-9901**

**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 Section 67-5224, 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, page 358.

**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 16th day of November, 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

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**IDAPA 18**  
**TITLE 01**  
**Chapter 60**

**LONG-TERM CARE INSURANCE MINIMUM STANDARDS**

**This Rule Is Being Repealed In Its Entirety.**

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

**The text of the proposed rule was published in the Idaho Administrative  
Bulletin, Volume 99-10, October 6, 1999, page 358.**

**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**  
**18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS**  
**DOCKET NO. 18-0160-9902**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with 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 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 359 through 384.

**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 16th day of November, 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

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**IDAPA 18**  
**TITLE 01**  
**Chapter 60**

**LONG-TERM CARE INSURANCE MINIMUM STANDARDS**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 359 through 384.**

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

**DOCKET NO. 18-0170-9901**

**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 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 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 385 through 387.

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

Dated this 16th day of November 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

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**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 text of the proposed rule was published in the Idaho Administrative**  
**Bulletin, Volume 99-10, October 6, 1999, pages 385 through 387.**

**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**

**18.01.72 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT**

**DOCKET NO. 18-0172-9901**

**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 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 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 388 through 396.

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

Dated this 16th day of November 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

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**IDAPA 18  
TITLE 01  
Chapter 72**

**RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 388 through 396.**

**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**  
**18.01.73 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE**  
**AVAILABILITY ACT PLAN DESIGN**

**DOCKET NO. 18-0173-9901**

**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 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 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 397 through 399.

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

Dated this 16th day of November 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

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**IDAPA 18**  
**TITLE 01**  
**Chapter 73**

**RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE**  
**AVAILABILITY ACT PLAN DESIGN**

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

**The text of the proposed rule was published in the Idaho Administrative**  
**Bulletin, Volume 99-10, October 6, 1999, pages 397 through 399.**

**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 20 - IDAHO DEPARTMENT OF LANDS**  
**20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT**  
**DOCKET NO. 20-0201-9901**  
**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 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 38-1304, 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.

Amendments are minor in nature and have not changed the intent of the proposed rules, only clarified them.

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, September 1, 1999, pages 135 through 141.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact: Jim Colla, Forest Practices Coordinator, (208) 769-1525.

DATED this 17<sup>th</sup> date of November 1999.

Stanley F. Hamilton, Director  
Idaho Department of Lands  
954 West Jefferson Street  
P.O. Box 83720  
Boise, Idaho 83720-0050  
(208) 334-0200 / (208) 334-2339 fax

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**IDAPA 20**  
**TITLE 02**  
**Chapter 01**

**RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT**

**There are minor 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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, September 1, 1999, pages 135 through 141.

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

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 20-0201-9901

**040. ROAD CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE.**

**01. Purpose.** Provide standards and guidelines for road construction, reconstruction, and maintenance that will maintain forest productivity, water quality, and fish and wildlife habitat. (10-14-75)(\_\_\_\_)

**02. Road Specifications and Plans.** Road specifications and plans shall be consistent with good safety practices. Plan each road to the minimum use standards adapted to the terrain and soil materials to minimize disturbances and damage to forest productivity, water quality, fish, and wildlife habitat. (8-13-85)(\_\_\_\_)

a. Plan transportation networks to minimize avoid road construction within stream protection zones, except at approaches to stream crossings. ~~Design to~~ Leave or reestablish areas of vegetation between roads and streams. (8-13-85)(\_\_\_\_)

b. Roads shall be ~~planned~~ no wider than necessary to safely accommodate the anticipated use. Minimize cut and fill volumes by designing aligning the road alignment to fit the natural terrain features as closely as possible. ~~Use as much of the excavated material as practical in fill sections. Plan minimum cuts and fills particularly near stream channels. Adequately compact fill material. Dispose of excess material on geologically stable sites.~~ (8-13-85)(\_\_\_\_)

e. ~~Design embankments and waste so that excavated material may be disposed of on geologically stable sites.~~ (8-13-85)

~~ed.~~ Plan roads to drain naturally by out-sloping or in-sloping with cross-drainage and by grade changes where possible. Plan dips, water bars, ~~or~~ cross-drainage, or subsurface drainage on roads when necessary. (7-1-96)(\_\_\_\_)

~~ed.~~ Relief culverts and roadside ditches shall be planned whenever reliance upon natural drainage would not protect the running surface, excavation or embankment cut slopes or fill slopes. ~~Design~~ Plan culvert installations to prevent erosion of the fill by properly sizing, bedding and compacting. Plan drainage structures to achieve minimum direct discharge of sediment into streams. (8-13-85)(\_\_\_\_)

~~fe.~~ The following rule applies to installations of new culverts and re-installations during road reconstructions or re-installations caused by flood or other catastrophic events. Culverts used for temporary crossings are exempt from ~~this rule~~ the fifty (50) year design requirement, but they must be removed immediately after they are no longer needed and before the spring run-off period. (4-21-92)(\_\_\_\_)

i. Culvert installations on fish bearing streams must provide for fish passage. (\_\_\_\_)

ii. Design culverts for stream crossings to carry the fifty (50) year peak flow using engineering methods acceptable to the department or determine culvert size by using the culvert sizing tables below. The minimum size culvert required for stream crossings shall not be less than eighteen (18) inches in diameter, with the exception of that area of the Snake River drainage upstream from the mouth of the Malad River, including the Bear

River basin, where the minimum size shall be fifteen (15) inches.

(7-1-96)

**CULVERT SIZING TABLE - I**  
**USE FOR NORTH IDAHO AND THE SALMON RIVER DRAINAGE**

This culvert sizing table will be used for the area of the state north of the Salmon River and within the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
less than 32	18	6
33 - 74	24	12
75 - 141	30	20
142 - 240	36	32
241 - 366	42	46
367 - 546	48	65
547 - 787	54	89
788 - 1027	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

<b>Watershed Area (acres)</b>	<b>Required Culvert Diameter (inches)</b>	<b>Culvert Capacity (in cubic feet/sec)</b>
1028 - 1354	66	142
1355 - 1736	72	176
1737 - 2731	84	260
2732 - 4111	96	370
4112 - 5830	108	500
5831 - 8256	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures. (4-21-92)

**CULVERT SIZING TABLE - II**  
**USE FOR SOUTH IDAHO**

This culvert sizing table will be used for the area of the state south of the Salmon River and outside the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one

(1).

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
less than 72	18#	6
73 - 150	24	12
151 - 270	30	20
271 - 460	36	32
461 - 720	42	46
721 - 1025	48	65
1026 - 1450	54	89
1451 - 1870	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
1871 - 2415	66	142
2416 - 3355	72	176
3356 - 5335	84	260
5336 - 7410	96	370
7411 - 9565	108	500
9566 - 11780	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures.

# See exception for southeast Idaho in Subsection 040.02.ii. of this rule. (4-21-92)( )

iii. Relief culverts, and those used for seeps, springs, wet areas, and draws shall not be less than twelve (12) inches in diameter for permanent installations. (7-1-96)

~~g.~~ Plan sStream crossings, including fords, ~~to~~ shall be minimum in number and planned and installed in compliance with the minimum standards for stream channel alterations under the provisions of Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and with culvert sizing requirements of Subsection 040.02.e. Plan all culvert installation on Class I streams to provide for fish passage. (8-13-85)( )

~~h.~~ If reuse of existing roads would violate other rules, the operator shall obtain a variance according to Subsection 020.01. Consider reuse of existing roads when reuse or reconstruction would result in the least long-run impact on site productivity, water quality, and fish and wildlife habitat. (7-1-96)

g. Avoid reconstruction or reuse of existing roads located in stream protection zones, except for approaches to stream crossings, unless it will result in the least long-term impact on site productivity, water quality, and fish and wildlife habitat. Reconstruction or reuse of existing roads in stream protection zones will require a

variance. ( )

**03. Road Construction.** ~~Place debris, overburden, and other materials associated with road construction in such a manner as to prevent entry into streams. Deposit excess material and slash on stable locations outside the Stream Protection Zones. Construct or reconstruct roads in a manner to prevent debris, overburden, and other material from entering streams.~~ (8-13-85)( )

a. Roads shall be constructed in compliance with the planning guidelines of Subsection 040.02. (7-1-96)

b. ~~Clear drainage ways of all debris generated during construction or maintenance which potentially interferes with drainage or water quality. Deposit excess material and slash on geologically stable sites outside the stream protection zones.~~ (7-1-96)( )

c. Where exposed material (~~excavation, embankment road surface, cut slopes or fill slopes, borrow pits, waste piles, etc.~~) is potentially erodible, and where sediments would enter streams, stabilize prior to fall or spring runoff by seeding, compacting, rocking, riprapping, benching, mulching or other suitable means. (11-7-86)( )

d. In the construction of road fills ~~near streams~~, compact the material to reduce the entry of water, minimize erosion, and settling of fill material. Minimize the amount of snow, ice, or frozen soil buried in embankments. No significant amount of woody material shall be incorporated into fills. Available slash and debris may be utilized as a filter windrowed along the toe of the fill, but must meet the requirements of Subsection 040.04.e. the Idaho Forestry Act and Fire Hazard Reduction Laws, Title 38, Chapters 1 and 4, Idaho Code. (7-1-96)( )

e. ~~Construct stream crossings in compliance with minimum standards for stream channel alterations under the provisions of Title 42, Chapter 38, Idaho Code. Roads shall not be constructed in stream channels. Roads that constrict upon a stream channel shall be constructed in compliance with minimum standards for stream channel alterations under provisions of Title 42, Chapter 38, Idaho Code.~~ (8-13-85)

fg. During and following operations on out-sloped roads, retain out-slope drainage and remove berms on the outside edge except those intentionally constructed for protection of road grade fills. (8-13-85)

gf. Provide for drainage of quarries to prevent sediment from entering streams. (8-13-85)

hg. ~~Construct cross drains and relief culverts to minimize erosion of embankments. Minimize the time between construction and installation of erosion control devices. Installation of erosion control devices should be concurrent with road construction.~~ Use riprap, vegetative matter, downspouts and similar devices to minimize erosion of the fill. Install drainage structures or cross drain incompleated roads which are subject to erosion prior to fall or spring runoff. Install relief culverts with a minimum grade of one percent (1%). (7-1-96)( )

ih. Earthwork or material hauling shall be postponed during wet periods if, as a result, erodible material would enter streams. (8-13-85)( )

ji. ~~In rippable materials, roads shall be constructed with no overhanging banks and any trees that present a potential hazard to traffic shall be felled concurrently with the construction operation. Cut slopes shall be reconstructed to minimize sloughing of material into road surfaces or ditchlines. Remove or stabilize material subject to sloughing concurrent with the construction operation.~~ (8-13-85)( )

j. Roads constructed on slopes greater than sixty percent (60%) in unstable or erodible soils shall be full benched without fill slope disposal. At stream and draw crossings keep fills to a minimum. A variance is required if a full bench is not used. ( )

**04. Road Maintenance.** Conduct regular preventive maintenance operations to ~~avoid deterioration of the roadway surface and~~ minimize disturbance and damage to forest productivity, water quality, and fish and wildlife habitat. (8-13-85)( )

a. ~~Sidecast~~ Place all debris or slide material associated with road maintenance in a manner to prevent

their entry into streams. (8-13-85)( )

b. Repair ~~and stabilize~~ slumps, slides, and other erosion ~~features~~ sources causing stream sedimentation to minimize sediment delivery. (8-13-85)( )

c. Active Roads. An active road is a forest road being used for hauling forest products, rock and other road building materials. The following maintenance shall be conducted on such roads. (8-13-85)

i. Culverts and ditches shall be kept functional. (8-13-85)

ii. During and upon completion of seasonal operations, the road surface shall be crowned, out-sloped, in-sloped or ~~water barred~~ cross-ditched, and berms removed from the outside edge except those intentionally constructed for protection of fills. (8-13-85)( )

iii. The road surface shall be maintained as necessary to minimize erosion of the subgrade and to provide proper drainage. (8-13-85)

iv. Hauling shall be postponed during wet periods if necessary to minimize sediment delivery to streams. ( )

iv. If road ~~oil or other~~ surface stabilizing materials are used, apply them in such a manner as to prevent their entry into streams. (8-13-85)( )

d. Inactive Roads. An inactive road is a forest road no longer used for commercial hauling but maintained for access (e.g., for fire control, forest management activities, recreational use, and occasional or incidental use for minor forest products harvesting). The following maintenance shall be conducted on inactive roads. (8-13-85)

i. Following termination of active use, ditches and culverts shall be cleared and the road surface shall be crowned, out-sloped or in-sloped, water barred or otherwise left in a condition to minimize erosion. Drainage structures shall be maintained thereafter as needed. (7-1-96)

ii. The roads may be permanently or seasonally blocked to vehicular traffic. (8-13-85)

e. ~~Abandoned roads. An abandoned road~~ Long-term Inactive Roads. A long-term inactive road is not intended to be used again ~~in the near future but will likely be used again at some point in the future~~. No subsequent maintenance of ~~an abandoned a long-term inactive~~ road is required after the following procedures are completed: (8-13-85)( )

i. The road is left in a condition suitable to control erosion by out-sloping, water barring, seeding, or other suitable methods. (8-13-85)

~~ii. Ditches are cleaned.~~ (8-13-85)

iii. The road is blocked to vehicular traffic. (8-13-85)

~~iv. The department may require the removal of bridges and culverts except where the owner elects to maintain the drainage structures as needed, ditches and unstable fills. Any bridges or culverts left in place shall be maintained by the landowner.~~ (8-13-85)( )

f. Permanently Abandoned Roads. Permanently abandoned roads are not intended to be used again. All drainage structures must be removed and roadway sections treated so that erosion and landsliding are minimized. ( )

i. Drainage structures shall be removed and stream gradients restored to their natural slope. ( )

ii. The road prism shall be treated to break up compacted areas. ( )



iii. Fill slopes of roads within stream protection zones shall be pulled back to a stable configuration unless long-term stability has already been achieved. ( )

iv. Unstable sidehill fills shall be pulled back to a stable configuration. ( )

v. Ditch line erosion shall be controlled by cross-ditching, outsloping, or regrading to eliminate ditches. ( )

vi. All bare earth areas created by regrading, ripping, and drainage removal shall be stabilized by seeding, mulching, armoring, or other suitable means. ( )

**05. Winter Operations.** Due to risk of erosion and damage from roads and constructed skid trails inherent in winter logging, at minimum the following shall apply: (4-21-92)

a. Roads to be used for winter operations must have adequate surface and cross drainage installed prior to winter operations. Drain winter roads by installing rolling dips, driveable cross ditches, open top culverts, outsloping, or by other suitable means. (4-21-92)

b. During winter operations, roads will be maintained as needed to keep the road surface drained during thaws or break up. This may include active maintenance of existing drainage structures, opening of drainage holes in snow berms and installation of additional cross drainage on road surfaces by ripping, placement of native material or other suitable means. (4-21-92)

**IDAPA 23 - BOARD OF NURSING**  
**23.01.01 - RULES OF THE BOARD OF NURSING**  
**DOCKET NO. 23-0101-9901**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1404(9) and 54-1402(d), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the 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 October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 400 through 418.

DATED this 4th day of November, 1999.

Sandra Evans  
Executive Director  
Board of Nursing  
280 N. 8th St., Ste. 210  
P. O. Box 83720  
Boise, ID 83720-0061  
Telephone: (208) 334-3110  
Facsimile: (208) 334-3262

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**IDAPA 23**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE BOARD OF NURSING**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 400 through 418.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS**

**DOCKET NO. 24-0101-9901**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-312, 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.

Subsection 300.01.e. of the proposed rules have been amended to make a clerical correction for the proper reference to the rule, and are being amended pursuant to Section 67-5227, Idaho Code.

Subsection 300.01.e. Qualifications of Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the current NCARB ~~Circular of Information #1, Appendix "A"~~ "Handbook for Interns and Architects" where such ~~Circular of Information Handbook for Interns and Architects~~ does not conflict with Idaho law. After June 1, 1993, all applicants for the ARE must have completed the Intern Development Program (IDP) requirements.

Only the section that has changes is printed in this bulletin. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 99-10, pages 419 through 421.

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

DATED this 21st day of October, 1999.

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

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**IDAPA 24**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS**

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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 419 through 421.

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO, 24-0101-9901**

**300. APPLICATION (Rule 300).**

**01. Licensure By Examination. (7-1-93)**

a. Application for examination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (3-18-99)

b. Applicants shall secure and furnish all information required by the uniform application form and shall include the following: (7-1-93)

i. Certified transcript of all subjects and grades received for all college courses taken. (7-1-93)

ii. If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. (7-1-93)

iii. Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (7-1-93)

iv. A recent two inch by three inch (2" x 3") photograph taken within the previous year for identification purposes. (7-1-93)

v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)

c. Application shall not be presented to the Board or evaluated by the Board until all required information is furnished and the required fee is paid. (7-1-93)

d. To be considered by the Board, properly completed applications must be received by the Executive Secretary at least thirty (30) days prior to the first day of the month in which the Board will meet. (7-1-98)

e. Qualifications of Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the current NCARB ~~Circular of Information #1, Appendix "A"~~ handbook for architects and interns where such ~~Circular of Information Handbook for Interns and Architects~~ does not conflict with Idaho law. After June 1, 1993, all applicants for the ARE must have completed the Intern Development Program (IDP) requirements. (7-1-97)( )

**02. Licensure By Endorsement - Blue Cover.** (7-1-97)

a. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (7-1-97)

b. Seismic knowledge requirements for endorsement applicants. Each applicant for license under endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements: (7-1-97)

i. "I have passed the examinations in Building Construction and Structural Design of the Western Conference of State Architectural Registration Boards in June 1963 or since and/or the NCARB in 1965 or since." (7-1-97)

ii. "I am registered in the State of \_\_\_\_\_ in 19\_\_ , where competence in seismic was a requirement for registration since \_\_\_\_\_ , 19\_\_ ." (7-1-93)

iii. Certification of the successful completion of the seismic seminar approved by the National Conference of Architectural Registration Boards. (7-1-93)

c. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination. (7-1-93)

**03. Licensure By Endorsement - Equivalency.** (7-1-97)

a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (7-1-97)

b. Applicant shall comply with all requirements set forth in Subsections 300.01, 300.02.b.i., 300.02.b.ii., 300.02.b.iii., and 300.02.c. (7-1-97)

c. Applicant shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (7-1-97)

d. Applicant shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (7-1-97)

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

**DOCKET NO. 24-0201-9901**

**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 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-521, 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 No. 99-10, pages 422 through 426.

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

DATED this 21st day of October, 1999.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, ID 83702  
(208) 334-3233  
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**IDAPA 24**  
**TITLE 02**  
**Chapter 01**

**RULES OF THE BOARD OF BARBER EXAMINERS**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 422 through 426.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS**

**DOCKET NO. 24-0301-9901**

**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 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 54-707, 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 No. 99-10, pages 427 and 428.

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

DATED this 21st day of October, 1999.

Dee Ann Randall  
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Boise, ID 83702  
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**IDAPA 24**  
**TITLE 03**  
**Chapter 01**

**RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 427 and 428.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS**

**DOCKET NO. 24-0801-9901**

**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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1106 and 54-1107, 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 No. 99-10, pages 429 and 430.

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

DATED this 21st day of October, 1999.

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**IDAPA 24**  
**TITLE 08**  
**Chapter 01**

**RULES OF THE STATE BOARD OF MORTICIANS**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 429 and 430.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.08.02 - RULES OF THE STATE BOARD OF MORTICIANS**  
**GOVERNING CREMATORIES IN IDAHO**

**DOCKET NO. 24-0802-9901**

**NOTICE OF 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 54-1106, 27-303, 27-305, 27-306, 27-307, 27-308 and 27-309, 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 No. 99-10, pages 431 and 432.

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

DATED this 21st day of October, 1999.

Dee Ann Randall  
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Boise, ID 83702  
(208) 334-3233  
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**IDAPA 24**  
**TITLE 08**  
**Chapter 02**

**RULES OF THE STATE BOARD OF MORTICIANS GOVERNING CREMATORIES IN IDAHO**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 431 and 432.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.09.01 - RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS**  
**DOCKET NO. 24-0901-9901**  
**NOTICE OF 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1604, 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 No. 99-10, pages 433 and 434.

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

DATED this 21st day of October, 1999.

Dee Ann Randall  
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Boise, ID 83702  
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**IDAPA 24**  
**TITLE 09**  
**Chapter 01**

**RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 433 and 434.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY**  
**DOCKET NO. 24-1001-9901**  
**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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1509, 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 No. 99-10, pages 435 and 436.

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

DATED this 21st day of October, 1999.

Dee Ann Randall  
Owyhee Plaza  
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Boise, ID 83702  
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**IDAPA 24**  
**TITLE 10**  
**Chapter 01**

**RULES OF THE STATE BOARD OF OPTOMETRY**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 435 and 436.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.11.01 - RULES OF THE STATE BOARD OF PODIATRY**  
**DOCKET NO. 24-1101-9901**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to temporary rule is July 19, 1999. This 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 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-605, 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.

Subsection 010.04 of the proposed rules has been amended to make a clerical correction from the word Podiatry to Podiatric, and is being amended pursuant to Section 67-5227, Idaho Code.

Subsection 010.04 - Reputable School. A "reputable school" of podiatry is, and the term as used in these rules shall mean, an approved podiatry school located within the United States or Canada and designated as such by the council on Education and the American Podiatric Medical Association.

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 No. 99-10, pages 437 and 438.

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

DATED this 21st day of October, 1999.

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

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**IDAPA 24**  
**TITLE 11**  
**Chapter 01**

**RULES OF THE STATE BOARD OF PODIATRY**

**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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 437 and 438.**

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1101-9901**

**010. DEFINITIONS AND STANDARDS (Rule 10).**

**01. Act.** The Act means Chapter 143 Idaho session Laws of 1957 codified as Chapter 6, Title 54, Idaho Code, and any amendments thereto. (7-1-93)

**02. Board.** The Board means the State Board of Podiatry, as prescribed in Section 54-604, Idaho Code. (7-1-93)

**03. Licensure.** Licensure means the act of acquiring a license to practice podiatry in Idaho. (7-1-93)

**04. Reputable School.** A "reputable school" of podiatry is, and the term as used in these rules shall mean, an approved podiatry school located within the United States or Canada and designated as such by the council on Education and the American Podiatric Medical Association. (~~7-19-99~~)(7-19-99)T

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.16.01 - RULES OF THE STATE BOARD OF DENTURITY**  
**DOCKET NO. 24-1601-9901**  
**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 54-4205, 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 No. 99-10, pages 439 through 444.

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

DATED this 21st day of October, 1999.

Dee Ann Randall  
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Boise, ID 83702  
(208) 334-3233  
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**IDAPA 24**  
**TITLE 16**  
**Chapter 01**

**RULES OF THE STATE BOARD OF DENTURITY**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 439 through 444.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.17.01 - RULES OF THE STATE BOARD OF ACUPUNCTURE**  
**DOCKET NO. 24-1701-9901**  
**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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4705, 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 No. 99-10, pages 445 through 449.

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

DATED this 21st day of October, 1999.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, ID 83702  
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**IDAPA 24**  
**TITLE 17**  
**Chapter 01**

**RULES OF THE STATE BOARD OF ACUPUNCTURE**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 445 through 449.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD**

**DOCKET NO. 24-1801-9901**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule had 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4106, 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 No. 99-10, pages 450 and 451.

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

DATED this 21st day of October, 1999.

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

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**IDAPA 24**  
**TITLE 18**  
**Chapter 01**

**RULES OF THE REAL ESTATE APPRAISER BOARD**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 450 and 451.**

**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 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**

**DOCKET NO. 24-1901-9901**

**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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4205, 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 No. 99-8, pages 339 and 340.

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

DATED this 21st day of October, 1999.

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

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**IDAPA 24**  
**TITLE 19**  
**Chapter 01**

**RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-8, August 4, 1999, pages 339 and 340.**

**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**  
**NOTICE OF LEGISLATIVE ACTION AFFECTING IDAHO PUBLIC UTILITIES COMMISSION**  
**ADMINISTRATIVE RULES CHAPTERS**  
**31.02.01, 31.11.01, 31.46.01, 31.46.02, AND 31.81.01**

**DOCKET NO. 31-0000-9901**

**NOTICE OF 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 required by the Legislature's repeal of Sections 61-801 through 61-818 (Motor Carrier Act) and restructure of Section 9-340, Idaho Code (Public Records Act).

**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. In 1999, the Legislature repealed the Motor Carrier Act (Sections 61-801 through 61-818, Idaho Code) and restructured the Public Records Act (Section 9-340, Idaho Code). The Commission's proposed changes are non-substantive and necessary to reflect 1999 legislative action.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 452 through 458.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cheri C. Copsy, Deputy Attorney General, (208) 334-0314

DATED this 5th day of November 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

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**NOTICE OF LEGISLATIVE ACTION AFFECTING IDAHO PUBLIC UTILITIES**  
**COMMISSION ADMINISTRATIVE RULES CHAPTERS**  
**31.02.01, 31.11.01, 31.46.01, 31.46.02, AND 31.81.01**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 252 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 31 - PUBLIC UTILITIES COMMISSION**  
**31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION**  
**DOCKET NO. 31-0101-9901**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with 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 61-304 through 61-306, 61-406, 61-501 through 61-503, 61-507, 61-538, 61-601 through 61-607, 61-621, 61-902, 61-909, 61-1305, 62-304, 62-606, 62-610, 62-610F, 62-619, and 62-1303, 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 Commission received three timely comments in response to the proposed rules. Except as noted below, the pending rule is being adopted as proposed for the reasons contained in the notice of proposed rule and in the Commission's General Order No. 202. The original text of the proposed rule was published in the October 6, 1999 Idaho Administrative Bulletin, Vol. 99-10, pages 459 through 476.

Two of the Commission's proposed rules have been amended in response to public comments and to make typographical and clerical corrections to the rules pursuant to Section 67-5227, Idaho Code. The Commission had proposed amending Rule 243 by requiring parties to notify the Commission at the beginning of a public hearing if such parties intended to cross-examine or offer testimony that might illicit trade secrets or other confidential information protected from public disclosure. The Commission agreed with the suggestion of one commentator that parties advise the Commission of such matters at the beginning of the hearing "or as soon thereafter as practical".

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 5th day of November 1999.

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

472 W. Washington St.  
Boise, ID 83702-5983

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**IDAPA 31**  
**TITLE 01**  
**Chapter 01**

**RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION**

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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 459 through 476.

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. 31-0101-9901**

**067. INFORMATION EXEMPT FROM PUBLIC REVIEW - DEFINITIONS - FORM - PROCEDURES (Rule 67).**

**01. Definitions.** ( )

a. “Trade secrets” filed with the Commission are exempt from public inspection, examination, and copying pursuant to Section 9-340D, Idaho Code. Trade secrets means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that: ( )

i. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and ( )

ii. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. ( )

b. “Confidential information” means information, documents, or records filed with the Commission that are specifically exempt from public inspection, examination and copying pursuant to Sections 9-340A through 9-340F, Idaho Code. ( )

**02. No change to this Subsection.** ( )

**03. No change to this Subsection.** ( )

**04. No change to this Subsection.** ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**243. HOW HEARINGS ARE HELD (Rule 243).**

**01. All Hearings Presumed Open.** All hearings conducted by the Commission are open to the public

except when a hearing may be partially closed to safeguard trade secrets or other confidential information protected from public disclosure. If parties intend to cross-examine or offer testimony that may necessitate the partial closure of a hearing, they shall advise the Commission or presiding officer at the beginning of the hearing or as soon as thereafter as practical. The Commission disfavors closed hearings and parties shall take all reasonable measures to avoid the need to close a public hearing. Such measures include: (7-1-93)( )

- a. Using references to page and line or column numbers: ( )
  - b. Using summaries or generalizations: ( )
  - c. Stipulating that the evidence be offered in the public hearing; or ( )
  - d. Offering testimony in writing. ( )
- 02.** *No change to this Subsection.* (7-1-93)( )

**IDAPA 31 - PUBLIC UTILITIES COMMISSION**

**31.21.02 - INFORMATION TO CUSTOMERS OF GAS, ELECTRIC, AND WATER PUBLIC UTILITIES**

**DOCKET NO. 31-2102-9901**

**NOTICE OF 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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 61-502 and 61-601, 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.

No comments were filed regarding the proposed rule. The pending rule is being adopted as proposed for the reasons stated in the Notice of Proposed Rules. The original text of the proposed rule was published in the October 6, 1999, Idaho Administrative Bulletin, Volume No. 99-10, pages 477 and 478.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 5th day of November 1999.

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

472 W. Washington St.  
Boise, ID 83702-5983

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**IDAPA 31  
TITLE 21  
Chapter 02**

**INFORMATION TO CUSTOMERS OF GAS, ELECTRIC, AND WATER PUBLIC UTILITIES**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 477 and 478.**

**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 - IDAHO PUBLIC UTILITIES COMMISSION**  
**31.41.01 - THE TELEPHONE CUSTOMER RELATIONS RULES**

**DOCKET NO. 31-4101-9901**

**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 61-502, 61-503, 61-507, 62-604, 62-605, and 62-616, 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.

One comment was received supporting the proposed rule. The pending rule is being adopted as proposed for reasons contained in the Notice of Proposed Rules. The original text of the proposed rule was published in the October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 479 and 480.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 5th day of November 1999.

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

472 W. Washington St.  
Boise, ID 83702-5983

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**IDAPA 31**  
**TITLE 41**  
**Chapter 01**

**THE TELEPHONE CUSTOMER RELATIONS RULES**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 479 and 480.**

**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**  
**31.41.02 - INFORMATION TO CUSTOMERS OF TELEPHONE COMPANIES**

**DOCKET NO. 31-4102-9901**

**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 Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 61-502 and 61-601, 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.

No comments were received regarding the proposed rule. The pending rule is being adopted as proposed for reasons stated in the Notice of Proposed Rules. The original text of the proposed rule was published in the October 6, 1999, Idaho Administrative Bulletin, Volume No. 99-10, pages 481 and 482.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 5th day of November 1999.

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

472 W. Washington St.  
Boise, ID 83702-5983

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**IDAPA 31**  
**TITLE 41**  
**Chapter 02**

**INFORMATION TO CUSTOMERS OF TELEPHONE COMPANIES**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 481 and 482.**

**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**

**31.42.01 - RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE REGULATION OF THE  
IDAHO PUBLIC UTILITIES COMMISSION UNDER THE TELECOMMUNICATIONS ACT OF 1988  
(THE TITLE 62 TELEPHONE CORPORATION RULES)**

**DOCKET NO. 31-4201-9901**

**NOTICE OF 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 62-304, 62-602, 62-610, 62-610F, 62-619, and 62-1303, 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.

Only one comment was received supporting adoption of the proposed rule. The pending rule is being adopted as proposed for reasons contained in the Notice of Proposed Rule. The original text of the proposed rule was published in the published in the October 6, 1999, Idaho Administrative Bulletin, Volume No. 99-10, pages 483 and 484.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, (208) 334-0312.

DATED this 5th day of November 1999.

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

472 W. Washington St.  
Boise, ID 83702-5983

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**IDAPA 31  
TITLE 42  
Chapter 01**

**RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE REGULATION OF THE IDAHO  
PUBLIC UTILITIES COMMISSION UNDER THE TELECOMMUNICATIONS ACT OF 1988  
(THE TITLE 62 TELEPHONE CORPORATION RULES)**

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

**The text of the proposed rule was published in the Idaho Administrative  
Bulletin, Volume 99-10, October 6, 1999, pages 483 and 484.**

**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**  
**31.46.01 - UNIVERSAL SERVICE FUND RULES**  
**DOCKET NO. 31-4601-9901**  
**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 by Section 62-610, 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 present rule seems to be inconsistent with Section 62-610, Idaho Code, by implying that the Commission must revise rates for one-party single-line residence and business service for Universal Service Fund recipients downward to equal the new statewide average in order for the participating companies to continue to receive funding.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 485 and 486.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cheri C. Copsey, Deputy Attorney General, (208) 334-0314.

DATED this 5th day of November 1999.

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

472 W. Washington St.  
Boise, ID 83702-5983

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**IDAPA 31**  
**TITLE 46**  
**Chapter 01**

**UNIVERSAL SERVICE FUND RULES**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 485 and 486.**

**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 33 - REAL ESTATE COMMISSION**  
**33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION**  
**DOCKET NO. 33-0101-9901**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2027, 54-2029D, and 54-2029AE, 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 bi-annual licensing fees will be increased by twenty dollars (\$20), to two hundred twenty dollars (\$220). The Commission finds the increase is necessary to meet increased costs in the agency's regular and necessary operations. Also, the required amount of errors and omissions insurance coverage for independently-obtained "firm" policies will be lowered, from a minimum annual aggregate of two million dollars (\$2,000,000) to an annual aggregate of one million dollars (\$1,000,000). The Commission finds that lowering the minimum to \$1,000,000 will be adequate to protect the public and will make independently-obtained insurance more affordable to brokerage companies. Many other states set one million dollars (\$1,000,000) as the minimum coverage for firm policies.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 1999, Idaho Administrative Bulletin, Volume No. 99-10, pages 487 through 492.

**FEE SUMMARY:** The bi-annual licensing fees for real estate brokers, associate brokers, and salespersons will be increased by twenty dollars (\$20), that is, from two hundred dollars (\$200) to two hundred twenty dollars (\$220).

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donna Jones, (208) 334-3285 ext. 232 or Kim Coster, (208) 334-3285 ext. 235.

DATED this 4th day of November, 1999.

Donna M. Jones, Executive Director  
Idaho Real Estate Commission  
633 N. 4<sup>th</sup> Street  
PO Box 83720, Boise, ID 83720  
(208) 334-3285, (208) 334-2050 (Fax)

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**IDAPA 33**  
**TITLE 01**  
**Chapter 01**

**RULES OF THE IDAHO REAL ESTATE COMMISSION**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 487 through 492.**

**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. 35-0101-9902**  
**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 rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, pages 493 through 496.

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

DATED this 27th 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

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**IDAPA 35**  
**TITLE 01**  
**Chapter 01**

**INCOME TAX ADMINISTRATIVE RULES**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 493 through 496.**

**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. 35-0103-9904**  
**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 rule was published in the Idaho Administrative Bulletin, Volume 99-10, pages 497 and 498.

**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

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**IDAPA 35**  
**TITLE 01**  
**Chapter 03**

**PROPERTY TAX ADMINISTRATIVE RULES**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 497 and 498.**

**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**  
**35.02.01 - ADMINISTRATION AND ENFORCEMENT RULES**  
**DOCKET NO. 35-0201-9902**  
**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 rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, pages 499 and 500.

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

DATED this 27th 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

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**IDAPA 35**  
**TITLE 02**  
**Chapter 01**

**ADMINISTRATION AND ENFORCEMENT RULES**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 499 and 500.**

**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 36 - IDAHO BOARD OF TAX APPEALS**  
**36.01.01 - IDAHO BOARD OF TAX APPEALS RULES**  
**DOCKET NO. 36-0101-9901**  
**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-3808, 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 with one change. Based on public comments the new proposed text of Section 080, ADVANCE SUBMISSION OF EVIDENCE REQUIRED, has been removed and will become a "RESERVED" section. The original text of the proposed rule was published in the October 6, 1999, Idaho Administrative Bulletin, Volume 99-10, pages 501 through 518.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Susan Renfro at 208/334-3354.

Dated this November 17, 1999.

Susan G. Renfro, Director and Clerk  
Board Board of Tax Appeals  
3380 Americana Terrace Suite 110  
P.O. Box 83720  
Boise, ID 83720-0088  
Phone 208/334-3354 / FAX 208/334-4060

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**IDAPA 36**  
**TITLE 01**  
**Chapter 01**

**IDAHO BOARD OF TAX APPEALS RULES**

**There are substantive changes from the proposed rule text.**

**Section 080 will revert back to a "RESERVED" Section and will not be republished in this Bulletin.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 501 through 518.**

**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 37 - DEPARTMENT OF WATER RESOURCES**  
**37.01.01 - RULES OF PROCEDURE OF THE DEPARTMENT OF WATER RESOURCES**

**DOCKET NO. 37-0101-9901**

**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, 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 42-1701A(1), 42-1734(19), 42-1805(8), and 67-2356, 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 primary propose of the pending rule is to amend the Rules of Procedure for the Department of Water Resources to add authority for the filing of documents by electronic means including the use of electronic signatures. This rule is required to implement the provisions of the Idaho Electronic Signature and Filing Act approved by the Legislature in 1998. The department is taking this action to promote the delivery and use of on-line services by people doing business with the department.

The department is using this rulemaking as an opportunity to make other needed amendments to its Rules of Procedure. The changes update department address information; make language clarification changes; add a provision allowing for additional time after service by mail; authorize receipt of payments by credit card; clarify when answers are required to be filed to pleadings; require advance notice to appear as a public witness; describe the authority of hearing officers; address ex parte communications; address the procedures for authorizing discovery and seeking sanctions; address conduct at hearings; provide for notice of default for failure to attend hearings or to provide requested information; and provide requirements for the contents of department orders.

The pending rules include the following changes to the rules as proposed. The changes have been made in response to public comment. The changes are made pursuant to Section 67-5227, Idaho Code.

Rule 007 is changed to include the street address for the State Office of the Department of Water Resources, and to note that the street addresses for the agency's offices are subject to change.

Rule 057 is changed to provide that the rule shall not extend the time for filing a protest, a petition for reconsideration of a preliminary, recommended or final order before the agency, the time for filing exceptions with the agency head to a preliminary or recommended order, or the time for filing an appeal with the district court from a final decision of the agency.

Rule 058 is changed to clarify that the completion of any necessary arrangements to accept credit payments refers to arrangements by the agency.

Rule 270.01 is changed to add a sentence providing that the rule does not prevent a party from filing a responsive pleading in instances not required under the rules. Rule 270.02 is changed to provide that the time to file an answer to a motion may be enlarged or shortened by the presiding officer upon a showing of good cause by a party.

Rule 300 is changed to provide that there is no limit on the number of pages of a facsimile copy of a document filed with the agency if the document is not transmitted directly to the agency by the facsimile machine process.

Rule 354 is changed to provide that an order granting a petition to intervene may be acted upon sooner than seven (7) days after its filing where no objection to the intervention is made.



Rule 355 is changed to provide that the notice given by a person intending to present public witness testimony shall include the name and address of the witness and the general nature or subject matter of the testimony. The proposed rule also is changed to provide that if the notice is not given, the testimony will be allowed only at the discretion of the presiding officer upon a finding of good cause.

Rule 510 is changed to clarify that a prehearing conference must be conducted by a presiding officer or an authorized employee of the agency.

Rule 513 is changed to clarify that a presiding officer, or an authorized employee of the agency, may issue a prehearing order or notice.

Rule 521 is changed to provide that a party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery in a manner consistent with the provisions of Rule 37(a) of the Idaho Rules of Civil Procedure.

Rule 531 is changed to provide that the discovery sanctions available before the agency include but are not limited to the sanctions listed in paragraphs (A), (B), and (C) of Rule 37(b)(2) of the Idaho Rules of Civil Procedure.

Rule 553 is changed to remove the language stating that disruptive conduct at a hearing is cause for dismissal of a proceeding.

Rule 565 is changed to retain the language providing if oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. The proposed rule also is changed to provide that unless changed upon a showing of good cause, all parties will have fourteen (14) days from the time of filing of a motion in which to respond.

Rule 720.02.c is changed to provide that opposing parties shall have fourteen (14) days, rather than twenty-one (21), to file written briefs with the agency head in support of or taking exceptions to a recommended order; and Rule 730.02.c is changed to provide that opposing parties shall have fourteen (14) days, rather than twenty-one (21), to file written briefs with the agency head in support of or taking exceptions to a preliminary order.

Rules 740.02.d and 791.02 are changed to provide references to Rule 84 of the Idaho Rules of Civil Procedure which governs, in part, the filing of an appeal of any agency decision to the district court.

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 99-10, October 6, 1999, pages 519 through 534.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Deputy Attorneys General Phillip J. Rassier or Sara Denniston at (208) 327-7920.

DATED this 15<sup>th</sup> day of November, 1999.

Karl J. Dreher  
Director  
1301 N. Orchard St.  
P.O. Box 83720  
Boise, Idaho 83720-0098  
Phone: (208) 327-7910  
Fax: (208) 327-7866

**IDAPA 37**  
**TITLE 01**  
**Chapter 01**

**RULES OF PROCEDURE OF THE IDAHO DEPARTMENT OF WATER RESOURCES**

**There are substantive changes to the proposed rule text.**

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

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 519 through 534.**

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0101-9901**

**007. OFFICE--OFFICE HOURS--MAILING ADDRESS AND STREET ADDRESS (Rule 7).**

**01. State Office.** The mailing address of the state office of the Idaho Department of Water Resources and the office of the Idaho Water Resource Board are located at 1301 N. Orchard St., is P.O. Box 83720, Boise, Idaho 83720-0098; the street address, subject to change, is 1301 N. Orchard St., Boise, Idaho 83706-2237; the telephone number is (208) 327-7900; and the Facsimile Machine number is (208) 327-7866. Documents may be filed at the state office during regular business hours of 8:00 am to 5:00 pm Monday through Friday. (~~7-1-93~~)(\_\_\_\_)

**02. Regional Offices.** The Department of Water Resources has four regional offices located in Coeur d'Alene, Boise, Twin Falls and Idaho Falls at which documents may be filed, as appropriate, in rulemakings or contested cases (street addresses are subject to change): (~~7-1-93~~)(\_\_\_\_)

a. Northern Region. Department of Water Resources, 1910 Northwest Blvd., Suite 210, Coeur d'Alene, Idaho 83814-2615; telephone number (208) 769-1450; Facsimile Machine number (208) 769-1454. (7-1-93)

b. Western Region. Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705-5082; telephone number (208) 334-2190; Facsimile Machine number (208) 334-2348. (7-1-93)

c. Southern Region. Department of Water Resources, ~~222 Shoshone St. East~~ 1341 Fillmore St., Suite 200, Twin Falls, Idaho 83301-6105 ~~3380~~; telephone number (208) 736-3033; Facsimile Machine number (208) 736-3037. (~~7-1-93~~)(\_\_\_\_)

d. Eastern Region. Department of Water Resources, 900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718; telephone number (208) 525-7161; Facsimile Machine number (208) 525-7177. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**057. ADDITIONAL TIME AFTER SERVICE BY MAIL (RULE 57).**

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, three (3) days shall be added to the prescribed period. This rule, however, shall not extend the time for filing a protest, a petition for reconsideration of a preliminary, recommended or final order before the agency, the time for filing exceptions with the agency head to a preliminary or recommended order, or the time for filing an appeal with the district court from a final decision of the agency. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**0578. FEES AND REMITTANCES (Rule 578).**

If submitted by mail, fees and remittances to the agency ~~must~~ may be paid by money order, bank draft or check payable to agency. Remittances in currency or coin, submitted by mail, are strongly discouraged and are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. The agency may, upon the completion of necessary arrangements by the agency, accept the payment of fees and remittances by credit card. Filings required to be accompanied by a fee shall not be complete until the fee is paid. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**270. ANSWERS--DEFINED--FORM AND CONTENTS--TIME FOR FILING (Rule 270).**

All pleadings responding to the allegations or requests of applications or claims or appeals, complaints, petitions, ~~protests~~, or motions are called "answers". (7-1-93)( )

**01. Answers To Pleadings Other than Motions.** Answers to applications, claims, ~~or~~ appeals, complaints, or petitions when required to be filed by provision of statute, rule, or ~~protests~~ order must be filed and served on all parties of record within twenty-one (21) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or a motion to dismiss is made within twenty-one (21) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent pursuant to Rule 700. Answers to applications or claims, complaints, or petitions, ~~or protests~~ must admit or deny each material allegation of the applications or claims, complaint, or petition ~~or protests~~. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. This rule does not prevent a party from filing a responsive pleading in instances not required under these rules. (7-1-93)( )

**02. Answers To Motions.** Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion within fourteen (14) days of the filing of the motion. ~~The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The time to file an answer to a motion may be enlarged or shortened by the presiding officer upon a showing of good cause by a party.~~ The presiding officer may act upon a prehearing motion under Rule 565. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. FILING DOCUMENTS WITH THE AGENCY--NUMBER OF COPIES--FACSIMILE TRANSMISSION (FAX) - ELECTRONICALLY SIGNED DOCUMENTS (Rule 300).**

An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX). Whenever any document is filed by FAX, the original must be mailed by United States mail or physically delivered to the agency the next working day. A document required to be accompanied by a filing fee shall not be filed with the agency until the fee is received. There shall be no limit as to the number of pages of a facsimile copy which was not transmitted directly to the agency by the facsimile machine process. The Department will accept electronic signatures and electronically signed communications complying with the requirements of Rules 306 through 311 and Sections 67-2351 through 67-2357, Idaho Code, for all communications, filings and transactions with the Department. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**354. ORDERS GRANTING INTERVENTION--OPPOSITION (Rule 354).**

No order granting a petition to intervene will be acted upon ~~fewer~~ sooner than seven (7) days after its filing, except in a hearing in which any party may be heard or except where no objection to the intervention is made. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene. (7-1-93)( )

**355. PUBLIC WITNESSES (Rule 355).**

Persons not parties and not called by a party who testify at hearing are called "public witnesses". Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to Rules 557 and 559, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Rule 528 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties. A person intending to present public witness testimony shall provide five (5) days notice prior to the hearing. The notice shall include the name and address of the witness and the general nature or subject matter of the testimony to be given. If the notice is not given, the public testimony will be allowed only at the discretion of the presiding officer upon a finding of good cause. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**510. PURPOSES OF PREHEARING CONFERENCES (Rule 510).**

The presiding officer, or an authorized employee of the agency, may by order or notice issued to all parties convene a prehearing conference in a contested case for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery (when discovery is allowed), arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**513. ORDERS RESULTING FROM PREHEARING CONFERENCE (Rule 513).**

The presiding officer, or an authorized employee of the agency, may issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**521. WHEN DISCOVERY AUTHORIZED (Rule 521).**

No party before the agency is entitled to engage in discovery unless the party moves to ~~compel for an order authorizing~~ discovery and the agency issues an order ~~directing that authorizing the requested~~ discovery ~~be answered~~, or upon agreement of all parties to the discovery that discovery may be conducted. The presiding officer shall provide a schedule for discovery in the order ~~compelling authorizing~~ discovery, but the order ~~compelling authorizing~~ and scheduling discovery need not conform to the timetables of the Idaho Rules of Civil Procedure. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery in a manner consistent with the provisions of Rule 37(a) of the Idaho Rules of Civil Procedure. The agency or agency staff may conduct statutory inspection, examination, investigation, etc., at any time without filing a motion to ~~compel authorize~~ discovery. (7-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**531. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (Rule 531).**

The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery, including but not limited to the sanctions listed in paragraphs (A), (B), and (C) of Rule 37(b)(2) of the Idaho Rules of Civil Procedure. (7-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**553. CONDUCT AT HEARINGS (Rule 553).**

All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearings. The presiding officer may exclude persons from the hearing who refuse to conduct themselves in a respectful manner. Disruptive conduct that is serious in nature shall be cause for dismissal of a disrupting party from the proceeding. (7-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**565. PROCEDURE ON PREHEARING MOTIONS (Rule 565).**

The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. ~~If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request.~~ Unless otherwise provided by the presiding officer upon a showing of good cause by a party, when a motion has been filed, all parties ~~seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion.~~ The party(ies) joining in, answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the ~~last motion or joinder pursuant to the requirements of the previous sentence~~ in which to respond. (7-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**720. RECOMMENDED ORDERS (Rule 720).**

**01. Recommended Orders - Definition.** Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. (7-1-93)

**02. Contents Of Recommended Orders.** Every recommended order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

b. Within ~~twenty-one~~ fourteen (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position with the agency head or designee on any issue in the proceeding. If no party files exceptions to the recommended order with the agency head or designee, the agency head or designee will issue a final order within fifty-six (56) days after: (7-1-93)( )

i. The last day a timely petition for reconsideration could have been filed with the hearing officer: ( )

ii. The service date of a denial of a petition for reconsideration by the hearing officer; or ( )

iii. The failure within twenty-one (21) days to grant or deny a petition for reconsideration by the hearing officer. ( )

c. Written briefs in support of or taking exceptions to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have ~~twenty-one~~ fourteen (21) days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**730. PRELIMINARY ORDERS (Rule 730).**

**01. Preliminary Orders - Definition.** Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head (or the agency head's designee) pursuant to Section 67-5245, Idaho Code. (7-1-93)

**02. Contents Of Preliminary Order.** Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a petition for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

- b. Within ~~twenty-one~~ fourteen (21) days after: ( )
- i. The service date of this preliminary order; ( )
- ii. The service date of the denial of a petition for reconsideration from this preliminary order, or ( )
- iii. The failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency. (7-1-93)( )
- c. If any party appeals or takes exceptions to this preliminary order, opposing parties shall have ~~twenty-one~~ fourteen (21) days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion. (7-1-93)( )
- d. If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (7-1-93)
- e. Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department or the Board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing. ( )
- ef. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)
- i. A hearing was held; (7-1-93)
- ii. The final agency action was taken; (7-1-93)
- iii. The party seeking review of the order resides; or (7-1-93)
- iv. The real property or personal property that was the subject of the agency action is located. (7-1-93)
- fg. This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**740. FINAL ORDERS (Rule 740).**

**01. Final Order - Definition.** Final orders are preliminary orders that have become final under Rule 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the agency head pursuant to Section 67-5246, Idaho Code, or emergency orders, including cease and desist or show cause orders, issued by the agency head pursuant to Section 67-5247, Idaho Code. (7-1-93)

**02. Content Of Final Order.** Every final order issued by the agency head must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a final order of the agency. Any party may file a petition for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. (7-1-93)

b. Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department or the Board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing. ( )

~~bc.~~ Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

i. A hearing was held; (7-1-93)

ii. The final agency action was taken; (7-1-93)

iii. The party seeking review of the order resides; or (7-1-93)

iv. The real property or personal property that was the subject of the agency action is located. (7-1-93)

~~ed.~~ An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code, and Rule 84 of the Idaho Rules of Civil Procedure. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**791. NOTICE OF APPEAL (Rule 791).**

The notice of appeal must be filed ~~with the agency and~~ with the district court and served on the agency and all parties. (7-1-93)( )

**01. Filing Appeal.** Pursuant to Section 67-5272, Idaho Code, appeals may be filed in the ~~D~~district Court of the county in which: (7-1-93)( )

a. The hearing was held; (7-1-93)



- b. The final agency action was taken; (7-1-93)
- c. The party seeking review of the agency action resides; or (7-1-93)
- d. The real property or personal property that was the subject of the agency is located. (7-1-93)

**02. Filing Deadline.** Pursuant to Section 67-5273, Idaho Code, and Rule 84 of the Idaho Rules of Civil Procedure a petition for judicial review of a final order in a contested case must be filed within twenty-eight (28) days: ~~(7-1-93)~~(\_\_\_\_)

- a. Of the service date of the final order; (7-1-93)
- b. Of the denial of the petition for reconsideration; or (7-1-93)
- c. The failure within twenty-one (21) days to grant or deny the petition for reconsideration. (7-1-93)

**IDAPA 37 - IDAHO DEPARTMENT OF WATER RESOURCES**

**37.03.10 - WELL DRILLERS' LICENSES RULES**

**DOCKET NO. 37-0310-9901**

**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 42-238, 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 October 6, 1999, Idaho Administrative Bulletin, Volume 99-10, page 535. This chapter is being repealed in its entirety. The rule is being replaced by a new set of rules promulgated under Docket No. 37-0310-9902.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Mark Slifka at (208) 327-7900.

DATED this 17th day of November, 1999.

Karl J. Dreher, Director  
Idaho Department of Water Resources  
1301 North Orchard St.  
Boise, Idaho 83706  
Phone: (208) 327-7910  
Fax: (208) 327-7866

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**IDAPA 37  
TITLE 03  
Chapter 10**

**WELL DRILLERS' LICENSES RULES**

**This Chapter Is Being Repealed In Its Entirety.**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, page 535.**

**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 37 - IDAHO DEPARTMENT OF WATER RESOURCES**

**37.03.10 - WELL DRILLING LICENSING RULES**

**DOCKET NO. 37-0310-9902**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 42-238, 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 includes the following changes to the rule as originally proposed. The changes have been made in response to public and well drillers' comments and to make clerical corrections. The changes are made pursuant to Section 67-5227, Idaho Code.

Rule 010.16 moves the reference to well abandonment to Rule 020.06, since it is misplaced in the definition rule.

Rule 010.17 is changed to delete the definition of Driller Helper as a formal designation of this position is not necessary.

Rule 010.18 through Rule 010.31 are changed to correct the rule number since Rule 010.17 was deleted.

Rule 010.25 is changed to clarify the meaning of Responsible Charge.

Rule 020.04 is changed to remove position of Driller Helper and replace it with Laborer as a better description of the position.

Rule 020.06 is added to define who can abandon wells.

Rule 030.01.c is changed more clearly define the information required by the director in order to obtain a driller license.

Rule 030.01.e is deleted and removes the requirement of all new drillers being certified as competent welders. Welding certification may be required for violators of the welding construction standards.

Rule 030.01.f is changed by omitting the requirement of submitting undefined information.

Rule 030.02.a is changed by deleting the experience credit of the Driller Helper since the Driller Helper classification has been eliminated.

Rule 030.02.b is changed from a specific number of wells drilled as a measure of experience to a sufficient number of wells within the preceding 30 months which provides greater flexibility in licensing drillers.

Rule 031.01.e is changed to omit the requirement of submitting unnecessary information.

Rule 031.01.f is changed to omit the requirement of submitting undefined information.

Rule 031.02 is deleted since a unique company name is not necessary for a company to be licensed to drill wells. Rule 031.03 is renumbered to 031.02.

Rule 032.02 is changed to remove the reference to an application for an operator since there is not an application form.

Rule 032.02.c is changed by substituting the terminology, "sufficient number," for the specific number of "ten" wells.

Rule 032.02.d is deleted and removes the requirement of welding certification for all new operators and, instead, requires welding certification for operator who violate the welding well construction standards.

Rule 032.03 and Rule 032.05 are changed to correct the reference to other rules.

Rule 033.01 is changed to clarify the beginning day of the 120 calendar when additional application information is requested.

Rule 033.02 is changed to required the bond to be set according to Rule 60, Bonding.

Rule 033.04 is changed to include consultation with the Driller Advisory Board and clarifies the factors that can be considered in processing applications for driller licenses and operator permits.

Rule 033.05 is deleted except the provision for giving notice of a denied or conditioned license or permit is added to Rule 033.04.

Rule 035.04 is added to allow welding certification to be required of a driller who has violated the welding well construction standards.

Rule 036.01 is changed by adding a title to the section.

Rule 036.04 is deleted as not being necessary and new language has been added to allow welding certification to be required of an operator who has violated the welding well construction standards.

Rule 037.03 is changed to allow consultation with the Driller's Advisory Committee in matters of compliance history before action is taken on the renewal of licenses and operator permits.

Rule 037.04 is changed to correct references in the rule to other rules.

Rule 037.06 is changed to allow consultation with the Driller's Advisory Committee on conditional permits and licenses.

Rule 050.01.b is changed by not requiring completion of the well before removing the drill rig from the drilling site. There are situations when removal of the drilling rig is required.

Rule 050.01.g is deleted since it is a statement of driller ethics rather than a requirement. Rule 050.01.h through 050.01.m numbering is changed to reflect the deletion of Rule 050.01.g.

Rule 050.01.i.vi is changed to not require information from the driller that may be confidential.

Rule 050.01.k is changed to allow the well permit identification tag to be attached to permanent objects other than the well casing.

Rule 060.01 is changed by adding a reference to the Idaho Code section that requires a driller bond.

Rule 060.01.a is changed by removing a redundant sentence from the rule.

Rule 060.01.c is changed by adding a reference to the Idaho Code on bonding amounts and deleting the method of calculating the bond amount based on the number of employees in the company.

Rule 070.01 is changed by removing the reference to surplus credits that may be used during the next license period.

Rule 070.02 is changed by deleting a sentence.

Rule 070.04 is changed by allowing only the director to request historical records of continuing education credits from the drillers.

Rule 070.07 is added to delegate the development of the continuing education program to the Idaho Ground Water Association.

Rule 071 is changed to an alternative Continuing Education Committee to be organized.

Rule 071.03 is changed to allow the terms of the committee members to be staggered.

Rule 080.01 is changed to allow the director to receive nominations for the Driller's Advisory Committee from the Idaho Ground Water Association.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the October 6, 1999, Idaho Administrative Bulletin, Volume No. 99-10, pages 536 through 550.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Mark Slifka at (208) 327-7900.

DATED this 17th day of November, 1999.

Karl J. Dreher, Director  
Idaho Department of Water Resources  
1301 North Orchard St.  
Boise, Idaho 83706  
Phone: (208) 327-7910 / Fax: (208) 327-7866

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**IDAPA 37**  
**TITLE 03**  
**Chapter 10**

**WELL DRILLING LICENSING RULES**

**There are substantive changes to the proposed rule text.**

**Only those sections that have changes from the original proposed text are printed in this Bulletin following this notice. Because this rule is a new proposed rule only additions to the pending rule are shown here. Deletions have been removed not struck out.**

**The complete text was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 536 through 550.**

**This rule has been adopted as Final by the Agency and is now pending review by the 200 Idaho State Legislature for final adoption.**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0101-9901**

**004. OTHER AUTHORITIES REMAIN APPLICABLE (Rule 4).**

Nothing in these rules shall limit the director's authority to take alternative or additional actions relating to the licensing of well drillers and permitting of operators as provided by Idaho law. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS (Rule 10).**

Unless the context otherwise requires, the following definitions govern these rules. ( )

**01. Abandonment.** Filling, plugging or otherwise rendering a well to a condition that it cannot be used to produce or dispose of water or other fluids and it is not a conduit for waste or contamination of ground water. ( )

**02. Adequate Supervision.** Inspection and observation of each drilling operation and the associated drilling site by the licensed driller that has responsible charge during the critical phases of drilling to assure compliance with well construction standards and drilling permit conditions. ( )

**03. Applicant.** An individual that submits to the department a complete application for a license or operator's permit or a company that submits a complete application for a license. ( )

**04. Area Of Drilling Concern.** An area designated by the director in accordance with Section 42-238, Idaho Code, within which special drilling procedures and equipment are needed to prevent waste or contamination of the ground water. ( )

**05. Auxiliary Equipment.** Powered equipment, other than the drill rig, used for grouting, installing or advancing casing, welding casings and screens, and other tasks necessary for drilling a well. ( )

**06. Board.** The Idaho Water Resource Board. ( )

**07. Bond.** A cash or surety bond obtained by a licensed driller or company payable to the director to provide funding for abandonment or repair should the driller fail to comply with well construction standards, and to allow information to be collected concerning the drilling of the well if the driller fails to submit a timely, accurate driller's report. ( )

**08. Company.** A firm, co-partnership, corporation or association licensed in accordance with these rules to drill or contract to drill wells. ( )

**09. Compliance History.** An applicant's record of compliance with the laws and rules of Idaho and other states relating to drilling of wells. The record includes, but is not limited to, the applicant's record of obtaining and complying with drilling permits; filing accurate and complete well driller's reports on time; adhering to well construction standards and other rules relating to drilling; and the number, nature and resolution of violations of laws, rules and conditions on licenses, operator's permits and drilling permits. ( )

**10. Continuing Education.** Education or training pertinent to the drilling industry and the construction, modification or abandonment of wells. ( )

**11. Continuing Education Committee (CEC).** A committee appointed by the director to review and approve activities acceptable for continuing education credit. ( )

- 12. Credit Unit.** The unit of measurement for continuing education requirements. ( )
- 13. Critical Phases Of Drilling.** Drilling tasks that require the added experience of a licensed driller to assure completion of the well in accordance with the well construction standards and conditions of drilling permits. These tasks include, but are not limited to, placement of required casings and seals, testing of casings and seals, and resolving problems such as casing or joint failures, heaving formations, lost circulation, and encountering high pressure or high temperature water. ( )
- 14. Department.** The Idaho Department of Water Resources. ( )
- 15. Director.** The director of the Idaho Department of Water Resources or his duly authorized representative. ( )
- 16. Drilling Or Well Drilling.** The act of constructing a new well, or modifying, changing the construction, or abandoning an existing well. ( )
- 17. Drilling Permit.** Authorization by the department to drill a well as provided in Section 42-235, Idaho Code. ( )
- 18. Drilling Site.** The location of the drill rig and immediate area where the drill rig and auxiliary equipment are set up to drill a well. ( )
- 19. License.** A certificate issued by the director to an individual or a company upon meeting the requirements of Section 42-238, Idaho Code, and these rules authorizing the drilling of wells permitted in accordance with Section 42-235, Idaho Code. ( )
- 20. Licensed Driller.** An individual having a license to drill wells in the state of Idaho. ( )
- 21. Modify.** To deepen a well, increase or decrease the diameter of the casing or the well bore, install a liner, place a screen, perforate existing casing or liners, alter the seal between the casing and the well bore, or alter the well to not meet well construction standards. ( )
- 22. Operator.** An individual holding either a class I or class II operator's permit issued in accordance with these rules. ( )
- 23. Operator's Permit.** A certificate issued by the director upon meeting the requirements of Section 42-238, Idaho Code, and these rules allowing the holder to operate a drill rig as provided in these rules. ( )
- 24. Principal Driller.** A licensed driller in responsible charge of a company's drilling activities, which has been designated the principal driller by the company with the department. ( )
- 25. Responsible Charge.** The responsibility for direction and control of a drilling operation to meet the requirements of these rules including, but not limited to, the following activities: ( )
- a. Contracting to drill a well; ( )
  - b. Coordinate with property owner to locate a well to comply with applicable well construction standards; ( )
  - c. Setting up drilling equipment at the drilling site; ( )
  - d. Drilling operations; and ( )
  - e. Testing the adequacy of casing and seal; ( )
- 26. Well.** An artificial excavation or opening in the ground more than eighteen (18) feet in vertical

depth below land surface by which ground water of any temperature is sought or obtained. The depth of a well is determined by measuring the maximum vertical distance between the land surface and the deepest portion of the well. Any water encountered in the well is considered to be obtained for the purpose of these rules. Well also means any waste disposal and injection well as defined by Section 42-3902, Idaho Code. ( )

**27. Well Construction Standards.** IDAPA 37.03.09, "Well Construction Standards Rules," adopted by the board. ( )

**28. Well Driller's Report Or Driller's Report.** A report required by Section 42-238, Idaho Code, describing drilling of the well and supplying information required on forms provided by the department. ( )

**29. Well Log.** A diary maintained at the drilling site on forms acceptable to the department to record the daily progress and nature of drilling operations and that describe, in particular, pertinent geologic conditions, any problems encountered and methods used to resolve them. ( )

**30. Well Rig Or Drill Rig.** Any power-driven percussion, rotary, boring, digging, jetting, or augering machine used in the drilling of a well. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. APPLICABILITY OF LICENSING REQUIREMENTS (Rule 20).**

**01. Licensing Requirements.** A well shall only be drilled by or under the responsible charge of a licensed driller except that a property owner, who is not licensed, can construct a well on his property for his own use without the aid of power-driven mechanical equipment. ( )

**02. Driller To Have Responsible Charge Of Other Workers.** A licensed driller shall have responsible charge of all others engaged in a well drilling operation. ( )

**03. Operators To Have Permits.** An individual assisting a licensed driller whose duties include operation of a drill rig or auxiliary equipment shall possess an operator's permit as provided in these rules. If the driller is not present at the well site at all times that drilling operations are being conducted, one or more of those operating the equipment in the driller's absence shall have a class II operator's permit. The driller shall provide adequate supervision of class II operators. An individual having a class I operator permit shall be supervised by a licensed driller or a class II operator at all times when operating the drill rig or auxiliary equipment. ( )

**04. Laborer Exempted.** An individual whose duties at the drilling site do not include operation of the drill rig or auxiliary equipment at any time is not required to have either a driller's license or an operator's permit. ( )

**05. Company To Be Licensed.** No company shall drill or contract to drill a well or wells unless the company has been issued a license and has employed a principal driller as described in accordance with these rules. ( )

**06. Drillers To Abandon Wells.** Only licensed drillers may abandon wells, except that wells may be abandoned by the owner after receiving a specific waiver from the director. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**030. OBTAINING A LICENSE FOR AN INDIVIDUAL DRILLER (Rule 30).**

**01. Application Requirements.** An individual desiring a license shall file with the department a



completed application on a form provided by the department accompanied by the following: ( )

- a. The application fee required by Section 42-238, Idaho Code. ( )
- b. Written documentation of drilling experience, compliance history, and the names and addresses of three (3) references to confirm the applicant's drilling experience. ( )
- c. A list of all drill rigs used by or under the responsible charge of the applicant providing the make, model, and type. ( )
- d. The names and addresses of all licensed drillers and permitted operators that will work under the responsible charge of the applicant. ( )

**02. Experience Requirements.** ( )

- a. An applicant shall have a minimum of thirty (30) months of drilling experience. An applicant will be credited with one (1) month of drilling experience for each one hundred sixty (160) hours of employment as a driller or operator, or the equivalent, as determined by the director. Experience drilling monitoring wells, geothermal wells or other cased wells will be credited as experience by the director if the equipment and drilling methods are applicable to water well construction. ( )
- b. An applicant for driller's license shall submit evidence to establish that the applicant, as an operator or driller, has successfully constructed a sufficient number of wells within the preceding thirty (30) months to demonstrate competency. Evidence of this experience can be demonstrated by the submission of driller's reports bearing the applicant's signature, well reports upon which the driller having responsible charge attests that the applicant drilled the wells or other documentation acceptable to the director. ( )
- c. Twelve (12) of the thirty (30) months drilling experience must have occurred within the five (5) year period immediately preceding the filing of the application. ( )
- d. Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twelve (12) months of drilling experience. The director will determine the number of months of classroom study, up to twelve (12), to be credited as experience. ( )

**03. Examination.** An applicant determined by the director to have adequate experience and an acceptable compliance history, as confirmed by references acceptable to the director, is eligible to take a written examination. The examination may include separate sections and shall test the applicant's knowledge of the following: ( )

- a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. ( )
- b. Land description by government lot, quarter-quarter, section, township and range. ( )
- c. Geologic material identification including the use of correct terminology in describing the geologic material. ( )
- d. Well construction principles relating to the proper design, construction, development, and abandonment of wells. ( )
- e. The occurrence, nature, and movement of ground water. ( )
- f. The use of various types of drill rigs and auxiliary equipment. ( )

**031. OBTAINING A LICENSE FOR A COMPANY (Rule 31).**

**01. Application Requirements.** A company shall file with the department a complete application for a company license upon a form provided by the department to be accompanied by the following: ( )

- a. The application fee required by Section 42-238, Idaho Code. ( )
- b. The names and addresses of three (3) disinterested persons whom the department can contact for information regarding the company's past well drilling operations, if any, and related business activities. ( )
- c. A complete record of the compliance history of the company and the owners and employees of the company. ( )
- d. Designation of a principal driller who shall be a full time employee of the company and shall drill wells only for the company. A licensed driller who renders only occasional, part-time or consulting drilling services to or for a company may not be designated as the principal driller. ( )
- e. The names and addresses of drillers and operators presently employed. ( )
- f. A list of all drill rigs and other related equipment owned or used by the company providing the make, model, and type. ( )

**02. Application Processing.** Applications received under this rule will be processed in accordance with Rule 33. ( )

**032. OBTAINING AN OPERATOR'S PERMIT (Rule 32).**

**01. Application For Class I Operator's Permit.** A licensed driller or company proposing to employ a class I operator shall submit a completed application on a form provided by the director. The application shall:( )

- a. Be accompanied by the fee required by Section 42-238, Idaho Code. ( )
- b. Be signed by the individual seeking the operator's permit and the licensed driller or principal driller of the company proposing to employ the operator. ( )

**02. Application For Class II Operator's Permit.** A licensed driller or company proposing to individual who does not currently hold a class II operator's permit shall submit the following: ( )

- a. A completed application on a form provided by the department. ( )
- b. The fee required by Section 42-238, Idaho Code. No fee is required if the applicant is presently permitted as a class I operator, but the expiration date of the permit when converted to a class II operator's permit will remain as originally issued. ( )
- c. Documentation that the operator has successfully constructed a sufficient number of wells, or has constructed wells for a sufficient length of time, or a combination of both to demonstrate competency. ( )

**03. Written Examination.** An examination is not required for a class I operator's permit. An otherwise qualified applicant for a class II operator's permit shall obtain a satisfactory score on an examination as provided in Rule 34. The examination may be comprised of separate sections and shall test the applicant's knowledge of the following: ( )

- a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. ( )
- b. Land description by government lot, quarter-quarter, section, township, and range. ( )
- c. Geologic material identification including the use of correct terminology in describing geologic ( )

- material. ( )
- d. Well drilling principles relating to proper design, construction, development, and abandonment of wells. ( )
- e. The occurrence, nature, and movement of ground water. ( )

**04. Operator Drills Only For Licensed Driller Or Company.** An operator shall only drill for the licensed driller or company approved by the director. If an operator changes employment to another licensed driller or company, an application for an operator's permit shall be filed as provided in this rule. The director may waive the examination requirement if the operator has a history of complying with these rules and the well construction standards. ( )

**05. Processing An Application For Operator's Permit.** The department will process an application for operator's permit in accordance with Rule 33. ( )

**033. PROCESSING APPLICATION FOR LICENSE OR OPERATOR'S PERMIT (Rule 33).**

**01. Incomplete Application.** If an application is incomplete, not properly signed, or does not include the information required by these rules, the department will advise the applicant in writing of the deficiency. If the deficiencies are not satisfied within one hundred twenty (120) days of sending the notice of the deficiency, the application and supporting documents will be returned to the applicant. The application fee is not refundable. ( )

**02. Issuance Of License.** If the director, upon review of the application, determines that an applicant for license is qualified and the driller has subsequently taken and passed an examination, a notice will be sent to the applicant requesting a bond in an amount determined in accordance with Rule 60 be filed with the department. Upon receipt of a satisfactory bond, the director will issue a license to the applicant. ( )

**03. Issuance Of Operator's Permits.** If the director determines that an applicant is qualified and has passed an examination, if required, the department will mail a notice and operator's permit card to the principal driller on behalf of the applicant. ( )

**04. License Or Operator's Permit Issued With Conditions Or Denial Of License Or Operator's Permit.** The director may issue a license or operator's permit with specific conditions or limitations based on the applicant's experience and compliance history. If the director, after consulting with the Driller's Advisory Committee, established in Rule 80, determines that the applicant's compliance history includes significant violations of well drilling laws and/or rules, including well construction standards, the director may deny the license or permit, refuse to issue for a specified time, or issue with conditions. The director may only consider the applicant's compliance history for the five (5) year period immediately preceding the application being filed. If the director determines that the applicant is not qualified, the director will deny the application. Notice of a denied application or a conditioned license or operator's permit will be given to the applicant in accordance with IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources". ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**035. EXPIRATION AND RENEWAL OF LICENSE (Rule 35).**

**01. Expiration Of Licenses.** All licenses shall expire on March 31 during the second year after issuance. ( )

**02. Renewal Application.** A license may be renewed by submitting a license renewal application including the following: ( )

- a. A completed application on a form provided by the department. An application to renew a license

for an individual licensed driller shall be signed by the individual and an application to renew a license for a company shall be signed by the principal driller. ( )

- b. The renewal fee required by Section 42-238, Idaho Code. ( )
- c. A new bond or continuation certificate for an existing bond covering the licensed driller or company. ( )
- d. If the application is for renewal of a license held by an individual, the application shall include verification that the applicant has obtained the required continuing education credits. ( )

**03. Continuing Education Requirements.** Eight (8) credit units are required for renewal of a license for an individual for the licensing period beginning April 1, 2001. Sixteen (16) credit units are required for renewal of a license for an individual for any licensing period beginning on or after April 1, 2002. ( )

**04. Welding Competency.** A driller may be required to obtain a certificate of welding competency from the American Welding Society or similar organization, if the driller has been issued a Notice of Violation for welding that does not comply with the well construction standards. ( )

**036. EXPIRATION AND RENEWAL OF AN OPERATOR'S PERMIT (Rule 36).**

**01. Expiration Of Operator's Permits.** Class I and class II operator's permits shall expire on March 31 of the same year that the license of the licensed driller and company employing the operator expires. ( )

**02. Renewal Application.** An operator's permit may be renewed by submitting to the department an application for renewal including the following: ( )

- a. A completed application on a form provided by the department. The operator seeking renewal and the driller under whose responsible charge the operator works shall sign the form. ( )
- b. The renewal fee required by Section 42-238, Idaho Code. ( )
- c. For renewal of a class II operator's permit, verification of the required continuing education credit units. ( )

**03. Continuing Education Required For Renewals.** Eight credit units are required for renewal of a class II operator's permit for the two (2) year licensing period beginning April 1, 2001. Sixteen (16) credit units are required for renewal of a class II operator's permit for a licensing period beginning on or after April 1, 2002. ( )

**04. Welding Competency.** An operator may be required to obtain a certificate of welding competency from the American Welding Society or similar organization, if the operator's work has resulted in a Notice of Violation for welding that does not comply with the Well Construction Standards. ( )

**037. PROCESSING APPLICATION TO RENEW LICENSE OR OPERATOR'S PERMIT (RULE 37).**

**01. Processing Applications For Renewal.** Applications for renewal will be processed in the order received by the department. The department shall receive a complete application for renewal no later than March 15 to assure that the license or operator's permit will remain in force without interruption. If the director determines that the application is complete and the applicant is qualified, the license or operator's permit will be renewed for the period ending on March 31 of the second year after approval of the renewal. ( )

**02. Regulatory Compliance Required For Renewals.** A license or operator's permit will not be renewed if the applicant has not submitted all required driller's reports, applications for drilling permits, fees, agreed civil penalties, has not complied with all orders requiring repair or abandonment of improperly constructed wells or is not otherwise in compliance with Sections 42-235 and 42-238, Idaho Code, and the applicable rules. ( )

**03. Compliance History.** If the director determines, after consulting the Driller's Advisory Committee,

that the applicant has exhibited an unacceptable compliance history, the director may deny renewal, refuse renewal for a specified time, or renew with conditions, including but not limited to an increased bond amount. Up to five (5) years of the most recent licensed or permitted history may be considered to determine compliance. ( )

**04. Renewal Of Expired Licenses Or Operator's Permits.** A license or an operator's permit which has expired or otherwise not been in effect for a period not exceeding three (3) years shall be renewed in accordance with the requirements of Rule 35 or Rule 36 as appropriate. An applicant for renewal shall provide verification of earned credit units required for the entire period since the license or class II operator's permit was last issued. If a license or operator's permit has been expired or otherwise not effective for a period of more than three (3) years, an application for a new license shall be submitted in accordance with Rule 30 for an individual license, Rule 31 for a company or Rule 32 for an operator's permit. The director may waive the examination requirement if the applicant has been previously licensed or permitted in the state of Idaho. ( )

**05. Reuse Of Identification Numbers.** The identification number assigned to a license by the department will not be reused if the license has been expired or otherwise not in effect for three (3) years or more except, at the director's discretion, the number may be reissued to the original owner. ( )

**06. Condition Or Denial Of An Application For Renewal.** If the director determines that the applicant has not or cannot fully comply with these rules, a license or operator's permit may be issued with conditions. If the director determines that the applicant is not qualified, the director will deny the application. When there are significant violations of well drilling laws and/or rules, including well construction standards, the director will consult with the Driller's Advisory Committee, created in accordance with Rule 80, prior to making a decision to issue a conditional license or operator's permit or to deny an application based on the applicant's compliance history. Notice of a denied application or a conditioned license will be given as provided in IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources". ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. DUTIES AND RESPONSIBILITIES OF DRILLERS, COMPANIES AND OPERATORS (Rule 50).**

- 01. Licensed Drillers And Principal Drillers.** All licensed drillers and principal drillers shall: ( )
- a. Allow drilling only by those authorized by and under the supervision required by these rules and according to any conditions of the license or permit. ( )
  - b. Complete each well in compliance with well construction standards and drilling permit conditions. ( )
  - c. Have a valid cash or surety bond in effect, as defined in Rule 60. ( )
  - d. Have the license number displayed in a conspicuous place on the drill rig using a metal identification plate provided by the department or other permanent marking approved by the director. The displayed license number shall represent the company or individual driller license under which the well is being drilled. One plate will be issued upon initial licensure with replacement and additional plates available for a fee. ( )
  - e. Keep current the department's list of operators and drillers employed by the licensed driller or company, including current addresses for the company, drillers, and operators. The licensed driller or principal driller shall be held responsible for all drilling activity of a driller or operator under their supervision until such notification has been submitted in writing to the department that the driller or operator is no longer employed by the licensed driller or company. ( )
  - f. Have at the drilling site the driller's license and drilling permit or other written authorization from the director to drill the well. ( )

g. Only drill wells in contaminated areas identified by the department or in areas of drilling concern so designated by the department with specific written authorization of the director. Verbal authorizations to drill and pre-approved drilling permits (start cards) do not authorize drilling in these areas. ( )

h. Only drill a public drinking water supply well, as defined in IDAPA 16.01.08, "Idaho Rules for Public Drinking Water Systems," low temperature geothermal resource or geothermal resource well with specific written authorization from the director. Verbal authorizations and pre-approved permits (start cards) are not authorized for these uses. ( )

i. Maintain a well log at the drilling site on a form acceptable to the department bearing the initials of the driller or operator recording information during the work shift. The well log shall be available for review by department personnel at the well site. The following information shall be recorded: ( )

i. Borehole lithology; ( )

ii. Water bearing zones; ( )

iii. Static water levels; ( )

iv. Bottom hole temperature; ( )

v. Casing and sealing placement status; ( )

vi. A description of problems encountered; and ( )

vii. The driller shall retain the well log for at least one (1) year after the driller's report is submitted to the department. ( )

j. Submit driller's reports, acceptable to the director, on forms approved by the department within thirty (30) days following removal of the drill rig from the drilling site at completion of the well. Driller's reports shall be prepared from information recorded on the well log. Driller's reports returned to the driller due to deficiencies must be corrected and returned to the department within thirty (30) days of mailing by the department. ( )

k. Attach a well tag supplied by the department to every well drilled for which a drilling permit is required. The tag shall be affixed permanently to the casing, or other permanent object attached to the well, by a method approved by the Director prior to removing the well rig from the drilling site. ( )

l. Cause all drilling activity under the supervision of the driller to cease when the driller's license expires, becomes invalid, or is suspended or revoked. ( )

**02. Companies.** Companies shall: ( )

a. Have a principal driller designated with the department at all times. ( )

b. Notify the department within ten (10) days of the principal driller leaving employment with the company. The company's license shall immediately become void and of no effect when the principal driller leaves employment with the company and shall remain so until the department has been notified in writing that a new principal driller has been employed and designated by the company. Failure to designate a principal driller within ninety (90) days of the departure of the designated principal driller is cause for the director to take action to cancel the company's license. ( )

c. Maintain a bond in force at all time as required in Rule 60. ( )

**03. Operators.** Operators shall: ( )

a. Have in their possession a valid operator's permit while drilling wells. ( )

- b. Only drill wells as authorized by the operator's permit. ( )
- c. Maintain a complete and accurate well log at the drilling site. ( )
- d. Co-sign with the driller a driller's report upon completion of the well. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**060. BONDING (Rule 60).**

**01. Bonding Requirements.** Each licensed driller or company shall submit a surety bond or cash bond in an amount determined by the director, within the limits of 42-238, Idaho Code, for each driller employed by the company, payable to the director for the licensing period. ( )

a. A company shall have a bond, which covers the drilling activities of each driller and operator employed by the company. If the licensed driller drills wells as an individual and not for a company, a separate bond must be filed with the director. ( )

b. Drillers proposing to drill wells in an area of drilling concern, monitoring wells, public water supply wells, or wells to obtain or likely to encounter water with a bottom hole temperature greater than eighty-five (85) degrees Fahrenheit, shall submit an upgraded bond, in an amount determined by the director, at the time the drilling permit application is processed. Drillers anticipating drilling such wells may, instead, submit adequate bonding at the time of driller license application or renewal. ( )

c. The amount of the bond, within the limits prescribed in Section 42- 238, Idaho Code, will be determined by the director based on the applicant's compliance history, the size and depth of wells the applicant proposes to construct and is authorized to drill, the complexity of the wells, the resource to be recovered, the area of operation of the applicant, the number of drillers and operators employed by a company, and other relevant factors. ( )

d. All bonds and continuation certificates must be on forms provided or approved by the department. ( )

**02. Cash Bonds.** ( )

a. **Acceptable Cash Bonds.** Cash bonds shall be in a separate account readily accessible to the director for use as provided in these rules. The director will review cash bond proposals made by an applicant. Cash bonds shall be retained in financial institutions within the state of Idaho unless waived by the director. ( )

b. **Retention.** The director will hold cash bonds for two (2) years from the date the driller requests that the bond be released unless replaced by another bond or the director determines that all wells drilled by the driller satisfy well construction standards. The release of a cash bond must be requested in writing. ( )

**03. License Void Without Bond.** If the issuing company cancels a bond, the bond expires or otherwise becomes non-effective during the term of a license, the license shall immediately become void and of no further effect until an adequate replacement bond is received by the department. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**070. CONTINUING EDUCATION (RULE 70).**

**01. Requirements.** Every licensed driller and permitted operator shall have earned at the time of license or permit renewal the credit units required by these rules. The credit units shall have been obtained during the licensing period preceding the application for renewal. ( )

**02. Earning Credit Units.** A credit unit is earned for each hour the applicant devotes to attendance at workshops, seminars, short courses and other educational opportunities devoted to drilling or related subjects acceptable to the director. These may include completion of college courses, correspondence courses, videotaped courses, active participation in professional organizations, and other endeavors such as authoring appropriate publications. ( )

**03. Record Keeping.** Documentation to support credit units claimed is the responsibility of the licensed driller and permitted operator. Records required include but are not limited to: ( )

a. A log showing the type of activity claimed, sponsoring organization, duration, instructor's name, and credit units. ( )

b. Attendance verification records in the form of completion certificates or other documents providing evidence of attendance. ( )

**04. Submittal And Maintenance Of Records.** Copies of continuing education records for the preceding license period shall be submitted with applications to renew licenses or permits. These records shall be maintained for a period of three (3) years and shall be available for review by the department at the request of the director. ( )

**05. Insufficient Credit Units.** If at the time of renewal, the applicant is unable to provide verification of the required credit units, the director will deny renewal of the driller's license or operator's permit, except as otherwise provided in the following: ( )

a. The director may withhold action on an application for renewal for a period not to exceed ninety (90) days to allow the applicant to provide verification of the required credit units. The applicant is not authorized to drill until the verification is provided and the renewal is issued. ( )

b. The director may exempt an applicant from all or part of the continuing education requirements if the applicant served on active duty in the armed forces of the United States for one hundred twenty (120) consecutive days or more during the licensing period prior to filing the application for renewal; or the applicant suffered physical disability, serious illness, or other extenuating circumstances that prevented the applicant from earning the required units. ( )

c. A licensed driller or operator who has chosen to allow his license or permit to expire or otherwise become of no effect shall be exempt from continuing education requirements unless an application for renewal is filed less than three (3) years after the license or permit expired or otherwise became of no effect. ( )

**06. Out-Of-State Residents.** The continuing education requirements for a non-resident applicant for a license or operator's permit shall be the same as for resident applicants. ( )

**07. Responsibility for Education Development and Implementation.** The Idaho Ground Water Association (IGWA) is delegated responsibility to develop and implement a program for continuing education for review and approval by the director. ( )

**071. CONTINUING EDUCATION COMMITTEE (CEC) (Rule 71).** Should the IGWA not submit a suitable program for continuing education or that program not be approved by the director the CEC shall be organized and administered as follows: ( )

**01. Purpose And Duties.** The CEC shall provide recommendations to the director concerning the amount and nature of continuing education required to maintain and improve driller and operator competency. The CEC shall provide recommendations to the director concerning the credit value to be assigned to continuing education opportunities. The CEC shall also encourage driller association(s) and the education and professional



communities to make additional opportunities available. The director shall determine the value for all activities submitted to fulfill continuing education requirements. ( )

**02. Committee Membership.** The membership of the CEC shall be selected by the director from nominations provided by state driller association(s) and others. The CEC membership shall include: ( )

a. Three (3) individuals holding or who have held an Idaho well driller's license, at least two (2) of which shall hold a currently valid license. ( )

b. One (1) individual from the department. ( )

c. One (1) individual from either the higher education community or a consulting firm involved in designing wells. ( )

**03. Terms.** The committee members will be appointed to serve a term of two (2) or three (3) years, but may serve no more than six (6) years in any given ten (10) year period. ( )

**04. Reimbursement.** Travel and per diem expenses for members attending official meetings of the CEC will be paid in accordance with department policy. The department will establish meeting dates and locations for the CEC. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**080. DRILLER'S ADVISORY COMMITTEE (Rule 80).**

**01. Selection And Duties.** The director may appoint a driller's advisory committee from the list of drillers holding valid licenses. The director will solicit appointment recommendations from the IGWA and other licensed drillers. The director will determine the term of appointment for members of the committee. The committee shall provide recommendations and suggestions concerning revision of these rules, the minimum standards for well construction, significant violations and other matters regarding well drilling. The committee members shall serve on a voluntary basis without compensation. The department will hold at least one (1) meeting of the advisory committee per year and will hold additional meetings as needed. ( )

**02. Reimbursement.** Travel costs shall be paid to members of the advisory committee for travel and per diem and for costs associated with attendance of advisory committee meetings held by the department. Reimbursement shall be based on existing department policy covering travel and per diem expenses. ( )

**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**59.01.04 - DISABILITY RULES OF PERSI**

**DOCKET NO. 59-0104-9901**

**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(s) 59-1314(1) and 72-1405 Idaho Code.

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

This chapter is being repealed in its entirety and will be replaced with a new chapter governing PERSI disability retirement. A separate Notice of Pending Rule, Docket No. 59-0104-9902, containing the new chapter, is being published in this volume of the Bulletin. The effective date of this repeal is the date the new chapter becomes final and effective.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, page 571.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Judy Aitken, Field Services Manager, 334-2451.

DATED this 15th day of November, 1999.

Alan H. Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8<sup>th</sup> St., Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: (208) 334-2451 FAX: (208) 334-3804

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**IDAPA 59  
TITLE 01  
Chapter 04**

**DISABILITY RULES OF PERSI**

**This Chapter Is Being Repealed In Its Entirety.**

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, page 571.**

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

**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**59.01.04 - DISABILITY RULES OF PERSI**

**DOCKET NO. 59-0104-9902**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution. A portion of the pending rule, Rule 204, imposes a cost or fee under certain circumstances. This fee will not become final and effective unless affirmatively approved by concurrent resolution of the legislature.

**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) 59-1314(1) and 72-1405 Idaho Code.

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

This chapter will replace the existing chapter governing PERSI disability retirement, which is being repealed in its entirety under a separate Notice of Pending Rule, Docket No. 59-0104-9901, published in this volume of the Bulletin. The rules are being updated to reflect statutory changes and to clarify certain issues, including the disability application and assessment process.

The proposed rules have been amended in response to public comment and pursuant to Section 67-5227, Idaho Code. Rule 301 has been reworded for clarity to describe when substantially all avenues of employment are reasonably closed, rather than describing when they are not closed. Rule 302, as published in the proposed rules has been deleted. Rule 304 of the proposed rules has been renumbered as Rule 302. Rule 303 has been changed to clarify issues that are not relevant to disability determinations and to clarify geographic considerations. Rules reserved under Subchapter D are now designated as Rules 304 through 399.

Only the sections that have been changed are printed in this bulletin. The original text of the proposed rule was published in the October 6, 1999 Idaho Administrative Bulletin, Volume 99-10, pages 571 through 576.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Judy Aitken, Field Services Manager, 334-2451.

DATED this 15th day of November, 1999.

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**IDAPA 59**  
**TITLE 01**  
**Chapter 04**

**DISABILITY RULES OF PERSI**

**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 text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 99-10, October 6, 1999, pages 571 through 576.**

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

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0104-9902**

**301. STATUTORY STANDARD (Rule 301).**

In applying the disability standard in Section 59-1302(12), Idaho Code, substantially all avenues of employment are reasonably closed if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of any occupation for which the applicant is reasonably qualified by education, training or experience. ( )

**302. DEFINITION OF "LIKELY" (Rule 302).**

For the purpose of Section 59-1302(12)(b), Idaho Code, "likely" means with reasonable medical certainty. ( )

**303. HIRE-ABILITY OF APPLICANT (Rule 303).**

The inability of the applicant to secure employment in and around the area where the applicant resides is not considered in determining whether or not the applicant is disabled. If the applicant is able to perform every substantial and material duty of any jobs existing in the economy for which the applicant is reasonably qualified by education, training or experience, the applicant will not be considered disabled regardless of other factors that might affect the applicant's ability to actually secure employment, such as employer decisions and practices or the fact that there are no open positions or that the applicant is not selected for those positions. ( )

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## **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. **02-0216-0001**, Rules of the Department of Agriculture Governing Organic Livestock. Provides minimum standards and certification requirements for producers and handlers of organic animal products including meat, dairy and eggs pursuant to Title 22, Chapter 11, Idaho Code. Comment By: 1/26/00.

### **IDAPA 08 – DEPARTMENT OF EDUCATION P.O. Box 83720, Boise, ID 83720-0027**

Docket No. **08-0111-0001**, Out-of-State Institutions, In-State Non-Accredited Institutions, and Correspondence or Private Courses. Deletes “certificate” from the definition of a program included in the requirement to maintain a register of accredited out-of-state higher education institutions. Comment By: 2/1/00.

### **IDAPA 11 – DEPARTMENT OF LAW ENFORCEMENT P.O. Box 700, Meridian, Idaho 83680-0700**

Docket No. **11-1301-0001**, The Motor Carrier Rules. Clarifies the need for vehicle and carrier identification numbers. Comment By: 1/26-00.

### **IDAPA 12 – DEPARTMENT OF FINANCE P.O. Box 83720, Boise, ID 83720-0031**

Docket No. **12-0108-0001**, Rules Pursuant to the Idaho Securities Act. Incorporates recent amendments made to national securities registration review standards and will make Idaho’s review standards consistent with those of a majority of states. Comment By: 1/26/00.

### **IDAPA 15 – OFFICE OF THE GOVERNOR IDAHO COMMISSION OF AGING P.O. Box 83720, Boise, ID 83720-0007**

Docket No. **15-0101-0001**, Rules Governing Senior Services Program. Clarifies roles of volunteer and paid respite staff; clarifies duties related to medical attention and procedures; use of UAI in case management evaluation; and refers code of conduct to that of homemaker program. Comment By: 1/26/00.

### **IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE P.O. Box 83720, Boise, ID 83720-0036**

Docket No. **16-0301-0001**, Rules Governing Eligibility for Medicaid for Families and Children. Allows for self-declaration of family circumstances; changes methods used for counting resources and computing income; allows 12 month eligibility for children without consideration of changes in income or resources; eliminates work requirements for parents who do not receive TAFI cash assistance; changes reporting requirements for recipients of Transitional Medicaid; lengthens time period between approval and redetermination of eligibility to 12 months; and adds Department notice requirements. Comment By: 1/26/00.



Docket No. **16-0303-0001**, Rules Governing Child Support Services. Removes "Bureau" from program name; removes policy regarding return of child support to the payor and redirecting payments if the applicant requests termination of child support services; and changes requirement that obligor has legal and physical custody to physical custody in good cause determinations for license suspension. Comment By: 1/26/00.

Docket No. **16-0305-0001**, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled. Revises chapter name; increases budget allowances used to determine eligibility and payment amount; provides a new living arrangement for a person living in a room and board home and rents from someone who is not his parent, child or sibling; repeals the unlicensed facility living arrangement; provides that a person living with his parent, child or sibling is not entitled to the Certified Family Home budget allowances; provides that the group health mandatory enrollment requirement applies solely to employer group health plans; increases income deduction for individuals with sheltered work shop earnings in computing the patient's share of the cost of HCBS and nursing home care; provides an income deduction for garnished child support in computing the patient's share of the cost of HCBS and nursing home care; changes the name of HCBS-Nursing Facility (HCBS-NF) to HCBS-Aged and Disabled (HCBS-A&D). Increases the income limit for HCBS eligibility in counties which have not converted to the new HCBS A&D waiver; lowers the maximum age for eligibility under a Medicaid coverage group for widows and widowers. Comment By: 1/26/00.

Docket No. **16-0308-0001**, Rules Governing Temporary Assistance to Families in Idaho. Increases TAFI maximum grant; excludes household goods and personal effects as countable resources; excludes payments to persons of Japanese ancestry who were evacuated, relocated and interned during Work War II and VISTA payments from income restitution. Comment By: 1/26/00.

Please refer to the Idaho Administrative Bulletin, **January 5, 2000, Volume 00-1** for notices and text of all rulemakings, public hearing schedules, Governor's executives orders, and agency contact names.

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