

IDAHO ADMINISTRATIVE BULLETIN

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July 4, 2001 -- Volume 01-7

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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 00-1 refers to the first Bulletin issued in calendar year 2000, Bulletin 01-1 refers to the first Bulletin issued in calendar year 2001, 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 2001 is cited as Volume 01-1, the December 1999 Bulletin is cited as Volume 99-12. The March 2000 Bulletin is cited as Volume 00-3.

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 adopted and 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, as well as individual chapters and dockets, are available on the Internet at the following address: <http://www2.state.id.us/adm/adminrules/>

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 Paragraph 060.02.c.

"ii." refers to Subparagraph 060.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0101). 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. 38-0501-0101"

"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).

"0101" 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 2001.

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 YEAR 2001

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
01-1	January, 2001	*November 15, 2000	January 3, 2001	January 24, 2001
01-2	February, 2001	December 20, 2000	February 7, 2001	February 28, 2001
01-3	March, 2001	January 24, 2001	March 7, 2001	March 28, 2001
01-4	April, 2001	February 21, 2001	April 4, 2001	April 25, 2001
01-5	May, 2001	March 21, 2001	May 2, 2001	May 23, 2001
01-6	June, 2001	April 18, 2001	June 6, 2001	June 27, 2001
01-7	July, 2001	May 23, 2001	July 4, 2001	July 25, 2001
01-8	August, 2001	June 20, 2001	August 1, 2001	August 22, 2001
01-9	September, 2001	July 18, 2001	September 5, 2001	September 27, 2001
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01-11	November, 2001	September 19, 2001	November 7, 2001	November 28, 2001
01-12	December, 2001	October 24, 2001	December 5, 2001	December 26, 2001

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Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
02-1	January, 2002	*November 14, 2001	January 2, 2002	January 23, 2002
02-2	February, 2002	December 19, 2001	February 6, 2002	February 27, 2002
02-3	March, 2002	January 23, 2002	March 6, 2002	March 27, 2002
02-4	April, 2002	February 20, 2002	April 3, 2002	April 24, 2002
02-5	May, 2002	March 20, 2002	May 1, 2002	May 22, 2002
02-6	June, 2002	April 17, 2002	June 5, 2002	June 26, 2002
02-7	July, 2002	May 22, 2002	July 3, 2002	July 24, 2002
02-8	August, 2002	June 19, 2002	August 7, 2002	August 28, 2002
02-9	September, 2002	July 24, 2002	September 4, 2002	September 25, 2002
02-10	October, 2002	**August 21, 2002	October 2, 2002	October 23, 2002
02-11	November, 2002	September 18, 2002	November 6, 2002	November 27, 2002
02-12	December, 2002	October 23, 2002	December 4, 2002	December 25, 2002

**Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.*

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

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IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.03 - RULES OF THE DEPARTMENT OF AGRICULTURE
GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-0002

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules is June 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-237, Idaho Code.

PUBLIC HEARING SCHEDULE: A Public hearing concerning this rulemaking will be held as follows:

July 16, 2001, 7 p.m.
Nampa Civic Center
11 3rd Street South
Nampa, Idaho 83651

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: the temporary and proposed rule will delete IDAPA 02.04.03.050 "Dead Animal Movement and Disposal", which is being replaced by a new chapter IDAPA 02.04.17 that is being published concurrently.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule is necessary to protect the public health, safety or welfare; confers a benefit.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811 negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume No. 00-10, Page 59.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Idaho Department of Agriculture, at (208) 332-8540.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 23rd day of May, 2001.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4062 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0403-0002

046. -- 0459. (RESERVED).

050. ~~DEAD ANIMALS, MOVEMENT, DISPOSAL.~~

~~01. **Movement.** No dead animals shall be transported, offered or accepted for transportation in the same car with live animals from the original point of shipment or any unloading or feeding point in any county or district, to, or through, any county or district, but must be disposed of as provided in Subsection 050.02. (9-6-61)~~

~~02. **Disposal.** Any person, firm or corporation owning or having charge of any animals which have died of any contagious, infectious or communicable diseases, or have been slaughtered or destroyed as designated in these rules or have died from any cause, shall within twenty four (24) hours from the death or slaughter of such animals, dispose of the carcasses in accordance with the meat inspection rules and regulations of the United States Agriculture Research Service or by complete cremation of the entire carcass with all its parts and products, or by burying six (6) feet under the ground, the carcasses of diseased animals being covered with quick lime before filling in the earth. (9-6-61)~~

051. -- 059. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.17 - RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL

DOCKET NO. 02-0417-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules is June 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-237, Idaho Code.

PUBLIC HEARING SCHEDULE: A Public hearing concerning this rulemaking will be held as follows:

July 16, 2001, 7 p.m.
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Nampa, ID 83651

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This temporary and proposed rule provides authority to regulate dead animal movement and disposal; prohibits the abandonment of dead animals; requires dead animals to be disposed of within seventy two (72) hours after knowledge of the death of the animal; lists accepted methods of disposal; provides authority to determine the method of disposal in emergency situations; and provides for extenuating circumstances.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule is necessary to protect the public health, safety or welfare; confers a benefit.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811 negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in conjunction with docket no. 02-0403-0002, in the Idaho Administrative Bulletin, Volume No. 00-10, Page 59.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Idaho Department of Agriculture, at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 23rd day of May, 2001.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
P.O. Box 790
Boise, Idaho 83701-0790
(208) 332-8500
(208) 334-4062 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0417-0101

IDAPA 02
TITLE 04
Chapter 17

02.04.17 - RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 25, Chapter 2, Idaho Code. (6-1-01)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Dead Animal Movement and Disposal". (6-1-01)T

02. Scope. These rules shall govern the management, movement and disposal of dead animals. The official citation of this chapter is IDAPA 02.04.17.000 et seq. For example, this section's citation is IDAPA 02.04.17.001. (6-1-01)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (6-1-01)T

003. ADMINISTRATIVE APPEAL.

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeal before the State Department of Agriculture under these rules. (6-1-01)T

004. INCORPORATION BY REFERENCE.

IDAPA 02.04.17 does not incorporate any material by reference. (6-1-01)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (6-1-01)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (6-1-01)T

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (6-1-01)T

04. Telephone Number. The telephone number of the central office is (208) 332-8540. (6-1-01)T

05. Fax Number. The fax number of the central office is (208) 334-2170. (6-1-01)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection at the State Department of Agriculture and on the internet. Official copies may be obtained from the Department of Administration, Office of Administrative Rules. (6-1-01)T

007. — 009. (RESERVED).

010. DEFINITIONS.

01. Abandon. To forsake, desert or intentionally leave a dead animal without proper disposal as provided in these rules. (6-1-01)T

02. Administrator. The administrator of the Idaho State Department of Agriculture, Division of Animal Industries. (6-1-01)T

03. Air Curtain Incineration. A mechanical process of incineration by which super-heated air is continuously circulated to enhance combustion. (6-1-01)T

04. Burial. Interment of a dead animal below the natural surface of the ground. (6-1-01)T

05. Burning. The act of consuming or destroying by fire with or without the use of an accelerant. (6-1-01)T

06. Composting. The biological decomposition of organic matter under controlled conditions. (6-1-01)T

07. Dead Animals. Carcasses, parts of carcasses, or tissues from dead animals including domesticated livestock, sheep, goats, poultry, pets, and commercial fish. (6-1-01)T

08. Dead Animal Emergencies. Those situations involving dead animals that may require extenuating disposal measures as determined by the Administrator. (6-1-01)T

09. Decomposition. The decay of dead animals under natural conditions. (6-1-01)T

10. Digestion. A process by which organic matter is hydrolyzed. (6-1-01)T

11. Director. The director of the Idaho State Department of Agriculture. (6-1-01)T

12. Disposal. The management of a dead animal. (6-1-01)T

13. Domesticated Livestock. Bovidae, suidae, equidae, captive cervidae, captive antilocapridae, camelidae, ratitidae, gallinaceous birds and captive waterfowl. (6-1-01)T

14. Incineration. The controlled and monitored combustion of dead animals for the purposes of volume reduction and pathogen control. (6-1-01)T

15. Person. Any individual association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal government department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (6-1-01)T

16. Pets. Cats, dogs, and other non-human species of animals that are typically kept as household companions. (6-1-01)T

17. Rendering. The process or business of recycling dead animals and animal by-products. (6-1-01)T

18. Sanitary Landfill. A solid waste disposal site permitted or approved by the Idaho Department of Environmental Quality. (6-1-01)T

011. EXCLUSIONS.

The following establishments and animals shall be excluded from the provisions of these rules. (6-1-01)T

01. Slaughter Establishments. Establishments that slaughter livestock for human consumption.

- (6-1-01)T
- 02. Free-Ranging Wildlife.** Non-captive wildlife or wild fish. (6-1-01)T
- 03. House Pets.** House pets less than one hundred (100) pounds in weight. (6-1-01)T
- 04. Pets Buried In A Licensed Pet Cemetery.** Pets of any weight buried in a licensed pet cemetery. (6-1-01)T
- 012. -- 019. (RESERVED).**
- 020. ABANDONMENT OF DEAD ANIMALS.**
No person who owns or is caring for an animal that has died shall abandon the dead animal. Animals that are being disposed of by decomposition in accordance with these rules shall not be considered abandoned. (6-1-01)T
- 021. -- 029. (RESERVED).**
- 030. DISPOSAL OF DEAD ANIMALS.**
Dead animals shall be disposed of within seventy-two (72) hours after knowledge of the death of the animal or as provided by the Administrator. No person shall dispose of a dead animal on the land of another without the permission of the property owner. Disposal shall be by one (1) of the following methods: (6-1-01)T
- 01. Dead Animals On Federally Managed Land.** Animals that die on federally managed rangeland from causes other than significant infectious or contagious disease or agents shall be disposed of as provided by the rules and regulations of the responsible land management agency. (6-1-01)T
- 02. Disposal Methods Determined By The Administrator.** The Administrator may determine the appropriate method of disposal for animals that die of significant infectious or contagious diseases or agents. (6-1-01)T
- 03. Rendering.** If a licensed and approved rendering facility accepts the dead animal, rendering is an approved method of disposal. (6-1-01)T
- a. When carcasses are held for pickup, the site shall be screened from public view, in a dry area and not in a water runoff or drainage area. (6-1-01)T
- b. Run-off from the holding area must be contained. (6-1-01)T
- 04. Burial.** Dead animals shall be buried to such a depth that no part of the dead animal shall be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three (3) feet of earth. The location of a burial site shall be: (6-1-01)T
- a. At least three hundred (300) feet from any wells, surface water intake structures, public or private drinking water supply lakes or springs. (6-1-01)T
- b. At least three hundred (300) feet from any existing residences. (6-1-01)T
- c. At least fifty (50) feet from property lines. (6-1-01)T
- d. At least one hundred (100) feet from public roadways. (6-1-01)T
- e. At least two hundred (200) feet from any body of surface water such as a river, stream, lake, pond, intermittent stream, or sinkhole. (6-1-01)T
- f. Burial sites shall not be located in low-lying areas subject to flooding, or in areas with a high water table where the seasonal high water level may contact the burial pit. (6-1-01)T

- 05. Disposal In An Approved Sanitary Landfill.** Arrangements shall be made with a city, county, regional, or private landfill official in order to dispose of a dead animal in a city, county, regional, or private landfill. (6-1-01)T
- 06. Composting.** (6-1-01)T
- a. Composting of dead animals shall be accomplished in a manner approved by the Administrator. (6-1-01)T
- b. No composters that have been approved by other agencies shall begin composting dead animals without the approval of the Administrator. (6-1-01)T
- 07. Digestion.** Digestion of dead animals shall be accomplished in a properly designed and sized dead animal digester approved by the Administrator. (6-1-01)T
- 08. Incineration.** (6-1-01)T
- a. Incineration of dead animals shall be accomplished in an approved incineration facility, or by a mobile air curtain incinerator at a site approved by the Administrator. (6-1-01)T
- b. The incineration shall be thorough and complete, reducing the carcass to mineral residue. (6-1-01)T
- 09. Burning.** Open burning of dead animals is not allowed, except as authorized by the Administrator, in coordination with the Department of Environmental Quality. (6-1-01)T
- 10. Decomposition.** Animals that die on private or state rangeland from causes other than significant infectious or contagious diseases or agents may be left to decompose naturally provided that: (6-1-01)T
- a. They are at least one thousand three hundred twenty (1,320) feet from any wells, streams, surface water intake structures, public or private drinking water supply lakes, springs or sinkholes. (6-1-01)T
- b. At least one thousand three hundred twenty (1,320) feet from any public roadways. (6-1-01)T
- c. At least one thousand three hundred twenty (1,320) feet from any residence not owned by the owner of the dead animal. (6-1-01)T
- 11. Allowance For Variances By The Administrator.** The Administrator may grant variances to the requirements of Section 030 on a case-by-case basis. (6-1-01)T
- 031. -- 039. (RESERVED).**
- 040. MOVEMENT OF DEAD ANIMALS.** (6-1-01)T
- No dead animals shall be loaded into the same vehicle with live animals. (6-1-01)T
- 01. Vehicles Used For Transporting Dead Animals.** Vehicles used for transporting dead animals shall be constructed and maintained, or be prepared prior to receiving dead animals into the vehicle, so as not to drip or seep during transport. (6-1-01)T
- 02. Dead Animals Concealed From View.** Dead animals shall be concealed from public view during transportation. (6-1-01)T
- 03. Direct To Destination.** Vehicles hauling dead animals shall travel to their destination directly. (6-1-01)T
- 04. Disinfection.** Vehicles that have hauled dead animals off an owner's property shall not be used to haul live animals, feeds or similar commodities to the property of another person until they have been thoroughly

cleaned and disinfected. (6-1-01)T

05. Transport Of Dead Animals. No person shall transport a dead animal across or through the property of another person without the landowner's permission. (6-1-01)T

041. -- 049. (RESERVED).

050. DEAD ANIMAL EMERGENCIES.

Dead animal emergencies are those situations involving dead animals that have been determined by the Administrator to require extraordinary disposal measures. (6-1-01)T

01. Situations Requiring Extraordinary Disposal Measures. Include, but are not limited to, the following: (6-1-01)T

a. Situations where one (1) or more animals may die of an infectious or contagious disease or agent that may pose a significant threat to humans or animals; (6-1-01)T

b. Situations wherein the number of dead animals is large enough to require extraordinary disposal measures. (6-1-01)T

02. Administrator To Determine Disposal Methods. The Administrator may employ exceptional or extraordinary methods of dead animal disposal as necessary to protect the health and welfare of the human and animal populations of the state of Idaho. Such methods may include, but shall not be limited to: (6-1-01)T

a. Open burning; (6-1-01)T

b. Pit burning; (6-1-01)T

c. Burning with accelerants; (6-1-01)T

d. Pyre burning; (6-1-01)T

e. Air curtain incineration; (6-1-01)T

f. Mass burial; or (6-1-01)T

g. Natural decomposition. (6-1-01)T

051. -- 089. (RESERVED).

090. PENALTIES.

Pursuant to 25-237, Idaho Code. (6-1-01)T

01. Civil Penalty. Any person violating any of the provisions of these rules may be assessed a civil penalty by the department or its agent of not more than five thousand dollars (\$5,000) for each offense. Persons against whom civil penalties are assessed are liable for reasonable attorney's fees. (6-1-01)T

a. Civil penalties may be assessed in conjunction with any other department administrative action. Civil penalties may not be assessed unless the person charged has been given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act, Chapter 52, Title 67, Idaho Code. If the department is unable to collect an assessed civil penalty or if any person fails to pay all or a set portion of a civil penalty as determined by the department, the department may recover such amount by action in the appropriate district court. (6-1-01)T

b. Any person against whom the department has assessed a civil penalty under these rules may, within twenty-eight (28) days of the final agency action making the assessment, seek judicial review of the assessment in accordance with the provisions of Chapter 52, Title 67, Idaho Code. (6-1-01)T

c. Moneys collected for violations of these rules shall be deposited in the state treasury and credited to the Livestock Disease Control and T.B. Indemnity Fund. (6-1-01)T

d. If the Director determines that a person has not complied with these rules, the director shall identify appropriate corrective actions. The Director may develop a formal compliance schedule to correct deficiencies caused by noncompliance. The Director may, through a formal compliance schedule, allow all or part of the value of the assessed civil penalties to apply toward correction of the deficiencies. (6-1-01)T

02. Criminal Penalty. Any person violating any of the provisions of these rules shall be guilty of a misdemeanor. Upon conviction, violators are subject to a fine of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) for each offense, or by imprisonment in the county jail not exceeding six (6) months. (6-1-01)T

03. Minor Violations. Nothing in this section requires the Director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action. (6-1-01)T

091. -- 999. (RESERVED).

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING
DOCKET NO. 07-0205-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2605(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

The rule change requires an applicant for the journeyman exam to pass the exam within a six-month period. If the applicant fails to do so, the rule change requires the applicant to obtain additional education.

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

The rule change is necessary to protect the public health, safety, and welfare.

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

The rule change does not impose or increase a fee or charge.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is not controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joe Meyer, Bureau Chief, (208) 334-3442 ext. 307.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 23rd day of May, 2001.

Joe Meyer
Bureau Chief
Plumbing Bureau
Division of Building Safety
277 N. 6th St.
P. O. Box 83720
Boise, ID 83720-0068
Telephone: (208) 334-3442 ext. 307
Facsimile: (208) 334-3470

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0205-0101

015. EXAMINATIONS.

01. Examinations For Journeyman Plumber. Written examinations for any journeyman plumber's license shall be formulated and approved by the board. Examination questions shall be based on the practical application of the Uniform Plumbing Code. No license shall be issued unless the applicant receives a final grade of seventy-five percent (75%) or higher on the written examination and passes the practical portion with no violations. An applicant receiving a grade of less than seventy-five percent (75%) may *be re-examined at the expiration of sixty (60) days. After a second failure, an applicant may not be tested before the expiration of one (1) year apply for reexamination upon payment of the examination fee.* Once notified of his eligibility for examination, an applicant has six (6) months in which to achieve a passing score. If an applicant does not achieve a passing score in six (6) months, the applicant must enroll in year four (4) in a Board-approved related training course, complete year four (4), be registered with the Plumbing Bureau as an apprentice, and maintain registration as per Section 011 before the applicant will be eligible to apply for examination. A completion certificate for year four (4) and the proper application fee must accompany a new application for a journeyman examination. (8-25-88)(7-1-01)T

02. Frequency Of Conducting Of Examinations. Examinations for all classifications under the Plumbing Laws and rules will be given a minimum of four (4) times each year in three (3) locations: One (1) to be in northern Idaho, one (1) to be in central Idaho, and one (1) to be in southern Idaho. (8-25-88)

03. Professional Testing Services. In lieu of the administration by the Idaho Plumbing Board of the examination for licenses pursuant to this rule, the Board may contract with a professional testing service to administer the examination, and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service. If the examination is conducted in this fashion, the Board may charge and retain the application fee provided for by Section 54-2616, Idaho Code, to cover the cost of reviewing the applicant's application. (8-25-88)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE
DOCKET NO. 07-0206-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2605(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

The rule change replaces the outdated 1997 version of the Uniform Plumbing Code, as amended, with the new 2000 version, as amended.

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

The rule change is necessary to protect the public health, safety, and welfare.

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

The rule change does not impose or increase a fee or charge.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is non-controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joe Meyer, Bureau Chief, (208) 334-3442 ext. 307.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 23rd day of May, 2001.

Joe Meyer
Bureau Chief
Plumbing Bureau
Division of Building Safety
277 N. 6th St.
P. O. Box 83720
Boise, ID 83720-0068
Telephone: (208) 334-3442 ext. 307
Facsimile: (208) 334-3470

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0206-0101

011. ADOPTION OF ~~1997~~ 2000 UNIFORM PLUMBING CODE.

The ~~1997~~ 2000 Uniform Plumbing Code, including Appendices "A, B, C, D, E, G, H, I, J, and L," is adopted with the following amendments. (7-1-98)(7-1-01)T

01. ~~Part 1. Administration. Delete the fee schedule (Table A)~~ Section 218. Delete definition of "Plumbing System." Incorporate definition of "Plumbing System" as set forth in Section 54-2604, Idaho Code. (12-29-91)(7-1-01)T

~~02. Section 412.2.1. Delete.~~ (7-1-98)

~~03. Section 412.4. Delete.~~ (7-1-98)

~~04. Section 413. Delete.~~ (7-1-98)

052. Section 420.0. Pressure balance or thermostatic mixing valves are not required for ~~high flow (over eight (8) g.p.m.) tub only filler valves or~~ high flow (over eight (8) g.p.m.) tub filler valves with hand shower sets attached. ~~The one hundred twenty (120) degree maximum mixed water setting is limited to gang showers only.~~ (7-1-98)(7-1-01)T

~~06. Table 4-1. Delete.~~ (7-1-98)

073. Section 604.1. Materials. Crosslinked Polyethylene (PEX) Tubing manufactured to ASTM – F876/F877 and tested, approved, and listed to ANSI/NSF 14 and 61, for potable water, and Crosslinked Polyethylene, Aluminum Crosslinked Polyethylene (PEX/AL/PEX) along with Polyethylene, Aluminum, Polyethylene (PE/AL/PE) manufactured to ASTM – F1281/F1282 and tested, approved, and listed to the ANSI/NSF 61, for potable water along with all applicable installation standards may be used for hot and cold water distribution systems within a building or cold water distribution systems outside of a building. Listed PE (polyethylene) water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint. ~~(Brass insert adaptor with two (2) strap type all stainless steel bands over pipe-),~~ provided that only listed and approved metallic transition fittings shall be used. (7-1-98)(7-1-01)T

084. Section 609.10. Water hammer. Does not apply to residential construction. (7-1-98)

095. Table 6-4 And Table A-2. Change fixture unit loading value for bathtub or combination bath/shower, and clotheswashers, ~~domestic, and whirlpool bath or combination bath/shower~~ to two (2) fixture units. (7-1-98)(7-1-01)T

~~10. Table 6-5. Add: Branch pipes up to twenty (20) feet developed length (from main to outlet or fixture) may supply maximum of four (4) fixture units for one-half (1/2) inch size and maximum sixteen (16) fixture units for three-quarter (3/4) inch nominal size.~~ (7-1-98)

~~1506. Table 7-3.~~ Maximum unit loading and maximum length of drainage and vent piping. (EXCEPTION) The building drain and building sewer is not less than four (4) inches ~~IPS~~ extending from its connection with the city or private sewer system and shall run full size to inside the foundation or building lines (ref: Section 717.0). Change fixture unit loading value for ~~bathtub or combination bath/shower,~~ clotheswashers, domestic, and whirlpool bath or combination bath/shower to two (2) fixture units. ~~Change trap arm for whirlpool bath or combination bath/shower to one and a half (1 1/2) inches.~~ (7-1-98)(7-1-01)T

~~1707. Section 703.1 - Underground Drainage And Vent Piping.~~ No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar shall be less than two (2) inches in diameter. (7-1-98)(7-1-01)T

08. Section 703.2 And 710.5. Add Exception. In single family dwellings, one (1) fixture unit may be

allowed for each gallon per minute of flow from a pump or a sump ejector. (7-1-01)T

~~1209.~~ **Section 704.2.** Double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. (7-1-98)

160. **Table 7-5.** Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. (7-1-98)

~~131.~~ **Section 707.4 Cleanouts.** A full-sized accessible cleanout shall be installed ~~at in~~ in the ~~base or vertical immediately~~ base above ~~the floor level in each vertical or at the base of each~~ waste or soil stack. A full-size cleanout extending to or above finished grade line shall be installed at the junction of the building drain and the building sewer (ref.: Section 719.1). Cleanouts shall be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches ~~IPS~~ or smaller. (7-1-98)(7-1-01)T

~~182.~~ **Sections 722.2, 722.3, 722.4, 722.5, and 722.6.** *Every cesspool, septic tank and seepage pit which has been abandoned or has been discontinued otherwise from further use or to which no waste or soil pipe from a plumbing fixture is connected, shall have the sewage removed therefrom and be completely filled with earth, sand, gravel, concrete or other approved material, if required by the Administrative Authority.* ~~Delete.~~ (7-1-98)(7-1-01)T

~~2013.~~ **Section 807.4.** A domestic dishwashing machine ~~for residential use~~ may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly. (7-1-98)(7-1-01)T

174. **Section 908. Exception - Vertical Wet Venting.** A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 are met. (7-1-98)

~~215.~~ **Section 1002.3.** Trap arms ~~less than three (3) inches in diameter~~ may not exceed one hundred ~~thirty five~~ eighty (13580) degrees without the use of a cleanout. (7-1-98)(7-1-01)T

~~14.~~ **Section 604.1 Materials.** *Portion relating to polybutylene pipe is amended to provide that such materials may be used for hot and cold water distribution systems within a building, or cold water distribution systems outside of a building. Crosslinked Polyethylene (PEX) Tubing manufactured to ASTM F876/F877 and tested, approved, and listed to ANSL/NSF 14 and 61, for potable water, and Crosslinked Polyethylene, Aluminum, Crosslinked Polyethylene (PEX/AL/PEX) along with Polyethylene, Aluminum, Polyethylene (PE/AL/PE) manufactured to ASTM F1281/F1282 and tested, approved, and listed to the ANSL/NSF 61, for potable water, along with all applicable installation standards.* (7-1-98)

~~19.~~ **Section 722.5.** *Where disposal facilities are abandoned consequent to connecting any premises with the public sewer, the permittee making the connection shall fill all abandoned facilities if required by the Administrative Authority within thirty (30) days from the time of connecting to the public sewer.* (7-1-98)

~~22.~~ **Chapter 13.** ~~Delete.~~ (7-1-98)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.06.01 - RULES GOVERNING UNIFORM SCHOOL BUILDING SAFETY
DOCKET NO. 07-0601-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is April 4, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 39-8007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

Prescribes the Idaho Uniform School Building Safety Code and provides for enforcement and administration of the Idaho Uniform School Building Safety Act by the Administrator of the Division of Building Safety.

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

Compliance with deadlines in amendments to governing law. H0315 amending Section 39-8001, et seq., Idaho Code, was signed into affect April 4, 2001 declaring an emergency and providing authority of the Administrator of the Division of Building Safety to cause persons to be restrained from entering an unsafe area.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because H0315 amending Section 39-8001, et seq., Idaho Code declared an emergency.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dave Munroe, Division of Building Safety, (208) 334-3951.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 22nd day of May, 2001.

Dave Munroe
Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Telephone: (208) 334-3951
Facsimile: (208) 855-2164

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0601-0101

IDAPA 07
TITLE 06
Chapter 01

07.06.01 - RULES GOVERNING UNIFORM SCHOOL BUILDING SAFETY

000. LEGAL AUTHORITY.

The Administrator of the Division of Building Safety is authorized under Section 39-8007, Idaho Code, to promulgate rules concerning the enforcement and administration of the Idaho Uniform School Building Safety Act. (4-4-01)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.06.01, "Rules Governing Uniform School Building Safety," Division of Building Safety. (4-4-01)T

02. Scope. These rules prescribe the Idaho Uniform School Building Safety Code and provide for enforcement and administration of the Idaho Uniform School Building Safety Act by the Administrator of the Division of Building Safety. (4-4-01)T

002. WRITTEN INTERPRETATIONS.

The Division of Building Safety may have written interpretations of this chapter in the form of legal memoranda or explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules. These documents are available for public inspection and copying in the central office of the Division of Building Safety. (4-4-01)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals may be taken from any finding made by the Administrator of the Division of Building Safety pursuant to this chapter as provided by Section 39-8010, Idaho Code. (4-4-01)T

004. INCORPORATION BY REFERENCE.

01. Uniform Codes. The following uniform codes are hereby incorporated by reference into IDAPA 07.06.01 "Rules Governing Uniform School Building Safety," as, and insofar as, they have been adopted by the state of Idaho pursuant to Sections 39-4109, 41-253, 54-1001, 54-2601, and 72-508, Idaho Code: (4-4-01)T

- a. 1997 Uniform Building Code (UBC) and Appendix Chapter 11 for accessibility; (4-4-01)T
- b. 1997 Uniform Mechanical Code (UMC); (4-4-01)T
- c. 1997 Life Safety Code (NFPA101); (4-4-01)T
- d. 1999 Elevator Code (ANSI A17.1); (4-4-01)T
- e. 1992 Accessibility Standards (ANSI A117.1); (4-4-01)T
- f. 1995 Model Energy Code; (4-4-01)T
- g. 1997 Uniform Code for Building Conservation (UCBC); (4-4-01)T
- h. 1997 Uniform Fire Code (UFC); (4-4-01)T

- i. 1999 National Electrical Code (NEC); (4-4-01)T
- j. 1997 LAPMO Uniform Plumbing Code (UPC); (4-4-01)T
- k. 1995 Pacific NW AWWA Manual for Backflow Prevention and Cross Connection Control; and (4-4-01)T
- l. 1997 Idaho General Safety and Health Standards. (4-4-01)T

02. Idaho Uniform School Building Safety Code. These codes, together with the definitions contained therein and the written interpretations thereof, insofar as they are applicable to school facilities, shall constitute the Idaho Uniform School Building Safety Code. A copy of each of the identified codes is available for review at the main office of the Division of Building Safety. (4-4-01)T

005. (RESERVED).

006. CITATION.

The official citation of this chapter is IDAPA 07.06.01., et seq. For example, the citation for this section is IDAPA 07.06.01.006. (4-4-01)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Abatement Code.** The 1997 Uniform Code for the Abatement of Dangerous Buildings. (4-4-01)T
- 02. Act.** The Idaho Uniform School Building Safety Act, Section 39-8001, et seq., Idaho Code. (4-4-01)T
- 03. Administrator.** The Administrator of the Division of Building Safety for the state of Idaho. (4-4-01)T
- 04. Bureau.** The Building Bureau of the Division of Building Safety. (4-4-01)T
- 05. Code.** The Idaho Uniform School Building Safety Code. (4-4-01)T
- 06. Division.** The Idaho Division of Building Safety. (4-4-01)T
- 07. Imminent Safety Hazard.** A condition that presents an unreasonable risk of death or serious bodily injury to occupants of a building. (4-4-01)T
- 08. School Building Or Building.** Any school building, including its structures and appurtenances necessary for the operation of the school building, and subject to the provisions of the Act. (4-4-01)T

011. -- 049. (RESERVED).

050. VIOLATION OF CODE.

01. Duty to Act. The Administrator shall immediately undertake the steps set forth in the Act whenever he shall find a violation of the Code. (4-4-01)T

02. Imminent Safety Hazard. Code violations, which shall constitute an imminent safety hazard, include, but are not limited to, the following: (4-4-01)T

- a. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or

- size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic; (4-4-01)T
- b. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic; (4-4-01)T
- c. Whenever the stress in any materials, member or portion thereof, due to all dead and life loads, is more than one and one half (1-1/2) times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location; (4-4-01)T
- d. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location; (4-4-01)T
- e. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property; (4-4-01)T
- f. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings; (4-4-01)T
- g. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; (4-4-01)T
- h. Whenever the building or structure, or any portion thereof, because of: (4-4-01)T
- i. Dilapidation, deterioration or decay; (4-4-01)T
- ii. Faulty construction; (4-4-01)T
- iii. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (4-4-01)T
- iv. The deterioration, decay or inadequacy of its foundation; or (4-4-01)T
- v. Any other cause, is likely to partially or completely collapse; (4-4-01)T
- i. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings; (4-4-01)T
- j. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six percent (66%) of the: (4-4-01)T
- i. Strength; (4-4-01)T
- ii. Fire-resisting qualities or characteristics; or (4-4-01)T
- iii. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location; (4-4-01)T

k. Whenever any building or structure, because of obsolescence; dilapidated condition; deterioration; damage; inadequate exits; lack of sufficient fire-resistive construction; faulty electric wiring, gas connections or heating apparatus; or other cause, is determined by the fire marshal to be a fire hazard; (4-4-01)T

l. Whenever a building or structure, because of inadequate maintenance; dilapidation; decay; damage; faulty construction or arrangement; inadequate light, air or sanitation facilities; or otherwise, is determined to be unsanitary, unfit for human occupancy or habitation, or in such a condition that is likely to cause accidents, sickness, or disease; (4-4-01)T

m. Whenever any building or structure, because of dilapidated condition; deterioration; damage; inadequate exits; lack of sufficient fire-resistive construction; faulty electric wiring, gas connections, or heating apparatus; or other cause, is determined by the State fire marshal to be a fire or life safety hazard; and (4-4-01)T

n. Whenever there is, within the building, the presence of vapors, fumes, smoke, dusts, chemicals, or materials in any form (natural or man made) in quantities that have been established by national health organizations to be a threat to the health or safety of the building occupants. This does not include materials stored, used, and processed in accordance with nationally recognized safety standards for the materials in question. (4-4-01)T

03. Interpretation. (4-4-01)T

a. In interpreting and applying any of the provisions of Subsections 050.02.a. through 050.02.k., which are a part of the Abatement Code, the Administrator shall employ applicable definitions contained in the Abatement Code together with any written interpretations thereof. (4-4-01)T

b. In interpreting and applying any of the provisions of Subsections 050.02.a. through 050.02.k., references within the Abatement Code to the Building Code or the Housing Code, shall, for purposes of these rules only, be considered to refer to the Idaho Uniform School Building Safety Code. (4-4-01)T

c. In interpreting and applying any of the provisions of Subsections 050.02.a. through 050.02.k., references within the Abatement Code to "buildings" or "structures" shall be limited to those buildings or structures which are the subject to the provisions of the Act. (4-4-01)T

051. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: These temporary rules are effective July 1, 2000.

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

In response to suggestions from the Legislative Services Office, "Crime of Deceit" has been defined; wording was added to encompass the recently mandated training and certification of Juvenile Detention Officers; language added clarifying that the minimum standards for employment apply to detention officers as well as peace officers; "conviction" was more clearly defined; language added setting out which misdemeanor crimes are waivable by the POST Council and which are not; clarifies which military discharges are grounds for rejection of the applicant; clarifying language was added in reference to traffic records; background investigation procedures are set out; the physical and medical standards are updated; language was added clarifying how purchased college credits could be used toward certification; and language was added to allow canine certificates to remain valid for fifteen months rather than one year.

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

Protection of the public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael N. Becar at (208) 884-7251.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 22nd day of May, 2001.

Michael N. Becar
Executive Director
Idaho State Police
Peace Officer Standards and Training
700 South Stratford Drive
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7251 / (208) 884-7295 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-0101

~~000. — 003.~~ **(RESERVED).**

000. LEGAL AUTHORITY.

In accordance with Section 19-5107, Idaho Code, the Peace Officer Standards and Training Council shall promulgate such rules it deems necessary to carry out the provisions of Title 19, Chapter 51, Idaho Code. (7-1-00)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council,” IDAPA 11, Title 11, Chapter 01. (7-1-00)T

02. Scope. These rules constitute the minimum standards of training, education, employment, and certification of peace officers and county detention officers in Idaho. (7-1-00)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Idaho State Police, Peace Officer Standards and Training Office, 700 South Stratford Drive, Meridian, Idaho. (7-1-00)T

003. ADMINISTRATIVE APPEALS.

Rules of procedure in contested cases shall be governed by the Administrative Procedures Act. (Title 67, Chapter 52, Idaho Code). (7-1-00)T

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (7-1-00)T

~~005. — 029.~~ **(RESERVED).**

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Idaho State Police, Peace Officer Standards and Training, is in Meridian, Idaho. The office is located at 700 South Stratford Drive, Meridian, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Peace Officer Standards and Training Academy, P.O. Box 700, Meridian, Idaho 83680-0700. The telephone of the office is (208) 884-7250. The facsimile number of the office is (208) 884-7295.

(7-1-00)T

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (7-1-00)T

007. -- 009. (RESERVED).

00410. DEFINITIONS.

01. Act. Title 19, Chapter 51, of the Idaho Code. (4-5-00)

02. Agency. A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. (4-5-00)

03. Agency Head. A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and

detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision.
(4-5-00)

04. College Credit. A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other equivalent accrediting agency.
(7-1-93)

05. County Detention Officer. An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates.
(4-5-00)

06. Crime of Deceit. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence—Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds—Drawing Check With Insufficient Funds—Prima Facie Evidence of Intent—Standing of Person Having Acquired Rights—Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current—Tampering with Meters), 18-4622 (Stealing Electric Current—Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Wilful Concealment of Goods, Wares or Merchandise—Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment—Penalty—Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements—Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate—Stolen Cars—Destroying or Altering Engine or Decal Number—Use of Fictitious Name—Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction.
(7-1-00)T

067. Field Training. Training in which an individual receives formal instruction on the job for special and defined purposes.
(7-1-93)

078. Full Time. Employment of eighty (80) hours or more per month for ninety (90) consecutive calendar days.
(7-1-93)

089. High School. A school accredited as a high school by the Department of Education of the state in which the high school is located, or a school accredited as a high school by the recognized regional accreditation body, or a school accredited as a high school by the State University of the state in which the school is located.
(7-1-93)

~~09~~**10. In-Service Training.** Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (7-1-93)

11. Juvenile Detention Officer. Any employee of a juvenile detention center which is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (7-1-00)T

~~10~~**2. Law Enforcement Profession.** As used in agreements authorized pursuant to Section 19-5112, Idaho Code, means a peace officer whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; or an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (7-1-93)

~~13~~**3. Manual.** This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (4-5-00)

~~12~~**4. Part Time.** Employment of less than eighty (80) hours per month for ninety (90) consecutive calendar days. (7-1-93)

~~13~~**5. Peace Officer.** Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (4-5-00)

~~14~~**6. POST.** The Idaho Peace Officer Standards and Training Program. (7-1-93)

~~15~~**7. Qualified Instructor.** Any person certified by the Idaho POST Council as being competent to teach in a Council approved school. (7-1-93)

~~16~~**8. Reserve Peace Officer.** An individual assigned by an agency to perform the duties of a peace officer who does not meet the definition of a full- or part-time peace officer. All reserve officers must be under supervision as set forth in these rules. (4-5-00)

~~17~~**9. School.** Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course curriculum, instructors and facilities, or any training session as certified by POST. (7-1-93)

~~18~~**20. School Director Or Coordinator.** An individual charged with the responsibility of conducting a training school under the provisions of the Act. (7-1-93)

~~19~~**21. Specification.** A description of a requirement supplementing a section of the Rules. (7-1-93)

~~20~~**2. Temporary.** Employment of less than ninety (90) consecutive calendar days. (7-1-93)

~~21~~**3. Trainee.** An ~~peace~~ officer participating in any POST approved training program. (~~4-5-00~~)(7-1-00)T

011. -- 029. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

050. MINIMUM STANDARDS FOR EMPLOYMENT.

Every peace officer and county detention officer employed by an agency ~~department~~ shall meet the following requirements: (~~3-20-97~~)(7-1-00)T

- 01. Citizenship.** ~~Must~~ Shall be a citizen of the United States. (3-20-97)(7-1-00)T
- 02. Education Requirements.** (3-20-97)
- a. Graduation from high school or ~~equivalent. Equivalent defined as~~ having passed the General Educational Development Test indication of high school graduation. The military or veterans equivalent of high school graduation is also acceptable. (3-20-97)(7-1-00)T
- b. Documentary evidence of satisfaction of this requirement (~~Subsection 050.02.a.) must shall~~ be ~~obtained and retained in the files of the employing department.~~ (7-1-99)
- e. ~~Procedure: Documentary evidence of the above shall consist of official transcripts, in the form of a high school diplomas, high school transcript, GED certificate, or GED test report forms. A college transcript indicating the successful completion of a minimum of fifteen (15) academic credits is also acceptable. In unusual circumstances, the Council may be required to accept other documentation, and in such cases the decision of the Council shall be final.~~ (3-20-97)(7-1-00)T
- 03. Experience Requirements.** (3-20-97)
- a. Not less than two (2) years of responsible work experience following high school graduation (or when the applicant would have graduated). (3-20-97)
- b. ~~This~~ work experience requirement can be complied with by two (2) years of any combination of military service, two (2) years of any combination of work gainful employment, education or any other productive activity. The two (2) year requirement for responsible work and/or education is to be used to measure the conduct of the applicant after they leave the shelter of their home; to measure the financial conduct, moral conduct, the character and/or reputation of the applicant; the use of drugs or intoxicants; mental and emotional activities; to test the mannerisms, maturity, integrity, loyalty and other traits; all of which are expected to be above reproach in police officers. (7-1-99)(7-1-00)T
- 04. Character/Criminal Record/Military Record Requirements.** (3-20-97)(7-1-00)T
- a. The applicant ~~must shall~~ be fingerprinted on two (2) copies of the standard FBI Applicant fingerprint form, and a search made of local, state, and national fingerprint files to disclose any criminal record. The original copies of all records check results shall be retained by the POST Council. (3-20-97)(7-1-00)T
- b. The term "conviction" shall include: (7-1-00)T
- i. Any conviction in a federal, tribal, state, county, or municipal court; (7-1-00)T
- ii. A voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; (7-1-00)T
- iii. The payment of a fine; (7-1-00)T
- iv. A plea of guilty, nolo contendere; or (7-1-00)T
- v. A finding of guilt regardless of whether the sentence is imposed, suspended, deferred, or withheld; the charge dismissed, or the record expunged. (7-1-00)T
- c. The POST Council may take into consideration the commission of any act or offense involving moral turpitude to ensure an applicant is of good moral character and warrants the public trust. The purpose of this requirement is to prohibit persons who engage in dishonest, unprofessional, unethical, or immoral conduct from becoming law enforcement officers, and to protect against acts or conduct which may endanger the safety and welfare of the public. (7-1-00)T

~~bd.~~ A misdemeanor conviction ~~or withheld judgment~~ of any federal, state, or local, ~~or federal~~ crime may be grounds for rejection of the applicant. (3-20-97)(7-1-00)T

i. An applicant shall be rejected who has been convicted of any misdemeanor sex crime, crime of deceit, or drug offense unless the conviction occurred more than five (5) years prior to application and the applicant's agency head files a written request for review with the POST Council. In that case, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, or juvenile detention officer in the state of Idaho. (7-1-00)T

ii. An applicant shall be rejected who has been convicted of a DUI during the two (2) years immediately preceding application. No waivers shall be granted by the POST Council for DUI convictions within the last two (2) years. If the conviction occurred more than two (2) years prior to application, the applicant may be accepted upon approval of the POST Executive Director provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The Executive Director shall have the discretion to refer the application to the POST Council. (7-1-00)T

iii. An applicant with any other misdemeanor conviction may be accepted upon approval of the POST Executive Director provided the conviction occurred more than two (2) years prior to application and the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The Executive Director shall have the discretion to refer the application to the POST Council. If the conviction occurred during the two (2) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, or juvenile detention officer in the state of Idaho. (7-1-00)T

~~ee.~~ An applicant ~~must shall~~ be rejected who has been convicted of any felony crime, the punishment for which could have been imprisonment in a federal or state penal institution. ~~For the purpose of this requirement, the term "conviction" shall mean a final conviction in a federal, state, county, or municipal court; a forfeiture of bail that has not been vacated, or collateral deposited to secure a defendant's appearance in court; the payment of a fine; a plea of guilty, nolo contendere, or a finding of guilt regardless of whether the imposition of sentence is deferred, withheld, or the penalty suspended.~~ No waivers shall be granted by the POST Council. (3-20-97)(7-1-00)T

d. A "dismissal," ~~from the military service as well as the other two (2) punitive discharges, specifically a "bad conduct discharge" (BCD), and a "dishonorable discharge" (DD), from the military service will disqualify the applicant.~~ An or administrative discharge of other than honorable (OTH) ~~will from the military service shall~~ disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN) may be grounds for rejection. (7-1-99)(7-1-00)T

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

~~a. Each candidate for employment is fingerprinted on two (2) copies of the standard FBI applicant fingerprint form.~~ (3-20-97)

~~b. One (1) card is forwarded to the Federal Bureau of Investigation, Washington, D.C.~~ (3-20-97)

~~c. One (1) card is used in a search of local files. Following this record check, this card is forwarded to the Bureau of Criminal Identification in Meridian.~~ (3-20-97)

~~06. Results Of Records Checks.~~ The original copies of the results of all record checks will be retained by the employing department. (3-20-97)

~~a. Applicants with felony criminal records will be subject to terms of Subsection 050.04.c.~~ (7-1-99)

~~b. Applicants with lesser criminal records will be reviewed and a final decision reached by the department concerned with approval of the Council.~~ (3-20-97)

~~07. Retention Of Fingerprint Record Checks.~~ The retention of fingerprint record checks is mandatory regardless of the nature of the results of such inquiry. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

055. TRAFFIC RECORD INVESTIGATION.

01. Requirements. (7-1-93)

a. The applicant ~~must~~ shall possess a valid driving license from his~~her~~ state of residence and qualify for an Idaho driver's license. ~~(2-8-95)(7-1-00)T~~

b. ~~Where the An applicant's traffic record discloses with~~ a record of a driver's license suspension in any jurisdiction, ~~DWS or DUI a driving without privileges conviction or withheld judgment during the an equivalent conviction in any other jurisdiction, may be accepted upon approval of the POST Executive Director provided the suspension concluded or conviction occurred more than five two (52) years immediately preceding prior to application and the applicant's agency head, with knowledge of the facts and circumstances concerning the suspension or conviction, recommends approval. The Executive Director shall have the discretion to refer the application to the POST Council. If the suspension concluded or conviction occurred during the two (2) years immediately preceding application,~~ the POST Council shall review the application and ~~shall~~ determine whether the individual shall be certifiable as a peace, detention, or juvenile detention officer of in the state of Idaho. ~~(2-8-95)(7-1-00)T~~

c. Where the applicant's traffic record discloses the commission of five (5) or more moving traffic offenses during the three (3) years immediately preceding application, the POST Council shall review the application and ~~shall~~ determine whether the individual shall be certifiable as a peace, detention, or juvenile detention officer of in the state of Idaho. ~~(2-8-95)(7-1-00)T~~

02. Procedures. At a minimum, a check of driving records ~~must shall~~ be made of the Motor Vehicle Division, Highway Department, state of Idaho, and ~~a check must be made of~~ the files of the motor vehicle department in the states of the applicant's previous residences. ~~(7-1-99)(7-1-00)T~~

056. ~~CHARACTER AND REPUTATION~~ BACKGROUND INVESTIGATION.

01. Requirements. ~~(7-1-93)~~

~~a. Good moral character must be determined by a favorable report following a comprehensive background investigation covering school and employment records, home environment, personal traits and integrity. The applicant shall have undergone a comprehensive background investigation, the results of which attest to the fact that the person meets the minimum standards for employment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character. Consideration will be given to any and all law violations, including traffic and conservation law fish and game infractions or convictions as indicating a lack of good character.~~ ~~(7-1-99)(7-1-00)T~~

~~b. An oral interview by the employing department to determine such things as the applicant's appearance, demeanor, attitudes and ability to communicate.~~ ~~(7-1-93)~~

02. ~~Recommended~~ Procedures. ~~(7-1-93)(7-1-00)T~~

a. The applicant shall ~~be required to~~ complete and submit to the employing appointing law enforcement agency a comprehensive application and personal history form at least comparable to that used by the Idaho Personnel Commission statement prior to the start of the background investigation. The history statement shall contain questions which aid in determining whether the applicant is eligible for certified status as a peace, detention, or juvenile detention officer. The background investigation shall include information provided by personal references, schools, and the last three (3) previous employers, as well as law enforcement agency records in jurisdictions where the applicant has lived or worked. This information shall be recorded and retained by the appointing agency.

(7-1-93)(7-1-00)T

b. The appointing agency shall ~~€~~conduct a personal interview with the applicant, ~~using the application form for interview questions;~~ to ascertain personal attributes ~~not listed on the application~~ such as personal appearance, mannerisms, demeanor, attitudes, judgment, maturity, resourcefulness, and ability to communicate. ~~As*~~ ~~Searching questions shall be asked about;~~ (7-1-00)T

i. ~~#~~Use of intoxicants, narcotics and drugs; (7-1-00)T

ii. ~~p~~Physical, mental, and emotional history; (7-1-00)T

iii. ~~f~~Family problems; (7-1-00)T

iv. ~~m~~Moral outlook and habits; and (7-1-00)T

v. ~~f~~Financial transactions, ~~etc.~~ ~~Scrutinize applicant's personal appearance, mannerisms, judgment, maturity and resourcefulness.~~ (7-1-93)(7-1-00)T

c. The appointing agency shall have ~~A~~a thorough investigation into the character and reputation of the applicant ~~should be~~ conducted by an experienced investigator. The applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, and loyalty, ~~etc.~~, ~~should~~ shall be explored. (7-1-93)(7-1-00)T

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~ed.~~ All results of the background investigation ~~should~~ shall be considered confidential and processed accordingly. (7-1-93)(7-1-00)T

~~fe.~~ The results of the ~~personal history~~ background investigation ~~should~~ shall ultimately be evaluated by the ~~department~~ agency head and/or the ~~hiring~~ appointing authority to determine whether the applicant is suitable. ~~All doubts in personnel suitability matters should be resolved in favor of the department.~~ (7-1-93)(7-1-00)T

057. PHYSICAL - MEDICAL.

01. Requirements. (7-1-93)

~~a. Height and Weight. Weight should be in proportion to height. Underweight and overweight candidates may be put on notice to correct this defect to retain candidacy. A chart approved by the Council indicating acceptable height and weight ranges will be furnished to the applicant and his department, to be completed by a licensed physician as part of the application process. If the applicant's weight is excessive, a skin fold measurement test will be required to determine body fat percentage. Male applicants whose body fat exceeds twenty-four percent (24%) and female applicants whose body fat exceeds thirty percent (30%) must correct this problem before entering the Academy.~~ (7-1-99)

~~ba. Hearing. The Applicants must shall have unaided or aided binaural hearing with a Speech Reception Threshold (hearing loss for speech) that does not exceed between zero (0) and twenty-five (25) db, in decibels for each ear, at the three (3) middle speaking frequencies of five-hundred (500) Hz, one thousand (1000) Hz, and two thousand (2000) Hz, (or an average in both ears of no greater than twenty-five (25) db for the same frequencies: five hundred (500), one thousand (1000), and two thousand (2000)) and three thousand (3000) Hz. Waiver to the above may be considered by the Council if accompanied by an hearing specialist's audiologist's or ear, nose, and throat physician's certification that the applicant's condition would not jeopardize or impair the applicant's ability to perform the duties of a sworn peace, detention, or juvenile detention officer.~~ (3-20-97)(7-1-00)T

~~eb.~~ Vision. (7-1-93)

~~i. The Applicant must shall possess normal binocular coordination; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision shall be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must shall be no pathology of the eye; applicant must shall possess a minimum seventy percent (70%) proficiency of the Dvorine or equivalent color discrimination test. Exceptions may be made Waiver to the above may be considered by the Council if accompanied by a vision specialist's certification that the applicant's condition would not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, or juvenile detention officer.~~ (7-1-99)(7-1-00)T

~~ii. The Applicants must shall have uncorrected vision in each eye of twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An Applicants who wears contact lenses are is exempt from the uncorrected vision of twenty/two hundred (20/200), but must shall have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). Exceptions may be made Waiver to the above may be considered by the Council if accompanied by a vision specialist's certification that the applicant's condition would not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, or juvenile detention officer.~~ (7-1-99)(7-1-00)T

~~dc. Medical Disease/Condition. The applicant must shall be free from any impediments of the senses; physically sound, well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer if lacking these qualities. Waiver to a physical defect may be considered by the Council upon the applicant's demonstration that the defect does not jeopardize or impair his ability to perform the duties of a peace, detention, or juvenile detention officer.~~ (7-1-93)(7-1-00)T

~~ed.~~ Agency Physical Agility/~~and~~-Fitness Test. (7-1-93)

~~i. A physical agility and/or fitness test~~ To determine the applicant's physical capability, ~~may a~~ physical agility or fitness test based upon the job requirements of the appointing agency shall be administered by the ~~employing department~~ appointing agency to each applicant. (7-1-93)(7-1-00)T

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

02. Procedures. (7-1-93)

a. A POST Council-approved medical history form ~~will~~ shall be supplied by each applicant to the examining physician. The medical history ~~will~~ shall include information on past and present diseases, injuries and operations. (7-1-93)(7-1-00)T

b. A medical examination ~~must~~ shall be administered by a licensed physician or ~~surgeon~~ his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to performance of the duties ~~as of~~ a peace, detention, or juvenile detention officer. The physician shall record his findings on the appropriate form or letter and shall note thereon, for evaluation by the ~~hiring~~ appointing authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. (7-1-93)(7-1-00)T

058. MENTAL EXAMINATION.

01. Requirement. Where a question of emotional stability or disorder is indicated by the physician's report, or the background investigation, a thorough evaluation shall be made by a licensed psychiatrist or clinical psychologist to determine ~~that~~ if the applicant is free from any emotional or mental condition which might adversely affect the applicant's ability to performance of the applicant's duties ~~as of~~ a peace, detention, or juvenile detention officer. (7-1-93)(7-1-00)T

02. Procedure. During the interview, the examining psychiatrist or psychologist ~~will~~ shall evaluate the candidate applicant sufficiently to ~~eliminate~~ assess those symptoms of a degree that would impair the effective performance of duty. The results of the examination ~~will~~ shall be recorded and that record or a summary of recommendations ~~will~~ shall be forwarded to the hiring appointing authority for review. (7-1-93)(7-1-00)T

059. APTITUDE.

~~01. Requirement.~~ The applicant ~~must~~ shall be evaluated on the agency-approved aptitude test to determine if the applicant possesses the aptitude, capacity, and adaptability for absorbing and understanding the training and skills which are essential to the performance of the law enforcement function. (7-1-93)(7-1-00)T

~~02. Procedure.~~ All applicants shall submit to a testing through a civil service or personnel commission, and if no such service exists in a community, a test such as that available from the state personnel commission may be used to determine the applicant's aptitude for professional law enforcement. A passing score by personnel or civil service commission must be obtained by the applicant. (7-1-93)

060. EXCEPTIONS.

~~01. Superintendent Of State Police Or Any Elected Official.~~ The required minimum standards for employment are not applicable to the superintendent of state police or any elected official. (7-1-93)(7-1-00)T

~~02. Persons Qualified For Service In Scientific Or Technical Fields.~~ Persons qualified for law enforcement service in scientific and technical fields may be employed for service in that field even though they do not meet the prior requirements subject to the approval of the Council. (7-1-93)

061. CODE OF CONDUCT/CODE OF ETHICS.

Each applicant shall attest that he/she ~~subscribes to~~ has read, understands, and will abide by the Law Enforcement Code of Conduct and the Law Enforcement Code of Ethics as found in ~~this Manual~~ Subsection 091.04. (7-1-93)(7-1-00)T

062. PROBATIONARY PERIOD.

01. Probation. Every officer ~~employed~~ appointed by an ~~department~~ agency below the level of ~~department~~ agency head shall satisfactorily complete a probationary period of not less than six (6) months. This requirement shall also apply to officers who transfer laterally into an ~~department~~ agency. (7-1-93)(7-1-00)T

02. ~~Six (6) Months~~ Supervisor/Mid-Manager. Every officer who is promoted or appointed to a supervisory, middle management, or assistant ~~department~~ agency head position shall satisfactorily complete a probationary period of not less than six (6) months in that position. (7-1-93)(7-1-00)T

03. Extended. No peace, ~~detention, or juvenile detention~~ officer who lacks the training qualifications required by the Council ~~may~~ shall have his temporary or probationary employment extended beyond one (1) year by renewal of appointment or otherwise. (7-1-93)(7-1-00)T

063. SPECIAL PROVISIONS.

01. Minimum Standards. It is emphasized that these are minimum standards for employment. Higher standards are recommended whenever the availability of qualified applicants meets the demand. (7-1-93)

02. No Discrimination. No agency ~~will~~ shall discriminate as to employment against any persons ~~regardless on the basis~~ of race, creed, color, or sex, as per ~~the~~ U.S. ~~Civil Rights Act or~~ and Idaho ~~Civil Rights Act~~ Constitutions. (7-1-93)(7-1-00)T

03. Equal Opportunity Employer. ~~All~~ Every ~~agency~~ ies ~~must~~ shall be an equal opportunity employer. (7-1-93)(7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

078. AGREEMENT TO SERVE.

01. Agreement. Pursuant to Section 19-5112, Idaho Code, any peace officer attending such schools or programs or directly or indirectly receiving the aid authorized by Section 19-5109, Idaho Code, shall execute an agreement whereby said officer promises to remain within the law enforcement profession, as defined in Subsection ~~00410.2312~~ on a full time basis, in the state of Idaho in a position approved by the Council for two (2) years following graduation from the POST Academy. (7-1-93)(7-1-00)T

02. Pay Back. Except as provided below, any peace officer who fails to remain within the law enforcement profession, as defined in Subsection ~~00410.2312~~ on a full time basis, in the state of Idaho in a position approved by the Council for two (2) years following graduation from the POST Academy, shall be required to pay back to the Council, the full amount of money set forth in the agreement. For the purposes of this rule, an officer who has not worked four thousand one hundred sixty (4,160) or more hours during the two (2) years following graduation from the POST Academy will be deemed to have failed to remain within the law enforcement profession, on a full time basis, for two (2) years following graduation from the POST Academy. (7-1-93)(7-1-00)T

a. If the officer remains within the law enforcement profession in excess of twelve (12) months but less than twenty-four (24) months and the officer's work within the law enforcement profession during that period averaged at least one hundred sixty (160) hours per month, the amount owed to the Council under Subsection 078.02 shall be prorated monthly and shall be reduced proportionately for each month from the date of graduation in which the officer was employed within the law enforcement profession for at least one hundred sixty (160) hours per month. (7-1-93)

b. If the officer was terminated for cause by the employing agency, ~~he~~ she shall not owe the Council the amount set forth in the agreement. The agency must provide the Council a letter stating that the officer was

terminated for cause.

~~(7-1-93)~~(7-1-00)T

c. If the officer resigns from his/~~her~~ agency in substitution of being dismissed from said agency for cause, he/~~she~~ shall not owe the Council the amount set forth in the agreement. The agency must provide the Council a letter stating that if the officer would not have resigned, he/~~she~~ would have been terminated for cause.

~~(7-1-93)~~(7-1-00)T

03. Pay Back, Part-Time Basic Certificate. Any peace officer who is awarded a part-time basic certificate who fails to remain employed within the law enforcement profession in a position approved by the Council for the same amount of hours required in Subsection 078.02, shall be required to pay back to the Council, the full amount of money set forth in the agreement. (3-20-97)

04. Position. The Council shall approve or disapprove positions on a case by case basis, after affording officers the opportunity to present information as to the duties, nature and scope of the position. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

094. EDUCATION AND TRAINING.

~~Education.~~

~~(7-1-93)~~

01. College Hour. One (1) college or university semester hour or unit shall equal one (1) college credit. (7-1-93)

02. College Quarter Hour. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. (7-1-93)

a. Basic, advanced and specialized courses certified by the Council will be approved. (7-1-93)

b. When college credit is awarded for law enforcement related subjects, it may be counted for either training or college credit, whichever is to the advantage of the applicant. (7-1-93)

c. Of the required amount of college credits needed for higher levels of certification, no more than one-half (1/2) shall be from credits awarded or purchased from any college or university for attending basic police training. (7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

117. CANINE TEAM CERTIFICATION.

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

02. Title And Scope. These rules are intended to set minimum standards of performance for the certification of Idaho police canine teams. Nothing in these rules is intended to limit the use of canine teams employed by other states or federal agencies for law enforcement purposes, or the use of volunteer canine teams in which the handler is not an Idaho peace or detention officer. (3-30-01)

03. Definitions. (3-20-97)

a. Canine Team. A specific person and a specific canine controlled by that person in the capacity of handler, formally assigned by the ~~employing~~ appointing agency to work together in the performance of law enforcement duties. ~~(3-30-01)~~(7-1-01)T

b. Evaluator. An Idaho POST-certified peace or detention officer or a corrections officer with three (3) years of canine handler experience and three hundred ninety (390) hours of accredited canine training who has been recommended to the Council by the Idaho Police Canine Association and subsequently approved as an Idaho POST-certified instructor of canine subjects for the purpose of testing and certifying canine teams. (3-30-01)

c. Pace. A distance measuring two (2) feet. (3-30-01)

04. Certification. (3-30-01)

a. A canine team must be certified in order to perform their duties. (3-30-01)

b. The canine handler must be an Idaho POST-certified peace or detention officer to be eligible for certification under these rules. (3-30-01)

c. In evaluating the proficiency of the canine teams, the evaluators shall use the standards promulgated by the Idaho Police Canine Association and approved by the POST Council for that particular skill category. Performance shall be rated on a pass/fail basis. The evaluator shall have the discretion to discontinue the testing if excessive time has been spent without results. A POST Training Specialist, or his designee, must be present for all canine certification testing. (3-30-01)

d. The Council shall certify a canine team which successfully demonstrates the handler's ability to control the canine, under the scrutiny of a canine evaluator, in addition to proficiency in one (1) or more of the following areas: (3-30-01)

i. Patrol; (3-30-01)

ii. Tracking; (3-30-01)

iii. Evidence search; (3-30-01)

iv. Controlled substance detection; or (3-30-01)

v. Explosive substance detection. (3-30-01)

05. Expiration Of Certification. Each certification issued pursuant to these rules shall remain valid for ~~one (1) year, and shall expire on the anniversary date of the certification~~ fifteen (15) months. A canine team must be evaluated ~~annually~~ prior to their certification expiration date to maintain their certification. If the canine team fails any portion of an evaluation, they must be re-evaluated for the failed area. A canine team certification shall lapse if the specific handler and canine, as originally paired at the time of certification, cease to perform canine team functions together. ~~(3-30-01)(7-1-00)T~~

06. Appeal. Any handler who believes there have been improper procedures applied in implementing the standards may file an appeal with the Idaho Peace Officer Standards and Training Academy in writing. This appeal must be filed within thirty (30) days of the testing date. (3-30-01)

IDAPA 15 - IDAHO COMMISSION FOR THE BLIND

15.02.30 - BUSINESS ENTERPRISE PROGRAM

DOCKET NO. 15-0230-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 67-5407(e), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

July 12, 2001, 5:00 – 7:00 p.m.	Idaho Commission for the Blind and Visually Impaired 2005 Ironwood Parkway, Suite 224, Coeur d'Alene, Idaho
July 20, 2001, 5:00 – 7:00 p.m.	Idaho Commission for the Blind and Visually Impaired 341 West Washington (Library, 2nd Floor), Boise, Idaho
July 26, 2001, 5:00 – 7:00 p.m.	Idaho Commission for the Blind and Visually Impaired 689 Park Avenue, Idaho Falls, Idaho

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

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

Existing rules for the Business Enterprise Program are out-of-date and unworkable. The proposed rulemaking clarifies the definitions and rights and responsibilities of the Program and its participants.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811 negotiated rulemaking was not conducted because the Commission determined that affected interested parties are not likely to reach a consensus on the proposed rulemaking and public hearings have been scheduled to provide these parties an opportunity to voice their opinions on the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leo Jones at (208) 334-3220.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 21st day of May, 2001.

Michael Graham, Administrator
Idaho Commission for the Blind and Visually Impaired
341 W. Washington St.
P. O. Box 83720
Boise, ID 83720-0012
Telephone: (208) 334-3220 / Facsimile: (208) 334-2963

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0230-0101

IDAPA 15
TITLE 02
Chapter 30

IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

15.02.30 - BUSINESS ENTERPRISE PROGRAM

000. LEGAL AUTHORITY.

The Idaho Legislature has designated the Commission for the Blind and Visually Impaired as the sole licensing agency under the provisions of the Randolph-Sheppard vending stand act pursuant to Section 67-5411, Idaho Code, and has given to the Board of the Idaho Commission for the Blind and Visually Impaired the legislative power to promulgate rules by the provisions of Section 67-5407(e), Idaho Code. (3-1-93)()

001. TITLE AND SCOPE.

01. Title. These rules shall be known as Idaho Commission for the Blind and Visually Impaired Rules, IDAPA 15.02.30, "Business Enterprise Program". ()

02. Scope. These rules specify the conditions and standards under which the Business Enterprise Program facilities shall be operated. (3-1-93)()

002. WRITTEN INTERPRETATIONS.

Written interpretations on the rules of the Business Enterprise Program, or any portion thereof, may be requested in writing from the Administrator. ()

003. ADMINISTRATIVE APPEALS.

Any administrative appeals process not specifically covered in the rules of the Business Enterprise Program shall be processed in accordance with IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Commission for the Blind and Visually Impaired is in Boise, Idaho. The office is located at 341 W. Washington Street, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is: Commission for the Blind and Visually Impaired, P.O. Box 83720, Boise, Idaho 83720-0012. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Business Enterprise Program are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

Unless otherwise indicated in this part, terms below are defined as follows:: (3-1-93)

01. Administrator. The Administrator of the ~~Idaho~~ Commission ~~for the Blind~~. (3-1-93)()

02. Agreement. An agreement between the Program and an operator for the operation of a vending facility as a primary location. ()

03. Benefits. Retirement or pension plans, health insurance contributions, and paid sick and vacation

leave available only to operators. (See 34 CFR 395.8.) ()

024. Blind Person. ~~Any~~ person ~~as defined in~~ who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such person shall select, has been determined to have the following (see 34 CFR ~~Part~~ 395.1(c)); (3-1-93)()

a. Not more than twenty/two hundred (20/200) central visual acuity in the better eye with correcting lenses; or ()

b. An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty (20) degrees. ()

035. Certified. Having successfully completed the Commission-approved training program ~~set forth~~ established by the ~~Business Enterprise Program Supervisor~~ as a requirement for licensing. (See ~~Section 30-1450~~) (3-1-93)()

046. Commission. The Idaho Commission for the Blind ~~which is the State Licensing Agency under Public Law 74-732, as amended by Public Law 83-565 and Public Law 93-616, 20 U.S.C., ch. 6a, Sec. 107 and Visually Impaired.~~ (3-1-93)()

057. Committee. ~~Means~~ The Idaho Blind Merchants Committee (IBMC). (3-1-93)()

08. Contract. A contract with a licensee or other qualified individual for the operation of a vending facility. Contracts are of limited duration. ()

09. Contract Facility. A facility operated under a contract by a licensee or other party. ()

~~06~~**10. Facility.** ~~An~~ vending enterprise ~~as~~ defined ~~in~~ as: (7-1-93)()

a. Automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of a state within such a state. (See 34 CFR ~~Part~~ 395.1(x)); or (3-1-93)()

b. Restaurants, cafeterias, snack bars, and goods and services customarily offered in connection with any of the foregoing, and includes vending machines dispensing foods when operated independently or in conjunction with such facilities. (See Section 67-6903, Idaho Code); and or (3-1-93)()

c. Any other type of business deemed appropriate by the Business Enterprise Program which the Supervisor finds is consistent with and furthers the policies, goals, and objectives of the Program. (3-1-93)()

~~07~~**11. License.** ~~An~~ authorization as defined in written instrument issued by the state licensing agency to a blind person, authorizing such person to operate a vending facility on federal or other property. (See 34 CFR ~~Part~~ 395.1(i).) (3-1-93)()

~~08~~**12. Licensee.** A blind person ~~as defined in~~ licensed by the state licensing agency to operate a vending facility on federal or other property. (See 34 CFR ~~Part~~ 395.1(b).) (3-1-93)()

13. Operator. A licensee assigned to and operating a primary location. ()

~~09~~**14. Permit.** ~~As defined in~~ The official approval given a state licensing agency by a department, agency or instrumentality in control of the maintenance, operation, and protection of federal property, or person in control of other property, whereby the state licensing agency is authorized to establish a vending facility. (See 34 CFR ~~Part~~ 395.1(o).) (3-1-93)()

~~105. Operator. A licensed blind citizen, assigned and operating a facility. Primary Location. A single building or group of buildings operated as a vending facility pursuant to an agreement. (3-1-93)()~~

~~116. Probation. A conditional status wherein an operator vendor has a specified amount period of time to work on site to correct identified problems before privileges an agreement or contract may be terminated. (3-1-93)()~~

~~127. Program. The Business Enterprise Program, as defined in provided for by the Randolph-Sheppard Act to give priority to the blind in need of economic opportunities. (See 34 CFR Part 395.1(p) and Idaho Code, Section Title 67-6900, Chapter 69, Idaho Code.) (3-1-93)()~~

~~138. Property Manager. The person individual or entity in charge of administering vending contracts or permits in federal, state, federal or local government buildings or private buildings. (3-1-93)()~~

~~19. Satellite. An ancillary site separate from a primary location granted to an operator as part of an agreement. ()~~

~~1420. Set Aside Funds. Funds as defined in which accrue to a state licensing agency from an assessment against the net proceeds of each vending facility in the state's vending facility program and any income from vending machines on federal property which accrues to the state licensing agency. (See 34 CFR Part 395.1(s).) (3-1-93)()~~

~~21. State Licensing Agency. The Commission which has been designated by the Secretary of Education to issue licenses to blind persons for the operation of vending facilities on federal and other property. See 34 CFR. 395.1(v). ()~~

~~1522. Supervisor. The Business Enterprise Program Supervisor individual who administers the Program. (3-1-93)()~~

~~1623. Suspension. Temporary termination withdrawal by the Supervisor of privileges granted by a license, or agreement by the Supervisor or contract during which time an operator vendor may not continue to operate a facility. (3-1-93)()~~

~~24. Vendor. A licensee who operates a primary location with or without satellites, pursuant to an agreement, or who operates a contract facility pursuant to a contract. ()~~

(BREAK IN CONTINUITY OF SECTIONS)

020. PURPOSE.

~~01. Program. The purpose of the Program is to provide remunerative employment opportunities for blind individuals who have an interest in and aptitude for operating a facility, to demonstrate alternative techniques for coping with blindness, and to educate the public regarding the ability of blind individuals to independently operate businesses. The Supervisor has is responsibility for the supervision administration of this the pProgram and is immediately responsible reports to the Administrator. This The pProgram shall be coordinated with other vocational rehabilitation programs of the Commission. (3-1-93)()~~

~~02. Commission. The purpose of the Commission is to provide: (3-1-93)~~

- ~~a. Essential management and supervisory services to assure the success of each facility; and (3-1-93)~~
- ~~b. For growth of the program in order to provide additional employment opportunities for blind individuals. (3-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

030. LICENSINGES.

01. **Issuance Of Licenses.** Licenses shall be issued for an indefinite period of time and shall be issued only to persons who are determined by the ~~Commission~~ Program to be: (3-1-93)(____)

a. Blind, as defined in Subsection 010.024; and (3-1-93)(____)

b. Citizens of the United States; and (3-1-93)(____)

c. Certified by the ~~Commission~~ Program as qualified and trained to operate a facility. (3-1-93)(____)

02. ~~Relicensing~~ Inactive License. (3-1-93)

~~a. If after one (1) year a newly licensed a licensee, who is not an operator, is not assigned fails for more than one (1) year to bid for a facility he/she must be relicensed, the license of such licensee shall become inactive.~~ (3-1-93)(____)

03. Reactivation.

~~b. A qualified individual must repeat the certification requirements to be relicensed. A license can be reinstated by demonstration of competence in all required training areas reactivated upon written request to the Supervisor. The Supervisor may require a licensee to repeat the certification requirements to reactivate a license.~~ (3-1-93)(____)

03- ~~Preference.~~ Preference shall be given to blind persons in need of employment. (3-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

040. TERMINATION AND SUSPENSION OF LICENSES.

01. **Grounds For Termination.** Licenses shall be subject to termination after ~~a~~ fifteen (15) days' notice if the ~~Commission~~ Program finds: (3-1-93)(____)

a. ~~That the facility is not being operated in accordance with Commission rules, the terms and conditions governing the facility permit, or the Operator's terms and conditions of the agreement, or contract (see Section 140);~~ (3-1-93)(____)

b. ~~Improvement of vision so that the operator licensee no longer meets the definition of blindness as defined by law (Section 67-5402, Idaho Code);~~ blind person as set out in Subsection 010.04. (3-1-93)(____)

c. ~~Extended illness with~~ That the licensee has received a medically documented diagnosis of that will result in prolonged incapacity of the operator licensee and a continuing inability to operate the a facility. (3-1-93)(____)

d. ~~That the licensee has withdrawn of the operator from the pProgram upon operator's by submitting~~ written notification to the Commission, with up to one (1) year to remain in the program without having to relicense Supervisor. (3-1-93)(____)

e. That the licensee has made Uunauthorized use of retirement account funds. (3-1-93)(____)

f. That the licensee engages in conduct or allows a condition to exist for which the licensee has previously been placed on probation, or which has previously led to the suspension of the license. ()

02. Notice Of Termination. Notice shall be: ()

a. In writing: ()

b. Shall specify the grounds upon which the notice of termination is based; and ()

c. Shall advise the operator of his right to administrative review and a full evidentiary hearing. ()

03. Request For Review Not A Stay. A timely filed request for administrative review shall not stay the termination of the license. ()

~~024. Notice Of Termination. The termination becomes effective following the completion of the fifteen (15) day notice or upon the request of the evidentiary hearing, period unless the vendor seeks administrative review, in which case the operator's license may be suspended and the operator's any contract or agreement may be terminated pending completion of the administrative review, full evidentiary hearing process, the convening of any ad hoc arbitration panel and court review. Following termination of the operator's agreement the Commission will and subsequent appeals. Until the review process has been concluded, the Program shall operate the facility until completion of the evidentiary hearing. The net profit from the operation of the facility during this time will be paid to the operator. At the conclusion of the review process, should the vendor prevail, the Program shall restore all rights and benefits to the vendor including compensation for the period of termination calculated at a weekly rate determined by averaging the eight (8) weeks net income for the facility for the prior to notice of termination federal fiscal year.~~ (3-1-93)()

~~035. Role Of The Supervisor Suspension.~~ The Supervisor has the authority at any time to place on probation or suspend the license of the operator a vendor whose conduct is detrimental to the may jeopardize a permit or the Program, or who is failing to meet the terms of the Operating Agreement. (3-1-93)()

a. The Supervisor shall notify the operator vendor in writing of the suspension and shall identify the specific remedies deficiencies and the time allowed for the vendor to take corrective action. If no resolution has been made at the end of the specified time frame, the Supervisor shall notify the operator in writing of his/her rights to an evidentiary hearing issue a notice of termination. (3-1-93)()

b. If the Supervisor and operator who has been placed on probation or a vendor, whose license has been suspended, cannot informally decide who arranges for and who pays agree on arrangements for a temporary replacement operator vendor, the procedures as outlined set out in Section 180, Administrative Review, of these rules shall be followed to resolve the matter. (3-1-93)()

06. Probation. The supervisor has the authority to place a vendor who is not in compliance with the terms of an agreement or contract on probation. The Supervisor shall notify the vendor in writing of the probation and shall identify the specific deficiencies and the time allowed for the vendor to take corrective action. If no resolution has been made at the end of the specified time, the Supervisor shall issue a notice of termination. ()

~~07. Improvement Plans.~~ If the Supervisor receives a set aside report from a vendor that indicates no profit has been realized during two (2) consecutive months or three (3) months in a fiscal year the Supervisor may shall review the situation and, with the operator vendor, devise an improvement plan with measurable objectives and timetables for improvement. Should the facility not show a reasonable profit during the three (3) subsequent months: (3-1-93)()

~~i~~a. The operator's license may be suspended Supervisor may issue a notice of termination; or (3-1-93)()

~~ii~~b. The facility may be contracted or closed. (3-1-93)

~~d. If evidence of a condition or action, that has previously been grieved occurs, the operator's license and agreement shall be immediately terminated. The Commission will manage this facility until all grievance procedures are completed. (3-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

050. SELECTION OF OPERATORS.

01. **Notification Of Opening.** The Supervisor shall notify ~~in writing any and all openings to~~ all current licensees and prospective operators, all commissioners and counselors of the Commission, ~~and all known organizations of the blind in Idaho~~ of all facility openings in writing. The notice of openings shall also be posted on the Commission web site. The notification notice shall state the facility location, the application procedure, and the deadline for applying application. The notice shall also solicit interest in operating the facility on a contract, in the event it is not awarded as a primary location. Interested parties may receive will be provided specific information about the openings upon request. (3-1-93)()

02. **Qualification Of Bidders.** A bidder for a primary location shall be: (3-1-93)()

~~a. Citizen of the United States;~~ (3-1-93)

~~b. Blind as defined in Subsection 010.02;~~ (3-1-93)

~~ea. Licensed by the Commission;~~ (3-1-93)

~~eb. Current with pProgram payments, including monthly set asides and any other moneys due the pProgram; and~~ (3-1-93)()

~~ec. In good standing and shall not have been placed on probation or had his license suspended within the last calendar year.~~ (3-1-93)()

03. **No Qualified Bidders.** If no applications are received from qualified bidders' is interested in the opening, a review panel (see Subsection 050.05) shall choose a candidate most qualified to be trained for the licensees who expressed an interest in operating the facility as a contract facility will be given priority in the selection of a contractor. Assignment of the facility shall be granted only when all minimum qualifications are met. If no licensee is awarded the facility, the Supervisor may award a contract to any qualified individual. (3-1-93)()

04. **Application-Process.** ~~All interested parties must submit~~ An application shall be in the form a written letter of application to the Supervisor by the deadline stated in the notification. The letter of application must shall include a statement of qualifications and ~~all~~ pertinent experience. (3-1-93)()

05. **Selection Process.** (3-1-93)

a. The Supervisor shall ~~convene~~ appoint a panel to review all applications. ~~The time and date of the review shall be determined by the Supervisor~~ and conduct interviews. ()

b. The panel shall consist of the Supervisor who shall serve as chair~~person~~, a representative of the Committee selected by the ~~chairman of the~~ Committee chair, and one (1) person from the ~~department of Field Operations selected by the Rehabilitation Services Chief~~ services. The person from field services shall not have had a client relationship with the applicants. ()

c. The panel shall review all written applications and interview at least the top five (5) candidates. using the same format and interview questions. All members of the panel must be physically present during the interviews. ()

d. A weighted evaluation form shall be used by each panel member. Selection criteria ~~must~~ shall be consistent with the job requirements of that facility. Points shall be given by each interviewer to each candidate in the various categories assessed. A composite score shall be tabulated for each candidate. (3-1-93)(____)

e. The Supervisor shall make a final selection from the two (2) ~~persons~~ candidates with the highest total points ~~shall be recommended to the Supervisor~~. If the ~~person~~ candidate with the highest score is not selected, the Supervisor must ~~show cause~~ provide an explanation in writing to the highest scoring candidate upon request. (3-1-93)(____)

~~bf.~~ If no licensed operators are interested in the opening, a review panel shall choose a candidate most bidder is awarded operation of the facility, the Supervisor may grant it on a contract to a licensee or other qualified ~~to~~ be trained for the facility individual. Assignment of the facility shall be granted upon the candidate's receipt of a license. (3-1-93)(____)

06. Notification Of Decision. The Supervisor shall notify all applicants in writing of the final decision. (3-1-93)

07. Records. The Supervisor shall maintain a record of all proceedings. (3-1-93)

08. Transfer And Promotion. The procedure for transfer and promotion shall be the same as for original selection of ~~operators~~ vendors. (3-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

060. ACCESS TO PROGRAM AND FINANCIAL INFORMATION.

Each ~~operator under this~~ licensee in the ~~p~~Program shall be provided access to all Program financial data ~~of the Commission~~ relevant to the operation of the Program, including ~~semi~~-annual financial reports, provided that such disclosure does not violate applicable ~~F~~federal or ~~S~~state laws pertaining to the disclosure of confidential information. Insofar as practicable, such data shall be made available in ~~braille or recorded tape~~ suitable alternative format. At the request of an ~~operator~~ licensee, qualified staff of the ~~Commission~~ Program shall arrange a convenient time to assist in the interpretation of ~~such~~ the financial data. (3-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

070. EQUIPMENT, INITIAL STOCK AND BUSINESS EXPENSES.

01. ~~Commission~~ Program Responsibility. The ~~Commission~~ Program assumes full responsibility for providing each facility established under the Program with adequate equipment and initial stock of merchandise. (3-1-93)(____)

02. Initial Stock Of Merchandise. An ~~initial~~ stock of merchandise shall be ~~assigned to each facility~~ provided by the Supervisor. The Supervisor shall determine the ~~amount~~ quantity of the initial stock, which shall be enough for at least one (1) full week of operation, ~~but, the operator is vendor shall~~ accountable for ~~that~~ the value of the initial stock ~~and must have the equivalent dollar amount on hand upon vacating the facility. The Commission shall either bill or pay the operator for any difference~~ when the operation is concluded. (3-1-93)(____)

03. Vending Machine Contracts. The ~~Commission~~ Program shall negotiate contracts with vending companies for installation or ~~the~~ location of vending machines in or to be assigned to facilities. ~~Operators may negotiate contracts for additional sites with approval of the Commission.~~ (3-1-93)(____)

04. ~~Vocational Rehabilitation Funds~~. Vocational rehabilitation funds (State and/or Federal) may be used in the purchase of program facility equipment and adequate initial stocks of merchandise. (3-1-93)

054. Business Insurances. ~~The Commission shall pay a maximum of the first six (6) months premium for general liability, product liability, and workmen's compensation. This shall be provided for in the individualized written rehabilitation plan, if applicable. These initial business insurances may be paid under the authority of the Program when no individualized written rehabilitation plan exists. This provision shall apply only when an operator is moving to a newly opened site. All operators vendors not covered by the above authorities shall be responsible for their own business obtaining general liability, product liability, and worker's compensation insurance(s). Following this initial period, the operator shall be responsible to pay for this coverage on an annual basis. Proof of insurance must be sent to the Supervisor immediately upon prior to the start of operation and within ten (10) days of policy renewals of policies date.~~ (3-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

080. MAINTENANCE AND REPLACEMENT OF EQUIPMENT.

01. Maintenance/Commission. ~~The Commission Program shall maintain or cause to be maintained all equipment in a safe and satisfactory working condition. Replacement in lieu of repair shall be a decision of the Supervisor. It is the operator's vendor's responsibility to report any incident resulting in damage, breakage, theft, defacement, or malfunction of equipment or fixtures as soon as possible. Vendors are authorized numbers are assigned to each facility by the staff arrange for minor repairs and/or replacement of small equipment where the total cost does not exceed three hundred dollars (\$300). Repair shall be deemed unauthorized when such the repair or replacement is attributable to negligent actions by the operator vendor or when the equipment or fixtures are not the maintenance responsibility of the Program.~~ (3-1-93)(____)

02. Maintenance/Operator. ~~Any equipment purchased by the operator for the location or facility must be approved in advance by the Supervisor in writing. If approval was not granted, the equipment shall not be purchased from the operator at the time he/she leaves a location.~~ (3-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

110. DISTRIBUTION AND USE OF INCOME FROM VENDING MACHINES ON FEDERAL PROPERTY.

01. Limitations. No limitation shall be imposed on income from vending machines combined to create a program facility when such facility is maintained, serviced or operated by a Program operator vendor. (3-1-93)(____)

02. Vending Machine Income. ~~The Commission Program shall retain manage vending machine income disbursed by a property managing department, agency or instrumentality of the United States as defined in the accordance with the requirements of 34 CFR, Title 34, Part 395.8.~~ (3-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

120. OPERATOR BENEFITS.

01. Vending Machine Income. ~~The Program shall provide licensees with information regarding benefits. Upon a majority vote of licensees, the Program may retain vending machine income from federal property in accordance with 34 CFR 395.8(a). Such income may be used for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for~~

operators. Distribution of benefit payments shall be determined by a majority vote of licensees and established as policy. ()

042. Eligibility. ~~Only operators of a primary location pursuant to an agreement shall be eligible to receive benefits. There shall be a ninety (90) day waiting period before any new operator is eligible to receive benefits are provided to a new operator. Benefits paid are those allowed under the Randolph-Sheppard Act and may include medical insurance, life insurance, and a retirement plan. Benefit payments will not be interrupted when an operator transfers from one primary location to another. Benefits shall be paid only after the appropriate documentation is submitted to the Commission Program. Costs of all benefits may be paid from Income Sharing funds. The remainder of these funds not spent may be dedicated to repair and replacement of equipment, and management services.~~ (3-1-93)()

023. Medical Insurance. ~~Reimbursement to If a majority of licensees determines that operators for medical coverage shall be allowed following a ninety (90) day waiting period. Reimbursement to operators (family not included) for medical coverage shall be allowed following a ninety (90) day waiting period. The insurance premiums, operators shall be responsible for acquiring his/her their own policies. The Commission Program shall reimburse the operator in an amount agreed to determined by the Committee and the Commission vote of licensees. The oOperators must file an invoice or statement to shall provide documentation such coverage with to the Commission annually or as adjustments occur. Program proving payment of their premiums, prior to any reimbursement.~~ (3-1-93)()

034. Retirement And Pension Accounts. ~~Following the ninety (90) day waiting period, a monthly retirement contribution will be sent to an account in the operator's name. The retirement account funds shall be income sharing monies, and are strictly intended for deposit in a retirement account. Funds used prior to retirement from the Program violates the explicit purpose of the funds and shall be cause for termination of an operator's license. (See Subsection 040.01.e.)~~ If a majority vote of licensees determines that operators shall have retirement accounts, the Program shall deposit into approved retirement accounts an amount determined by a majority vote of licensees, up to the maximum federal allowance for IRAs per year. Funds shall be deposited on a monthly basis. Not later than February 21 of each year, each Operator shall provide the Program a statement, signed and notarized, that the operator has made no unauthorized withdrawals from his retirement account. Deposit of funds shall be withheld from any operator's account until their statement is received. Withdrawals must have prior approval of the Program and shall only be made for uses approved for retirement accounts. If unauthorized withdrawals are made from an account, the operator shall have their License and Operating Agreement terminated. (3-1-93)()

04. Life Insurance. ~~Life insurance premiums shall be paid by the Commission for assigned operators following the ninety (90) day waiting period. The amount to be paid shall be mutually agreed to by the Committee and the Commission. The only insurance allowed shall be that insurance from which the operator will realize a cash benefit. The operator's pension value may differ from one operator to the next due to insurance qualifications per individual.~~ (3-1-93)

05. Sick Leave And Vacation Funds. If a majority vote of licensees determines that operators shall have sick and/or vacation leave funds, the Program shall remit to each operator an amount determined by a majority vote of licensees. ()

06. Non Fully Funded Benefits. If funds are not available for full payment of benefits, as voted by the licensees, the Program may pro-rate the payments from available funds, unless another method of disbursement of non-fully funded benefits was voted by a majority of the licensees. ()

(BREAK IN CONTINUITY OF SECTIONS)

130. OPERATING AGREEMENTS/CONTRACTS.
~~Vendors shall enter An written aAgreement shall be entered into by or a contract with the Commission and the operator Program. The agreement shall specify rights and responsibilities of the Commission and the operator and~~

Program as they relate to the operation of a facility primary location and any satellites. The contract shall specify the rights and responsibilities of the licensee or qualified operator and Program as they relate to the operation of a contract facility. (3-1-93)(____)

01. ~~Commission Program~~ Responsibilities. The ~~Commission Program~~ shall: (7-1-93)(____)
- a. Equip the facility for carrying out the business authorized by the permit; (3-1-93)(____)
 - b. Furnish initial stocks of merchandise sufficient to enable the ~~operator vendor~~ to commence operating the business. The ~~Commission Program~~ shall also furnish the ~~operator vendor~~ with an inventory list of all equipment and initial stock; (3-1-93)(____)
 - c. Provide for the maintenance of the equipment ~~at the facility~~ and replace obsolete and worn out equipment as necessary; (3-1-93)(____)
 - d. Provide, or ~~shall provide for as deemed by the Supervisor~~, supervisory and management services ~~necessary as deemed appropriate by the Supervisor for the efficient operation of the facility.~~ (3-1-93)(____)
 - e. Periodically audit, or cause to be audited, the ~~operator's vendor's~~ records and financial data to verify the accuracy of the set aside report. (3-1-93)(____)
 - f. Provide information or make available data in ~~braille or recorded tape~~ suitable format at the ~~operator's vendor's~~ request when possible. (3-1-93)(____)
 - ~~g. Notify the operator when the Program staff will be on vacation or extended leave. (3-1-93)~~
02. ~~Operator Vendor~~ Responsibilities. The ~~operator vendor~~ shall: (7-1-93)(____)
- a. ~~Be responsible for having~~ Have the facility open for business as specified in the permit. Exceptions may be approved in advance by the Supervisor; (3-1-93)(____)
 - b. Operate ~~the facility~~ on a cash basis. The ~~Commission Program~~ shall not be responsible for bills incurred by the ~~operator vendor~~. The ~~operator vendor~~ is responsible for notifying ~~his/her purveyors~~ suppliers that the ~~vendor~~ alone is responsible; and ~~the operator~~ shall verify that notification by use of the purveyor letter supplied by the ~~Commission Program~~; (3-1-93)(____)
 - c. Be accountable to the ~~Commission Program~~ for the income of the facility; (3-1-93)(____)
 - d. Provide for ~~substitute operation of the facility as may be necessitated by the operator's~~ a temporary worker in the vendor's absence because of illness, vacation, or other ~~absences~~ causes. The salary of the person who substitutes for the ~~operator vendor~~, or that of other emergency help, shall be paid for by the ~~operator vendor~~. The ~~operator vendor~~ shall notify the ~~Commission Program~~ a reasonable time in advance of taking any voluntary leave ~~from the facility~~, and as soon as possible with respect to any involuntary leave; (3-1-93)(____)
 - e. Carry on the business of the facility in compliance with the permit and applicable health laws and regulations and make available to the ~~Commission Program~~ copies of inspection reports; (3-1-93)(____)
 - f. Maintain a neat, business-like appearance while working at the facility, and ~~shall~~ conduct the facility business in an orderly, ~~business-like~~ professional manner; (3-1-93)(____)
 - g. Take proper care of the equipment ~~of the facility~~ and ~~shall~~ not make ~~substantial~~ structural alterations or changes to the facility without written approval of the ~~Commission Program~~; (3-1-93)(____)
 - h. Keep appropriate records and send a monthly report and set aside payment to the ~~Commission Program~~ by the fifteenth day of the following month as required. Late reports and/or payments will be resolved in the manner set forth in ~~Subsection 040.03 (Termination of Licenses)~~; (3-1-93)(____)

i. ~~Be *working-in* responsible for the day to day management of the facility. For staffed facilities, the vendor should be present the majority of the operation's open hours as is appropriate to each specific location time the facility is staffed for service to the public. A "majority of the time" shall be determined by the supervisor and operator. For vending only facilities, the Supervisor and vendor will mutually agree on the hours that the vendor shall be at the facility, and the agreement shall become an addendum to the contract or operating agreement; and~~ (3-1-93)(____)

j. The vendor shall provide copies of proof of insurance as required by Subsection 070.04. (____)

03. General Rights And Responsibilities. (3-1-93)

a. The business to be ~~carried on at the facility~~ conducted shall be limited to that specified and authorized in the permit; or contract between property managing agency and the ~~Commission Program.~~ (3-1-93)(____)

b. The right, title to, and interest in the equipment and initial inventories of the facility are vested in the ~~Commission and shall be left at the facility or returned to the Commission upon termination of the agreement for any reason(s) by either party~~ Program. At termination ~~of the fair market operating agreement, a value of the operator's interest shall be determined by the Commission and the operator or the operator's heirs or assignees equal to that assigned to the outgoing vendor as beginning inventory will be returned to the Program. The heirs or assignees shall be provided the beginning and closing inventories. The Commission shall either bill or pay the operator or the operator's heirs or assignees for any difference. In case of disagreement over a fair market value of merchandise, a wholesale representative shall be selected by the heirs or assignees and the Supervisor to verify prices. The Program will determine what inventory will be accepted from the outgoing vendor. The outgoing vendor shall have receipts no more than ninety (90) days old to show the value of inventory. Any inventory refused by the Program will become the property of the outgoing vendor. If the takeover inventory is less than initially assigned, the outgoing vendor will pay the difference in cash. If the Program agrees to accept more inventory than was initially assigned, the Program will reimburse the outgoing vendor in cash.~~ (3-1-93)(____)

c. The monthly income of the ~~operator~~ vendor shall be the net profit ~~of the facility~~ for the period in question; the expenses shall be in accordance with the monthly set aside report as developed by the ~~Commission Program and the Committee. Penalties for late reports and/or set aside payments will be established by the Committee and the Commission.~~ (3-1-93)(____)

d. Rebates, commissions, or bonuses received by the ~~operator~~ vendor from suppliers ~~are, and must shall be, accounted for reported as income of the facility.~~ Such incomes ~~are~~ is not to be treated as the separate, personal incomes of the ~~operator~~ vendor. (3-1-93)(____)

e. Merchandise taken from the stock in trade of the facility by the ~~operator~~ vendor for ~~his/her own personal~~ use shall be paid for at cost ~~prices.~~ (3-1-93)(____)

f. The business and premises ~~of the facility~~ shall be covered by adequate ~~public~~ comprehensive and product liability insurance, and any such other insurance(s) as will protect the ~~operator~~ vendor and anyone employed by the ~~operator~~ vendor against losses and claims arising out of the conduct of the business ~~of the facility or which are required by law.~~ The dollar amount of insurance shall be ~~mutually agreed to fixed~~ by the ~~Commission Program~~ and the Committee using industry standards and ~~State~~ requirements as guidelines to assure up-to-date coverage. The cost of such insurance shall be a cost of operating the business of the facility and taken into account as such in determining the net proceeds of the business operation. (3-1-93)(____)

g. ~~The~~ After an initial commitment to operate a primary location for twelve (12) months, an agreement may be terminated at anytime by the operator with at least thirty (30) days written notice to the Commission Program. During the initial twelve (12) month period, the operator cannot bid on other primary locations without the consent of the Supervisor. (3-1-93)(____)

h. ~~The agreement may be terminated by the Commission if, after affording the operator the opportunity to correct the problem, the business of the facility is not conducted in accordance with the agreement, Commission rules, or with applicable Federal, State, or local laws and regulations. The Commission may provide for~~

~~management of the facility out of the income of the facility until the administrative review has been completed and a final determination has been made. If the decision rendered is in favor of the operator, the operator will receive the weekly net income averaging the eight (8) weeks prior to termination.~~ (3-1-93)

h. The operator ~~shall~~ is encouraged to hire ~~legally~~ blind persons or persons with other disabilities when feasible. (3-1-93)()

i. The ~~operator~~ vendor shall report promptly to the Supervisor any unresolved complaints of the property manager. (3-1-93)()

j. The vendor may, with written approval of the Supervisor, negotiate with property managers for additional facilities. ()

k. A vendor may purchase equipment for a facility only if the purchase is approved in advance, in writing, by the Supervisor. The Program, in its sole discretion, has the first option to purchase from the vendor any equipment purchased without advance, written approval. ()

~~04. Termination Of An Operator's Agreement Without Affecting Licensure. An operator's agreement to operate a specific facility shall be terminated without affecting licensure when the facility ceases to be a vending facility by revocation of the permit or contract by the Commission or the property management.~~ (3-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

140. ~~SUSPENSION AND~~ TERMINATION AND SUSPENSION OF OPERATING AGREEMENTS/ CONTRACTS.

01. Grounds For Termination. ~~Operating~~ Agreements ~~shall and contracts may~~ be ~~suspended or~~ terminated if ~~the Commission finds~~: (3-1-93)()

a. ~~That~~ The operator vendor is not operating the facility on a cash basis; (3-1-93)()

b. The health and safety of the ~~operator~~ vendor, the employees, or the customers are jeopardized; (3-1-93)()

c. ~~That~~ The monthly report and set aside payment is not being sent to the Commission Program in a timely manner; (see Subsection 130.03.c.); (3-1-93)()

d. ~~That~~ The set aside report indicates no the vendor did not show an average one thousand dollar (\$1,000) net profit for two (2) consecutive per months, or three (3) months in a after set aside payment, for the prior federal fiscal year; (3-1-93)()

e. ~~That~~ The operator vendor jeopardizes the state's investment in the facility by violating the terms of the permit, agreement or contract, or by ~~operating the facility in such a manner as to~~ placing the facility in danger of being closed; (3-1-93)()

f. ~~That~~ The business and premises of the facility are not covered by adequate public and product liability insurance and/or workmen compensation insurance; (3-1-93)()

g. ~~If~~ The business of the facility is not conducted being operated in accordance with the agreement, contract, Commission rules, or with applicable ~~F~~ state, or local laws, rules, and regulations; (3-1-93)()

02. ~~Other Causes For~~ Notice Of Termination. ()

a. ~~The agreement may be terminated at anytime by the operator with at least thirty (30) days notice to the Commission.~~ Notice shall be in writing; (3-1-93)()

b. ~~If the building manager requests, and documents in writing, the removal of the operator and if the Commission determines that it is in the best interest of the state to temporarily remove the operator from the facility while a thorough investigation of the allegations is being conducted.~~ Shall specify the grounds upon which the notice of termination is based; and (3-1-93)()

c. Shall advise the vendor of his right to administrative review and a full evidentiary hearing. ()

03. Notice Of Suspension. ~~If the Supervisor and the operator cannot satisfactorily resolve the violations and devise and implement an improvement plan the operating agreement may immediately be suspended or terminated. The notice of suspension will be delivered to the operator in writing. Suspension may last up to sixty (60) days or until such time as the Administrative Review and/or evidentiary hearing has been completed. During this time the operator will receive remuneration in the amount derived by averaging the net proceeds of the last eight (8) weeks prior to suspension. If the decision/action of the supervisor is upheld, the agreement/license is immediately terminated.~~ **Request For Review Not A Stay.** A timely filed request for administrative review shall not stay the termination of an agreement or contract. (3-1-93)()

04. Review. The termination becomes effective following the fifteen (15) day notice period unless the vendor seeks administrative review, in which case the License may be suspended and any contract or agreement may be terminated pending completion of the administrative review, full evidentiary hearing, and subsequent appeals. Until the review process has been concluded, the Program shall operate the facility. At the conclusion of the review process, should the vendor prevail, the Program shall restore all rights and benefits to the vendor including compensation for the period of termination calculated at a weekly rate determined by averaging the net income for the facility for the eight (8) weeks prior to the notice of termination. ()

05. Grounds For Suspension. Agreements and contracts may be suspended if: ()

a. The vendor has committed any of the acts enumerated in Subsection 140.01; or ()

b. The property manager requests the removal of the vendor and documents the request in writing, and the Program determines that immediate removal of the vendor is in the best interest of the Program; or ()

c. The Supervisor and the vendor cannot agree on a plan to resolve violations and improve performance. ()

06. Notice Of Suspension. A written notice of suspension shall be delivered to the vendor and shall state the reason for the suspension. Suspension may continue up to sixty (60) days. If the vendor seeks administrative review of the suspension, the suspension shall continue until the administrative review, evidentiary hearing, and subsequent proceedings have concluded. During the suspension, the facility shall be operated by the Program. At the conclusion of the review process, should the vendor prevail, the Program shall restore all rights and benefits to the vendor including compensation for the period of termination calculated at a weekly rate determined by averaging the net income for the facility for the eight (8) weeks prior to the notice of termination. ()

07. Cancellation. An agreement or contract may be cancelled by the Program at any time should the facility cease to be a vending facility by revocation of the permit by the property manager. Cancellation under this Subsection shall not affect licensure and does not give rise to a right to administrative review, evidentiary hearing or other relief. ()

(BREAK IN CONTINUITY OF SECTIONS)

150. TRAINING PROGRAM.

01. Certification. Prior to certification, an applicant shall satisfactorily complete the training program ~~as~~ established by the ~~Commission Program~~ and any on-the-job training ~~as~~ prescribed by the Supervisor. The training program shall have certain basic requirements but shall also be ~~varied~~ customized to meet the needs of each individual applicant. ~~All similar benefits for this program shall be used when appropriate. This~~ The training program shall include, but is ~~is~~ not ~~be~~ limited to: (3-1-93)(____)

- a. Fundamentals of purchasing, inventory control, pricing, record keeping and other accounting systems; (3-1-93)
- b. Display and arrangement of merchandise and equipment; (3-1-93)
- c. Public relations and promotion. (3-1-93)

02. ~~Upward Mobility~~ In-Service Training. The ~~Commission Program~~ shall provide each ~~operator~~ vendor with regular and systematic assistance and in-service training ~~in order to assure~~ promote: (3-1-93)(____)

- a. Maximum returns to the ~~operator~~ vendor; (3-1-93)(____)
- b. Maximum service to the clientele; (3-1-93)
- c. Maintenance of a clean and attractive place of business; (____)
- ~~d.~~ The utilization of sound business practices; and (3-1-93)(____)
- ~~e.~~ Adherence to the Commission's rules, ~~regulations and~~ policies, and building management requirements; ~~and~~ (3-1-93)(____)
- ~~e.~~ Maximum upward mobility. (3-1-93)

03. ~~Post-Employment Services.~~ ~~These services may be provided to eligible program operators when necessary to assure that they maintain suitable employment within the agency's Business Enterprise Program. Each individual's eligibility for post-employment services must be determined individually. The plan for provision of post-employment services for an operator will be developed jointly by the client, counselor and a representative from the program. These post-employment services may include the following:~~ (3-1-93)

- ~~a. Purchase of initial or additional inventory when moving to a new or previously established location.~~ (3-1-93)
- ~~b. Provision of training to upgrade the operator's skills so that they will be able to move from a vending only to a snack bar or a snack bar to a cafeteria.~~ (3-1-93)
- ~~c. Provision of training to an operator whose net profit is marginal to help increase the income generated by the location.~~ (3-1-93)
- ~~d. Purchase of aids and appliances necessary for the operator to continue successful operation of a location as a result of a change in the severity of their disability.~~ (3-1-93)
- ~~e. Relocation expenses only when necessary to assume management of a location outside the current commuting area.~~ (3-1-93)
- ~~f. Provision of personal counseling or substance abuse treatment only if costs are not covered by another source and there is reasonable expectation that this service will result in the operator's ability to maintain employment.~~ (3-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

160. IDAHO BLIND MERCHANT'S COMMITTEE.

01. Committee Name. The ~~Commission Program~~ shall provide for a state committee of blind vendors as ~~outlined in~~ required by the Randolph-Sheppard Act (See Title 34, Part CFR 395.14, of the Code of Federal Regulations). The name of this committee shall be Idaho Blind Merchants Committee (IBMC). ~~(3-1-93)()~~

02. Purpose Of Committee. The purpose of ~~this~~ the ~~e~~Committee shall be to: ~~work with, provide input to, and be actively involved with those program decisions of the Commission as specified by the Randolph-Sheppard Act.~~ ~~(3-1-93)()~~

a. Actively participate with the Commission in major administrative decisions and policy and program development decisions affecting the overall administration of the Program; ()

b. Receive and transmit to the Commission grievances at the request of vendors and serve as advocates for such vendors in connection with such grievances; ()

c. Actively participate with the Commission in the development and administration of a system for the transfer and promotion of vendors; ()

d. Actively participate with the Commission in the development of training and retraining programs for vendors; and ()

e. Sponsor, with the assistance of the Commission, meetings and instructional conferences for vendors within the state. ()

03. Bylaws. The Committee shall, by a two-thirds (2/3) majority vote, adopt bylaws, consistent with the RSA, which shall govern the internal operation of the Committee. ()

04. Committee Membership. ~~The Committee consists of all~~ comprises the operators assigned a facility and shall have a Chairperson, vice chairperson, secretary and two (2) regional representatives elected by the operators. The five (5) member board shall represent the committee between meetings of all facilities in the state. ~~(3-1-93)()~~

05. Executive Board. An executive board consisting of a chair, vice chair, secretary, and two (2) at large representatives shall be elected by the Committee at a regular meeting. Members of the executive board shall serve for two (2) years in their respective positions. The executive board may conduct all business of the Committee between regular meetings of the Committee. ()

(BREAK IN CONTINUITY OF SECTIONS)

170. ~~SEMI-ANNUAL~~ MEETINGS OF THE COMMITTEE.

01. Annual Meetings. The Committee shall hold at least one (1) regular meeting each calendar year. ()

~~02. Active Participation~~ **Additional Meetings.** ~~The Commission, Committee by Federal law, is required to have the active participation and involvement of operators~~ may provide for additional meetings in its bylaws. ~~(3-1-93)()~~

023. Commission Program Responsibilities. ~~The Commission Program~~ shall work with the Committee chairperson or designated representative to coordinate the ~~semi-annual~~ regular meetings of the Committee. At regular meetings, the Commission Program shall: ~~(3-1-93)()~~

- a. Give financial and overview reports of the ~~Business Enterprise Program and the Commission;~~ (3-1-93)(____)
- b. Review Program rules and ~~regulations or~~ policies; and (3-1-93)(____)
- c. Receive ~~input on recommended~~ Committee recommendations for changes to the Program rules or polices. ~~A written explanation shall be provided to the Committee by the Commission when recommendations of the Committee regarding program decisions are not followed by the Commission.~~ (3-1-93)(____)

034. Expenses. ~~Designated~~ Allowable expenses of ~~the semi-annual~~ not more than two (2) regular meetings per calendar year may be paid out of ~~the management services fund~~ Program monies. ~~The a~~ Allowable expenses shall ~~be for~~ include meeting rooms, lodging, food per diem, and transportation. The transportation arrangements shall be ~~agreed on~~ determined by the ~~Committee chairperson and the~~ Supervisor. Expenses for additional meetings of the Committee may be paid by the Program at the discretion of the Supervisor after consultation with the Administrator. (3-1-93)(____)

045. Future Meeting. ~~Location~~ The date and time for the next regular meeting shall be set prior to adjournment. (3-1-93)(____)

056. Minutes. Minutes shall be kept by the Committee and made available to the Supervisor. Minutes ~~must shall~~ be sent to each operator and to the Supervisor within ninety (90) days after conclusion of the meeting. The ~~Commission~~ Program shall pay all reasonable costs for this service. (3-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

180. ADMINISTRATIVE REVIEW.

01. Request For Review. ~~An operator vendor~~ who is ~~dissatisfied with~~ aggrieved by any action or failure to act arising from the operation or administration of the Program may ask for a review of the action by filing a written request with the Administrator ~~or the operator may request a hearing pursuant to Section 190 of these rules.~~ ~~If the operator elects to have a review conducted by the Commission Administrator,~~ The written request for such review, which may be filed by the operator vendor or a chosen designated representative of the vendor, must shall specify the action(s) matter(s) to be reviewed and the reason(s) for how the operator's dissatisfaction vendor has been aggrieved. An operator's license may not be terminated prior to the Commission affording the operator an opportunity for an administrative review and a full evidentiary hearing. (3-1-93)(____)

02. Response. Upon receipt of a request for ~~an~~ administrative review, the Administrator shall notify the Supervisor, who shall have fifteen (15) calendar days to file a written response outlining the reason(s) to the request. ~~In filing the response, the Supervisor may forward a~~ A copy of the supervisor's response shall be sent to the operator vendor or his the vendor's designated representative, if requested. (3-1-93)(____)

03. Filing Objections, Replies, And Decisions. Upon receipt of the response from the Supervisor, the ~~operator vendor~~ or the vendor's designated representative shall have fifteen (15) calendar days in which to file any objections or make reply, after which time the Administrator shall, in good faith, evaluate the materials submitted and issue a written decision ~~thereon~~ within fifteen (15) calendar days. ~~The decision shall be issued within fifteen (15) calendar days following the close of the period allowed for the operator's reply.~~ The ~~operator vendor~~ or a the vendor's designated representative may ~~file an appeal~~ request an evidentiary hearing in accordance with Subsection 190.01 of these rules if the decision issued by the Administrator fails to resolve the ~~operator's dissatisfaction~~ vendor's grievance(s). (3-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

190. FULL EVIDENTIARY HEARING.

01. Request. The Commission shall provide ~~the operator a vendor~~ an opportunity ~~to seek remedy~~ for ~~any dissatisfaction with the action arising from the administration of the Program through~~ a full evidentiary hearing. The ~~operator vendor~~ or the vendor's designated representative, ~~shall~~ may request a full evidentiary hearing ~~in writing within thirty (30) calendar days of the Commission's action from which the grievance arises, or within fifteen (15) calendar days~~ following the ~~operator's~~ receipt of an unfavorable decision issued by the Administrator pursuant to Subsection 180.03 of these rules. The written request shall be delivered to the Administrator, with a copy to the Committee chair, within fifteen (15) calendar days of the aggrieved party's receipt of the Administrator's decision. (3-1-93)()

02. Suspension. ~~Although an operator's license may not be terminated prior to the Commission affording the operator an opportunity for an administrative review and a full evidentiary hearing, if~~ the conduct of the ~~operator vendor~~ places the location facility or satellite permit in jeopardy ~~of losing the location, contract or permit~~, the ~~Supervisor~~ may suspend or terminate the ~~operator's~~ agreement or contract pending the decision of the full evidentiary hearing. (3-1-93)()

~~**03. Full Evidentiary Hearing.** A request for a full evidentiary hearing, filed by the operator, or a representative, shall be sent to the Administrator with a copy to the chairperson of the Committee.~~ (3-1-93)

043. Location Time And Place Of Hearing. ~~A full~~ The evidentiary hearing shall be held in the Commission headquarters at a time mutually convenient to the operator time. (3-1-93)()

054. Time Limit. The hearing procedure shall be limited to ninety (90) calendar days, beginning on the date the request for hearing is filed by the ~~operator vendor~~. The time limit may be extended due to illness of the ~~operator vendor~~ or delay in obtaining evidence because of circumstances beyond the control of the ~~operator vendor~~ or the Commission Program. (3-1-93)()

065. Hearing Officer. The ~~Commission Administrator~~ shall ~~request~~ appoint a hearing officer ~~assigned by the Idaho Personnel Commission~~ to conduct the evidentiary hearing and issue a report. (3-1-93)()

076. Hearing Notice. A notice of the hearing date shall be provided to the ~~operator vendor~~ at least twenty-one (21) calendar days prior to the date set for the hearing. (3-1-93)()

087. Legal Counsel. The ~~operator vendor~~ may arrange to have legal counsel or other representation. Such counsel shall be at the expense of the ~~operator vendor~~. (3-1-93)()

098. Evidence. The hearing officer shall make ~~every~~ a reasonable effort to obtain the most credible evidence of fact in the case, and ~~technical~~ the rules of evidence shall not apply. (3-1-93)()

109. Defense Conduct Of Hearing. Each party shall be given ~~every~~ an opportunity to present its case, examine and cross-examine witnesses, present argument, and rebut evidence. (3-1-93)()

110. Transcripts. A transcript of the proceedings shall be made available to the parties upon request. The ~~Commission~~ Program shall pay all transcript costs associated with the conduct of the hearing. (3-1-93)()

121. Report Of Facts, Findings, Conclusion, And Recommended Decision. ()

a. The hearing officer shall submit a report to the Administrator ~~a report~~ within twenty-one (21) calendar days after the hearing. This report shall include: ()

i. ~~The~~ issues and relevant facts adduced at the hearing; ()

ii. ~~Applicable~~ provisions of law, ~~regulations~~ rules, and Commission policy; ()

- iii. Findings of fact and conclusions of law with respect to issues; and ()
- iv. The reasons and basis thereof. ()
- b. The report shall also set forth any action(s) necessary to resolve the issue and ~~the~~ a recommended decision ~~being recommended to the Administrator.~~ (3-1-93)()

12. **Service Of Report.** The report shall be served on the Administrator and all parties to the hearing. ()

13. **Written Comments, Arguments, And Exceptions.** Parties to the hearing may, within fifteen (15) calendar days of the date the report was received in the Administrator's office, file written comments, arguments, and exceptions to the report with the Administrator. ~~These shall be attached to the report when submitted to the Administrator for a decision.~~ Comments, arguments, and exceptions received in a timely fashion become a part of the record and shall be considered by the Administrator in making a final decision. (3-1-93)()

14. **Exclusive Record For Decision.** The transcript of testimony, exhibits, and all papers and documents filed shall constitute an exclusive record for decision. (3-1-93)

15. **Decision.** The final decision of the Administrator shall be mailed to the vendor within fifteen thirty (1530) days to the operator and maintained in the Commission's record of hearing receipt of the hearing officer's report. (3-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

200. **ARBITRATION.**

If an operator vendor is dissatisfied with the a decision rendered after a full evidentiary hearing, he/she the vendor may request that an arbitration panel be convened by filing a complaint with the Secretary of the U.S. Department of Education in accordance with Title 34, Part CFR 395.13, of the Code of Federal Regulations, within twenty-one (21) calendar days of his/her the vendor's receipt of the decision of the Administrator. (3-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

210. **EXPLANATION TO OPERATORS VENDORS OF HIS/HER RIGHTS AND RESPONSIBILITIES.**

The Commission Program shall furnish to each operator vendor copies of documents relevant to the operation of the facility, including rules and regulations procedures, a written description of the arrangements for providing services, the agreement and permit covering the operation of the facility, and shall provide interpretation explanation of these documents upon request by the operator vendor. (3-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

220. **DISCRIMINATION.**

The Commission Program shall not discriminate against any operator applicant, licensee or vendor on the basis of sex gender, race, age, creed, color, religion, physical or mental handicap, sexual orientation, or national origin. (3-1-93)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0104
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: These temporary rules are effective July 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

Clarifies in rule that blood lead level testing is to be part of the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) screen in conformance with federal law and regulations.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect public health, safety and welfare, to comply with deadlines in amendments to governing law and federal programs and to confer a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is to comply with deadlines in amendments to governing law and federal programs and to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Kathleen Allyn at (208) 334-5747.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 25, 2001.

DATED this 8th day of May, 2000.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0104

536. EPSDT SERVICES.

EPSDT services include diagnosis and treatment involving medical care within the scope of MA, as well as dental services, eyeglasses, ~~and~~ hearing aids, blood level testing, and such other necessary health care described in Section 1905(a) of the Social Security Act, and not included in the Idaho Title XIX State Plan as required to correct or ameliorate defects and physical and mental illness discovered by the screening service. ~~(4-27-91)(7-1-01)T~~

01. Amount, Duration And Scope Of Services. The Department will set amount, duration and scope for services provided under EPSDT. (4-5-00)

02. Services Must Be Medically Necessary. Needs for services discovered during an EPSDT screening which are outside the coverage provided by the Rules Governing Medical Assistance must be shown to be medically necessary and the least costly means of meeting the recipient's medical needs to correct or improve the physical or mental illness discovered by the screening and ordered by the physician, nurse practitioner or physician's assistant. (4-5-00)

03. Services Not Covered. The Department will not cover services for cosmetic, convenience or comfort reasons. (4-5-00)

04. Prior Authorization For Medical Necessity. Any service requested which is covered under Title XIX of the Social Security Act that is not identified in these rules specifically as a Medicaid covered service will require preauthorization for medical necessity prior to payment for that service. (4-5-00)

05. Additional Services. Any service required as a result of an EPSDT screen and which is currently covered under the scope of the Idaho Medicaid program will not be subject to the existing amount, scope, and duration, but will be subject to the authorization requirements of those rules. The additional service must be documented by the attending physician as to why it is medically necessary and that the service requested is the least costly means of meeting the recipient's medical needs. Preauthorization from the Department or its designee will be required prior to payment. (4-5-00)

06. Services Which Are Least Costly. Those services that have not been shown or documented by the attending physician to be the least costly means of meeting the recipient's medical needs are the responsibility of the recipient. (4-5-00)

537. WELL CHILD SCREENS.

01. Periodic Medical Screens. Periodic medical screens ~~should~~ are to be completed at the following intervals: ~~as recommended by the American Academy of Pediatrics (AAP), Committee in Practice and Ambulatory Medicine, September 1987. A copy may be obtained from the AAP by calling (800) 433-9016. Physicians and physician extenders will be required to bill using the appropriate Physician's Current Procedural Terminology (CPT) codes, under section "Preventive Medicine Services". EPSDT RN screeners will be required to bill using codes established by the Department, except when the EPSDT RN screener is an employee of a rural health clinic, Indian Health Clinic, or federally qualified health clinic.~~ ~~(4-5-00)(7-1-01)T~~

a. One (1) screen at or by age one (1) month, two (2) months, three (3) months, four (4) months, six (6) months and nine (9) months. (8-1-92)

b. One (1) screen at or by age twelve (12) months, fifteen (15) months, eighteen (18) months, and twenty-four (24) months, including blood lead tests at age twelve (12) months and twenty-four (24) months. ~~(8-1-92)(7-1-01)T~~

c. One (1) screen at or by age three (3) years, age four (4) years and age five (5) years. (8-1-92)

d. One (1) screen at or by age six (6) years, age eight (8) years, age ten (10) years, age twelve (12) years and age fourteen (14) years, including blood lead tests by age six (6) years, if the child has not been previously tested for blood lead levels. ~~(8-1-92)(7-1-01)T~~

e. One (1) screen at or by age sixteen (16) years, age eighteen (18) years and age twenty (20) years. (8-1-92)

f. One (1) screen at initial program entry, up to the recipient's twenty-first birthday, including a blood lead level test, if not previously done. ~~(8-1-92)~~(7-1-01)T

02. Interperiodic Medical Screens.

a. Interperiodic medical screens are screens that are done at intervals other than those identified in the basic medical periodicity schedule in Subsection 537.01 and must be performed by physician or a physician extender. ~~Interperiodic screens will be billed using the correct Physician's Current Procedural Terminology (CPT) under section "Evaluation and Management".~~ (4-5-00)(7-1-01)T

~~b.~~ Interperiodic screens will be performed when there are indications that it is medically necessary to determine whether a child has a physical or mental illness or condition that may require further assessment, diagnosis, or treatment. (8-1-92)

~~b.~~ Interperiodic screenings ~~examinations~~ may occur in children who have already been diagnosed with an illness or condition, and there is indication that the illness or condition may have become more severe or changed sufficiently, so that the further examination is medically necessary. ~~(8-1-92)~~(7-1-01)T

03. Developmental Screens. Developmental screening is considered part of every routine initial and periodic examination. If the screening identifies a developmental problem then a developmental assessment will be ordered by the physician and be conducted by qualified professionals. (4-5-00)

04. EPSDT RN Screeners. EPSDT RN screeners will routinely refer all clients to primary care providers. EPSDT clients ages two (2) weeks to two (2) years shall receive at least one (1) of their periodic or interperiodic screens annually from a physician or physician extender unless otherwise medically indicated. A parent or guardian may choose to waive this requirement. EPSDT RN screeners will refer clients for further evaluation, diagnosis and treatment to appropriate services (e.g. physician, registered dietitian, developmental evaluation, speech, hearing and vision evaluation, blood lead level evaluation). Efforts shall be made to assure that routine screening will not be duplicated for children receiving routine medical care by a physician. (4-5-00)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
DOCKET NO. 16-0414-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: These temporary rules are effective December 1, 2000.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-1004(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

Removes language allowing a second payment for crisis intervention. Section 003 heading will be changed from "Crisis Intervention" to "Emergency Assistance". Section 101.02 the heading will be changed from "Emergency Crisis Intervention Costs" to "Governor Declared Emergency or Disaster". Changed language in Income Eligibility Requirements to coincide with the Attorney General's recommendation. Section 151 income eligibility requirements and OMB Poverty guidelines will be amended from one-hundred and thirty-three percent (133%) to one-hundred and fifty percent (150%) of poverty. Changed IRA lump sum payments to IRA and other retirement plan lump sum payments. Adds additional lump sum exclusions. Also, Section 151 refers to "Alien Resident" and will be changed to "Undocumented Resident". Section 152 refers to resident status and will clarify language on eligibility. Section 201 refers to designee signature documentation and will clarify documentation needed when a designee signs an application. Section 204 dates the minimum benefit and percentages to year 2001 amounts.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law and federal programs and to confer a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking was to comply with governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5815.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 25, 2001.

DATED this 18th day of April, 2001.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone, (208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0414-0101

002. POLICY.

It is the policy of the Idaho Department of Health and Welfare, to serve the citizens of Idaho and to distribute the Low Income Home Energy Assistance benefits in accordance with acceptable standards. An eligible participant household will receive one (1) benefit payment from the regular program assistance ~~and may be eligible to receive an additional benefit payment when an energy crisis situation exists which may be health threatening to the household members.~~

~~(7-1-99)~~(12-1-00)T

003. DEFINITIONS.

Definitions applicable to IDAPA 16.04.14 are listed in Subsections 003.01 through 003.23. (7-1-99)

01. Application. The action by which a participant indicates in writing to the Department a desire to receive Low Income Home Energy Assistance. The participant will be designated as the head of household on the application; and will be the recipient of benefits for the household. (7-1-99)

02. Community Action Agency. A private non-profit organization serving the low income population in specified counties of the state with which DHW has entered into a contract for the provision of services for purposes of LIHEAP. (7-1-99)

043. Department. The Department of Health and Welfare. (7-1-99)

054. Eligible Participant Household. A participant household which meets the standard of eligibility set forth in these rules.. (7-1-99)

065. Eligible Subsidized Housing. Public subsidized rental housing in which the tenant is responsible for all or a portion of their home energy costs. (7-1-99)

036. ~~Crisis Intervention~~ Emergency Assistance. Energy assistance provided to an eligible participant household to reduce/eliminate an energy related health threatening situation to the household. ~~(7-1-99)~~(12-1-00)T

07. Energy Burden. The expenditures of the participant household for home energy when compared to the household's income. (7-1-99)

08. Energy Supplier. A vendor supplying home heating energy who is not a member of an eligible participant household. (7-1-99)

09. Fraud. Recipient fraud is indicated where there appears to be a deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. (7-1-99)

10. Fuel. A latent form of energy used to produce residential heat. (7-1-99)

11. Head Of Participant Household. The person designated by the household members to receive energy assistance benefit in behalf of the household and in whose favor the energy assistance warrant is written. (7-1-99)

12. Highest Home Energy Needs. The home energy requirements of participant household determined by taking into account both their energy burden and unique situation that results from having members of vulnerable populations, including very young children, individuals with disabilities and frail older individuals. (7-1-99)

13. Income. Income is the gross amount of moneys actually received in the participant household from all sources. (4-5-00)

- 14. Ineligible Subsidized Housing.** Public housing in which tenants' rental payments include all home energy costs. (7-1-99)
- 15. Overpayment.** An incorrect energy assistance payment. (7-1-99)
- 16. Participant.** An individual or group of individuals which has made application for the Low Income Home Energy Program from the state of Idaho. (7-1-99)
- 17. Participant Household.** A household is one of the following: (7-1-99)
- a. An individual living alone; or (7-1-99)
 - b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent. (7-1-99)
- 18. Primary Fuel.** The type of fuel declared by the participant household to be the major source of their home heating. (7-1-99)
- 19. Proof Of Income.** Documentary proof to establish the participant household's financial eligibility for assistance. (7-1-99)
- 20. Vendor.** An energy supplier or utility supplying home energy and who is not a member of an eligible participant household. (7-1-99)
- 21. Warrant.** The document issued by the Department through the State Controller's Office as the benefit payment to LIHEAP eligible participant households. (7-1-99)
- 22. Wood User.** An individual who cuts or buys wood for use as the primary source of home heat. Such participant households will receive a one (1) party warrant. (7-1-99)
- 23. Undocumented Resident.** Individuals entering the United States illegally that have not obtained legal resident status. (12-1-00)T
- ~~24.~~ **Utility.** A vendor of energy regulated by the Idaho Public Utilities Commission. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

101. ELIGIBLE ACTIVITIES.

Funds made available through the LIHEAP grant will be used as follows: (7-1-99)

01. Home Utility And Bulk Fuel Costs. These costs include those incurred by the eligible participant household for electricity, natural gas and bulk fuel for home energy needs, but does not include costs incurred for telephone, water, trash or sewer. (7-1-99)

02. ~~Emergency Crisis Intervention Costs~~ Governor Declared Emergency Or Disaster. A portion of the LIHEAP grant funds ~~are reserved~~ may be used for home heating supply shortages experienced by the participant household or a weather-related emergency which threatens the health or lives of an area's inhabitants such that the Governor declares a state of emergency. (~~7-1-99~~)(12-1-00)T

03. Catastrophic Illness Costs. Households with income exceeding eligibility guidelines may be eligible due to catastrophic illness. The household's unreimbursed medical expenses from the previous twelve (12) months are subtracted from the household's gross income for the same period. If the household then meets income guidelines, the Department makes a final eligibility determination. (3-30-01)

04. Low-Cost Residential Weatherization. Funds reserved for weatherization services to low-income households pursuant to Department of Energy, Weatherization Assistance Program Regulations, when in accordance with federal LIHEAP Regulations. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

151. INCOME ELIGIBILITY REQUIREMENTS.

Assistance under this program is limited to participant households with countable income at or below one hundred ~~thirty three~~ fifty percent (~~133~~50%) of the ~~OMB~~ Poverty Guidelines ~~in effect at the start of the~~ updated annually in the Federal Register by the US Department of Health and Human Services under the authority of 42 U.S.C. 9902(s), effective at the beginning of each program year. Participant households must provide proof of income for all members during the application process. (~~4-5-00~~)(12-1-00)T

01. Income Not Counted. Income listed in Subsections 151.01.a. through 151.01.v. is not counted in determining LIHEAP eligibility or benefit level. All other income is counted in determining LIHEAP eligibility and benefit level. (~~4-5-00~~)(12-1-00)T

- a. Benefit payments from Medicare Insurance. (4-5-00)
- b. Private loans made to the participant or the household. (4-5-00)
- c. Assets withdrawn from a personal bank account. (4-5-00)
- d. Sale of real property. (4-5-00)
- e. IRA and other retirement plan lump sum payments. (~~4-5-00~~)(12-1-00)T
- f. Income tax refunds. (4-5-00)
- g. Income from capital gains. (4-5-00)
- h. Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than thirty dollars (\$30) during the three (3) month period before application for LIHEAP. (4-5-00)
- i. Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (4-5-00)
- j. Interest income of thirty dollars (\$30) or less received during the three (3) month period before application for LIHEAP. (4-5-00)
- k. Legal fees or settlements from Workman's Compensation paid in a lump sum. (4-5-00)
- l. Monies received for educational purposes from NSDL, College work-study programs, State Student Incentive grants, SEOG, ~~PELL~~ell, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (~~4-5-00~~)(12-1-00)T
- m. Monies from VA-GI Bill for Education. (4-5-00)
- n. Department of Health and Welfare Adoption subsidies. (4-5-00)
- o. Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. (4-5-00)
- p. Third party payments made by a non-household member on behalf of the household. Third party

payments include child care, energy assistance funds, shelter, food and clothing assistance. (4-5-00)

- q. Value of food stamps or donated food to household. (4-5-00)
- r. Utility allowance. (4-5-00)
- s. TAFI lump sum payments. (12-1-00)T
- t. Tribal crop or land payments. (12-1-00)T
- u. Tribal bonuses. (12-1-00)T
- v. AmeriCorps stipend. (12-1-00)T

02. Income Received Monthly. To determine LIHEAP eligibility and benefit amount, when participant household income is received at least monthly, use the three (3) month's income prior to the date of application. (4-5-00)

03. Income Received Less Often Than Monthly. For household income received less often than monthly convert the income into a three (3) month amount: (4-5-00)

- a. Multiply income received weekly by twelve and nine tenths (12.9). (4-5-00)
- b. Multiply income received every two (2) weeks by six and forty-five hundredths (6.45). (4-5-00)
- c. Multiply income received twice each month by six (6). (4-5-00)

04. Seasonal And Self-Employment Income. For households with seasonal or self-employment income divide the annual income by four (4). (4-5-00)

05. Treatment Of ~~Alien~~ Undocumented Resident Income. If a household includes eligible and ineligible undocumented resident ~~alien~~ participants, and one (1) or more of the ineligible participants had income during the reporting period, count the ineligible participants' income ~~to determine~~ and exclude the undocumented resident from the household's eligibility count. (~~4-5-00~~)(12-1-00)T

152. NONFINANCIAL ELIGIBILITY REQUIREMENTS.

For the purpose of assistance under LIHEAP, the participant household must meet the following non-financial eligibility requirements. (7-1-99)

01. Residence. At the time the application is completed, the participant must reside in the state of Idaho. There is no durational residence requirement. LIHEAP benefits are not transferable to an out-of-state residence. (7-1-99)

02. Living Situation. The participant household must reside in housing where they are vulnerable to a home energy cost and incur the costs either directly or as an undesignated portion of their rent. Living situation not vulnerable to energy costs include, hospitals; nursing homes; shelter homes, commercial boarding homes, and rehabilitation center. (7-1-99)

03. Native Americans. Native American households whose tribe has entered into a separate agreement with the federal funding agency and the Department to receive LIHEAP grant funds, are not entitled to benefits under this program unless: (7-1-99)

- a. Tribal funds are not available. (7-1-99)
- b. Funds are depleted and an emergency exists. (7-1-99)

04. Resident Status. ~~Participants~~ At least one (1) household member must be a citizen or legal

resident of the United States. As part of the application process, participants must sign a declaration, under penalty of perjury, attesting to the residency or citizenship status of all household members. ~~(7-1-99)~~(12-1-00)T

05. Energy Conservation Education. As part of the application for LIHEAP assistance, the participant must participate in an energy conservation education session. (7-1-99)

06. Residential Weatherization Energy Audit. Participant households must agree to have an energy audit performed on their residence to determine weatherization needs of the dwelling. When one (1) or more of the following conditions exist, a waiver to the energy audit will be granted to the household: (7-1-99)

- a. The participant household residence has previously been weatherized by the CAA. (7-1-99)
- b. The participant household does not own their residence and is unable to obtain an agreement from the property owner. (7-1-99)
- c. The participant household can document the existence of a medical or other condition which prohibits the CAA from performing the energy audit on their residence. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

201. APPLICATION PROCESS.

A participant must be provided a prompt opportunity to complete an application for assistance. Application forms must contain a statement which clearly explains participant's civil and criminal liability for the truthfulness of the information included on the forms; and their right to a hearing according to Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (7-1-99)

01. Date Of Application. The participant application process begins the date the completed and signed application and all supporting forms are received by the CAA. (7-1-99)

02. Participant Representation. A participant household may be assisted by a person or persons of their choice and, when accompanied by such persons, may be represented by them. (7-1-99)

03. Signature. The application must be signed by the participant designated at the head of household, or their designee. (7-1-99)

a. ~~The designee's signature must be followed by his address, if different from that of the participant household, and by the word "designee". Applications signed by a designee must have a letter of authorization or power of attorney from the participant included in the file.~~ ~~(7-1-99)~~(12-1-00)T

b. Employees of the CAA or the Department must not be designated to sign the application. (7-1-99)

04. Signature By Mark. A signature by mark requires two (2) witnesses. The signatures and addresses of the witnesses must appear on the application, followed by the word "witness". (7-1-99)

05. Assistance With Application. When completing the application forms or obtaining required documentation, each participant must be provided assistance from the CAA, including the provision for interpreters for participant households with limited or non-English speaking skills. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

204. BENEFIT DETERMINATION.

Eligible participant households will have their LIHEAP benefit determined using Subsections 204.01 through 204.03 of these rules. (4-5-00)

01. Actual Consumption Method. The actual consumption method is used if the eligible participant household heats their residence with either natural gas or electricity and have resided in the residence for one (1) year or longer. Use table 204.01 to determine the base benefit under the Actual Consumption Method. The minimum base benefit is one hundred ~~three~~ fifteen dollars (\$~~103~~15). The maximum base benefit is five hundred fifty dollars (\$550).

TABLE 204.01 ACTUAL CONSUMPTION METHOD	
Step 1.	List the annual consumption cost, excluding July, August and September, furnished by the energy supplier.
Step 2.	Determine if the eligible participant household resides in subsidized housing. If so, the base benefit is always low burden. Skip Step 3 in this case, and go to Step 4.
Step 3.	Divide the annual consumption cost from Step 1 by annualized countable income reported by the household. This gives the percentage of energy burden. 0% to 5% energy burden is low. 6% to 10% energy burden is average. 11% and above energy burden is high.
Step 4.	If the percentage of energy burden from Step 3 is low, multiply the annual consumption cost from Step 1 by 274 <u>274</u> % to determine the base benefit. If the percentage of energy burden from Step 3 is average, multiply the annual consumption cost from Step 1 by 269 <u>269</u> % to determine the base benefit. If the percentage of energy burden from Step 3 is high, multiply the annual consumption cost from Step 1 by 2932 <u>2932</u> % to determine the base benefit.

~~(3-30-01)~~(12-1-00)T

02. Average Annual Cost Method. The average annual cost method is used when the eligible participant household's actual consumption cost is unknown, or they use a heating source other than electricity or natural gas. Average cost is established based on information gathered from energy suppliers throughout the state. Average cost is published in the annual heating cost chart, available from the Department of Health and Welfare, Bureau of ~~Policy~~ Benefit Program Operations, Grants Unit. The county of residence and source of home energy identify the average cost from the chart. Use table 204.02 to determine the base benefit under the Average Annual Cost Method.

TABLE 204.02 AVERAGE ANNUAL COST METHOD	
Step 1.	Identify the household's average annual heating cost from the annual heating cost chart available from the Department of Health and Welfare, Bureau of Policy <u>Benefit Program Operations</u> , Grants Unit.
Step 2.	Determine if the eligible participant household resides in subsidized housing. If so, the base benefit is always low burden. Skip Step 3 in this case, and go to Step 4.
Step 3.	Divide the average annual heating cost from Step 1 by annualized countable income reported by the household. This gives the percentage of energy burden. 0% to 5% energy burden is low. 6% to 10% energy burden is average. 11% and above energy burden is high.
Step 4.	If the percentage of energy burden from Step 3 is low, multiply the annual average heating cost from Step 1 by 274 <u>274</u> % to determine the base benefit. If the percentage of energy burden from Step 3 is average, multiply the annual average heating cost from Step 1 by 269 <u>269</u> % to determine the base benefit. If the percentage of energy burden from Step 3 is high, multiply the annual average heating cost from Step 1 by 2932 <u>2932</u> % to determine the base benefit.

~~(3-30-01)~~(12-1-00)T

03. Adjusting LIHEAP Benefit. For both actual consumption and average annual cost methods, add an adjusted benefit of twenty-five dollars (\$25) to the base benefit if the eligible participant household contains at least one (1) of the following: (4-5-00)

- a. Child under six (6) years of age. (4-5-00)
- b. Individual with disabilities as declared on the LIHEAP application form. (4-5-00)
- c. Individual sixty (60) years of age or older. (4-5-00)
- d. Household contains more than one (1) member. (4-5-00)

IDAPA 20 - DEPARTMENT OF LANDS
20.03.14 - GRAZING LEASES AND CROPLAND LEASES
DOCKET NO. 20-0314-0101
NOTICE OF EXTENSION OF COMMENT PERIOD
(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 and is extending the comment period. The action is negotiated rulemaking authorized pursuant to Section 58-104, Idaho Code.

COMMENT PERIOD: Persons wishing to participate in the informal negotiated rulemaking may submit written comments to the Idaho Department of Lands by **July 16, 2001**:

Attn: Range Bureau Chief
PO Box 83720
Boise, Idaho 83720-0050

DESCRIPTIVE SUMMARY: The purpose of the extension of time to submit written comments is to provide interested parties additional opportunity to provide meaningful input to the proposed rule changes. Increased public input will aid the department in the development of more comprehensive rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule contact: Tracy Behrens, Range Management Specialist, Idaho Department of Lands, 954 West Jefferson Street, PO Box 83720, Boise, Idaho 83720-0050; Telephone: (208) 334-0200, Fax: (208) 334-2339.

DATED this 4th day of June, 2001.

Winston A Wiggins
Acting Director
Idaho Department of Lands
954 West Jefferson Street
PO Box 83720
Boise, Idaho 83720-0050
(208) 334-0200
(208) 334-2339

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.41.01 - CUSTOMER RELATIONS RULES FOR TELEPHONE CORPORATIONS PROVIDING LOCAL EXCHANGE OR INTRASTATE MTS/WATS SERVICE IN IDAHO SUBJECT TO CUSTOMER SERVICE REGULATION BY THE IDAHO PUBLIC UTILITIES COMMISSION LAW OR THE TELECOMMUNICATIONS ACT OF 1988 (THE TELEPHONE CUSTOMER RELATIONS RULES)

DOCKET NO. 31-4101-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of this temporary rule is July 16, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a temporary rule and proposed regular rulemaking procedures. This action is authorized pursuant to Sections 61-302, 61-303, 61-507 and 62-622(5), Idaho Code, and Sections 64.1100 through 64.1170 and 64.1190, Title 47, Code of Federal Regulations (October 1, 2000).

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision or an agency, no later than July 18, 2001.

The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

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

On November 28, 2000, the Federal Communications Commission (FCC) promulgated regulations that prohibit a telecommunications carrier from submitting or executing an unauthorized change in a telephone customer's selection of a provider for local or long-distance telephone service. This practice is commonly referred to as "slamming." The FCC has authorized state regulatory commissions to enforce the slamming rules. Thus far, thirty-three (33) states administer the FCC slamming rules.

The Commission's temporary rule adopts the FCC slamming rules. Thus, Idaho customers and carriers may file slamming complaints with the Commission instead of with the FCC in Washington, D.C.

Generally, a customer whose telecommunications provider is changed without authorization has two remedies. First, if the customer has not already paid the charges to the unauthorized carrier, the customer is absolved of liability for charges imposed for the first thirty (30) days after the unauthorized change of service. Charges for calls or service beyond the thirty (30) day limit must be paid by the customer to the authorized carrier at the authorized carrier's rates, even though the service was provided by the slamming carrier. On the other hand, if the customer has already paid the charges, then the unauthorized carrier shall pay an amount equal to one hundred fifty percent (150%) of all charges paid by the customer. This amount shall be paid to the authorized carrier who will keep one hundred percent (100%) of the unauthorized charges and then distribute the remaining fifty percent (50%) to the customer.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Adoption of the FCC slamming rules protects the public welfare and confers a benefit upon members of the public.

FEE SUMMARY: There are no fees associated with this temporary or proposed rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted. On December 4, 2000, the Commission issued a Notice of Modified Procedure to all telecommunications carriers and interested persons requesting public comments on this matter. Timely comments were filed by the Idaho Attorney General's Office, the Commission Staff, Qwest Corporation, WorldCom, and AT&T Communications. Based upon the Commission's review of the FCC slamming rules and comments filed in PUC Docket No. GNR-T-00-38, the Commission issued Order No. 28644 on February 12, 2001, finding that it was in the public interest to adopt and administer the FCC slamming rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Beverly Barker, Consumer Assistance, (208) 334-0302.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 23rd day of May, 2001.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Tele: (208) 334-0338
FAX: (208) 334-3762

Street Address:
472 W. Washington St.
Boise, ID (83702-5983)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-4101-0101

012. INCORPORATION BY REFERENCE -- CODE OF FEDERAL REGULATIONS (Rule 12).

Sections 701 through 703 incorporate by reference federal regulations issued by the Federal Communications Commission. The incorporated regulations are found in the Code of Federal Regulations available from the U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated federal regulations are also available in electronic format at www.access.gpo.gov/nara. Incorporated materials are also available for inspection and copying at the offices of the Public Utilities Commission and the Idaho State Law Library. (7-16-01)T

0123. -- 099. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~606. REMOVING CHARGES FOR IMPROPERLY CHANGING A CUSTOMER'S TELEPHONE COMPANY (Rule 606).~~

~~*If a customer objects to a charge for changing the customer's telephone company, and contends that the customer did not authorize a change in the telephone company, the customer's original service provider must be reinstated by the customer's local exchange company upon customer request. Any charges for changing telephone companies shall be waived, credited or refunded to the customer but shall be imposed on the telephone company requesting the change unless it can verify the customer authorized the change and was informed of the charge for the change. (7-1-99)*~~

~~6076. -- 999700. (RESERVED).~~

RULES 701 THROUGH 800 -- SLAMMING PROVISIONS

701. THE UNAUTHORIZED CHANGE OF A CUSTOMER'S TELEPHONE COMPANY (Rule 701).

Local exchange companies and interexchange carriers are prohibited from submitting or executing an unauthorized

change in a customer's selection of a provider of local or long distance telephone service. This practice is commonly referred to as "slamming." The Commission will administer the Federal Communications Commission's regulations regarding slamming. (7-16-01)T

702. ADOPTION OF FEDERAL SLAMMING REGULATIONS (Rule 702).

The Commission adopts the slamming regulations promulgated by the Federal Communications Commission and found at Sections 64.1100 through 64.1170 and 64.1190, Title 47, Code of Federal Regulations (October 1, 2000). Local exchange companies and interexchange carriers shall comply with applicable provisions of the federal regulations adopted by reference except as modified in Section 703 of these rules. (7-16-01)T

703. STATE PROCEDURES (Rule 703).

The federal slamming procedures incorporated by reference in Section 702 of these rules are modified as follows: (7-16-01)T

01. Form. Complaints regarding an unauthorized carrier change may be filed with the Commission in person, by mail, by e-mail, or by telephone. E-mail complaint forms may be found at www.puc.state.id.us. A copy of the telephone bill(s) in dispute and other relevant evidence shall be provided to the Commission by the complaining party. The slamming complaint shall include the following information: (7-16-01)T

- a. Name, address and telephone number of complainant; (7-16-01)T
- b. Name/identity of the alleged slamming carrier; (7-16-01)T
- c. Name of the previous authorized carrier; (7-16-01)T
- d. Name of the billing entity; (7-16-01)T
- e. Date the alleged slamming occurred; (7-16-01)T
- f. Whether the customer has been restored to the preferred carrier; (7-16-01)T
- g. Whether the customer has paid any or all of the disputed charges; (7-16-01)T
- h. Efforts in attempting to resolve the alleged slamming; and (7-16-01)T
- i. Whether the customer was charged for changing carrier(s). (7-16-01)T

02. Procedure. The Commission's Consumer Assistance Staff shall be responsible for resolving slamming complaints under the Commission's informal complaint procedures in IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Sections 021 through 024. Not later than twenty-one (21) calendar days after notification of a slamming complaint, the alleged unauthorized carrier shall provide to the Consumer Assistance Staff a copy of any valid proof of verification of the carrier change and any other evidence relevant to the complaint. Use of the Commission's informal complaint procedures are mandatory. (7-16-01)T

03. Written Determination. When its informal investigation is complete, the Consumer Assistance Staff shall issue a written determination to the customer, alleged unauthorized carrier, and the authorized carrier. (7-16-01)T

04. Appeal Of Staff Determination. A customer or carrier aggrieved by the Consumer Assistance Staff's determination of a slamming complaint may file a formal complaint with the Commission pursuant to IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Section 054. An appeal of Staff's determination shall be filed with the Commission Secretary within twenty-one (21) calendar days of the Staff's written determination. An aggrieved party's failure to file a formal complaint shall constitute a waiver or abandonment of the slamming complaint. (7-16-01)T

704. -- 999. (RESERVED).

IDAPA 31 - PUBLIC UTILITIES COMMISSION
31.51.01 - OPERATOR SERVICES AND PAY TELEPHONE RULES
DOCKET NO. 31-5101-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-507, 62-601, and 62-622(5), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, political subdivision, or an agency, no later than July 18, 2001.

The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

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

The Commission's Operator Services and Pay Telephone Rules were last updated in 1993. The Commission proposes to amend these rules so that they are consistent with recent changes in federal law and Federal Communications Commission ("FCC") Orders. See generally, In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order No. 96-388 (September 20, 1996). Other changes were proposed so that these rules are in compliance with the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq. (September 22, 2000) and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, 36 C.F.R Part 1191, Appendix A (July 1, 2000). Finally, the Commission is proposing to make several non-substantive changes to clarify and streamline these rules. These changes were agreed upon by the parties to this negotiated rulemaking. Thus, the Commission has deleted obsolete and redundant material and added several terms and abbreviations that are consistent with terms and abbreviations used by the FCC in its payphone orders.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, informal negotiated rulemaking was conducted. The Commission held a public workshop to discuss possible changes to these rules on September 27, 2000. At the workshop changes were agreed upon by the participating parties and persons.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joe Cusick, Telecommunications Section Supervisor at (208)-334-0333.

Anyone may submit written comments regarding these proposed rules. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED at Boise, Idaho this 23rd day of May, 2001.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W Washington
Boise, Idaho

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-5101-0101

000. LEGAL AUTHORITY (Rule 0).

These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code, and the Telecommunications Act of 1988, Chapter 6, Title 62, Idaho Code, and the specific authority of Sections ~~61-129~~, 61-301, 61-302, 61-303, 61-315, 61-503, 61-507, ~~61-520~~, 62-606, 62-612, and 62-616, Idaho Code, with regard to service. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS (Rule 3).

This rule governs consideration of exemptions and complaints under these rules. Any person requesting and receiving an informal Commission Staff determination with regard to an exemption or complaint may formally or informally request the Commission to review the Commission Staff's determination. (7-1-93)

01. Exemptions From Rules. This subsection governs procedure for requests for exemptions from these rules. (7-1-93)

a. Any operator service provider ("OSP"), payphone ~~telephone~~ service provider ("PSP"), telephone company, or customer may informally request an exemption from any provision of these rules for a specific person or persons by writing the Commission's consumer assistance staff at the Idaho Public Utilities Commission, Statehouse, Boise, Idaho 83702-6000, or by telephoning the Commission's Consumer Assistance Staff at 334-0369 (Boise area) or 1 (800) 432-0369 (out of Boise calling area). Any such person may in writing or by telephone request the Commissioners to informally or formally review the Staff's decision. (7-1-93)(____)

b. Any ~~operator service provider~~ OSP, ~~pay telephone provider~~ PSP, telephone company, or customer may formally petition the Commission for an exemption pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)(____)

c. Any ~~operator service provider~~ OSP, ~~pay telephone provider~~ PSP, or telephone company requesting an exemption for all of its customers must formally petition the Commission pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)(____)

02. Complaints. Any ~~operator service provider~~ OSP, ~~pay telephone provider~~ PSP, telephone company, or customer may file complaints under these rules. This paragraph governs procedure for filing complaints under these rules. (7-1-93)(____)

a. Any ~~operator service provider~~ OSP, ~~pay telephone provider~~ PSP, telephone company, or customer may file an informal complaint under any provision of these rules concerning a specific provider, company or customer by writing the Commission's consumer assistance staff at the Idaho Public Utilities Commission, Statehouse, Boise, Idaho 83702-6000, or by telephoning the Commission's Consumer Assistance Staff at 334-0369 (Boise area) or 1 (800) 432-0369 (out of Boise calling area). Any such person may in writing or by telephone request the Commissioners to informally or formally review the Staff's decision. (7-1-94)(____)

b. Any ~~operator service provider~~ OSP, ~~pay telephone provider~~ PSP, telephone company, or customer may file a formal complaint under these rules with the Commission pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

005. DEFINITIONS (Rule 5).

01. Fax Machine/Pay Telephone. “Fax Machine/Pay Telephone” means a facsimile (fax) machine which permits pay telephone service only in conjunction with the use of the fax machine and does not generate a separate charge for the telephone call. The transmission of a fax document is not considered to be a Pay Telephone ~~or a Privately Owned Pay Telephone~~ service under these rules. (1-1-94)(____)

02. Local Exchange Company (“LEC”). ~~A “Local exchange company” (LEC)~~ is the telephone corporation (if any) providing local exchange service to an OSP customer’s telephones or to a pay telephone. (7-1-93)(____)

03. MTS Company Or Interexchange Carrier. “MTS company” or “interexchange carrier” means a telephone company providing MTS service. (7-1-93)

04. Message Telecommunications Service (“MTS”). “MTS” (commonly known as “long-distance service”) means the transmission of two (2) way interactive switched voice communication between local exchange areas for which charges are made on a per-unit basis and wide area telecommunications service (“WATS”) or its equivalent. (7-1-93)(____)

05. Operator And Directory Assistance Services. “Operator and directory assistance services (or operator services)” are any telecommunications services that include, as a component, any automatic or live assistance to a telephone caller to arrange for billing or completion, or both, of a telephone call. They include, but are not limited to, intercept, call completion and assistance, and directory assistance services, whether local, MTS, or both. (7-1-93)

06. Operator Service Provider (“OSP”). ~~An “Operator Service Provider (“OSP)” (sometimes referred to as “Alternative Operator Services (AOS)” when the OSP is not a Local Exchange Company (LEC) or Message Telecommunications Service (MTS) company)~~ is a company that furnishes various automated or live operator or directory assistance services ~~that have traditionally been provided by LECs and AT&T. OSPs include LECs, MTS companies and AOSs.~~ OSPs may contract with call aggregators (e.g., hotels, motels, hospitals, colleges, airports, ~~private pay telephone owners~~ PSPs) that collect and route calls made by telephone callers to the OSP. OSPs may lease telephone lines that transmit the telephone user’s call from the call aggregator to the OSP’s facilities. OSPs furnish operator services such as collect, person-to-person, third-party billed and calling card calls. (7-1-93)(____)

07. OSP Customer. “OSP customer” is a call aggregator i.e., any person not an institution of confinement as defined in Rule 300 who, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises for telephone calls using a provider of operator services. Hotels, motels, hospitals, colleges, airports, and ~~private pay telephone~~ PSP owners that collect and route calls by telephone callers to an OSP and that contract with an OSP or receive operator services from a LEC are examples of call aggregators and OSP customers. OSP customers own or exercise control over telephone instruments. ~~Local exchange companies are not OSP customers or call aggregators under these rules.~~ (7-1-93)(____)

08. Pay Telephone. “Pay Telephone or payphone” means a telephone instrument that requires coin, collect, third-party billing or credit/calling cards in order to complete local or toll calls, including fax machines that can be used to complete standard, non-fax related local and long distance calls for which there is a separate charge. A pay telephone made available to inmates of an institution of confinement as defined in Rule 300 is not included in this definition of “Pay Telephone”. (1-1-94)(____)

09. ~~Privately Owned Pay Telephone.~~ ~~“Privately Owned Pay Telephone” means a pay telephone that is not owned by the local exchange company, including fax machines that can be used to complete standard, non-fax related local and long distance calls for which there is a separate charge. A pay telephone made available to inmates of an institution of confinement as defined in Rule 300 is not included in this definition of “Pay Telephone”.~~
Payphone Service Provider. Payphone Service Provider (“PSP”) is a provider who provides public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services. (1-1-94)(____)

10. Public Access Line. Public Access Line (“PAL”) is a line that is tariffed to be attached to a payphone. (____)

101. Telephone Caller. “Telephone caller” or “telephone user” is a person (other than a person calling from an institution of confinement as defined in Rule 300) who originates or attempts to originate any telephone call using operator services or from a pay telephone. (7-1-93)

112. Ten ~~Triple~~ 14X Zero Plus (101XXXX 0+). “101XXXX 0+” represents the digits dialed by a caller to access the carrier of the caller’s choice for a collect, credit card, calling card, debit card or other means of non-sent paid call. (~~1-1-94~~)()

13. (800) Or Toll Free Service. 800 or toll free service includes service that is accessed by dialing 800, 888, 877 or any other three (3) digit NPA code reserved for such service by the Federal Communications Commission. ()

006. CITATION (Rule 6).
The official citation of these rules is IDAPA 31.51.01.000 et seq. For example, this rule is cited as IDAPA 31.51.01.006. In documents submitted to the Commission or issued by the Commission, these rules may be cited by their short title of Operator Service ~~Providers~~/Pay Telephone Rules (“OSP/PTR”) and the parenthetical rule number. For example, this rule may be cited as OSP/PTR 6. (~~7-1-93~~)()

(BREAK IN CONTINUITY OF SECTIONS)

008. INCORPORATION BY REFERENCE -- UNITED STATES CODE AND CODE OF FEDERAL REGULATIONS (Rule 8).

These Rules in scattered sections incorporate by reference specific sections of the United States Code and federal regulations issued by the Federal Communications Commission. See Title III of the Americans with Disabilities Act 42 U.S.C. Section 12181 through 12189 (September 22, 2000); Telecommunications for the Disabled Act of 1982, Pub.L. 97-410, 96 Stat. 2043 (January 3, 1983); 28 C.F.R Part 36 (October 1, 2000); 47 C.F.R Parts 68.1 through 68.318 (October 1, 2000); and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities 36 C.F.R Part 1191, Appendix A, Sections 4.1.3(17), 4.31.1-4.31.9 (July 1, 2000). The incorporated regulations are found in the Code of Federal Regulations available from the U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated federal materials are also available in electronic format at www.access.gpo.gov/nara. Incorporated materials are also available for inspection and copying at the offices of the Public Utilities Commission and the Idaho State Law Library. ()

~~008~~. -- 100. (RESERVED).

101. INFORMATION TO BE DISPLAYED (Rule 101).

Pay ~~Telephone~~s owned or controlled by an OSP customer must inform the telephone caller that the telephone is connected to an OSP. The following information must be displayed on or posted in proximity to the instrument: (~~7-1-93~~)()

- 01. Name, Address, And Toll-Free Telephone Number Of The OSP.** (7-1-93)
- 02. No-Cost Procedures.** No-cost procedure for: (7-1-93)
 - a. Reporting of service difficulties; (7-1-93)
 - b. Making billing inquiries; (7-1-93)
 - c. Obtaining the total rates and charges (including surcharges) to be billed by OSPs and MTS companies for the call; and (7-1-93)

d. Any charges imposed by the OSP customer for the call; (7-1-93)

03. Instructions. Dialing instructions, including instructions for reaching the local exchange company operator if the OSP is not the local exchange company. (7-1-93)

04. Written Disclosure. Written disclosure that consumers have a right to obtain access to the MTS company of their choice and may contact their preferred MTS companies for information on accessing that MTS company's service using that telephone. (7-1-93)

102. EMERGENCY ACCESS REQUIRED (Rule 102).

01. Access To Emergency Services. All telephones connected to an OSP are required: (7-1-93)

a. To provide direct access to a local exchange company operator for access to emergency services by dialing "0" (except for OSP customers like hotels, motels, hospitals, dormitories, etc., that direct "0" calls to a person on the OSP customer's premises), and (7-1-93)

b. Where available, to provide direct access to emergency service providers by dialing "911", unless exempted by the Commission pursuant to Rule 102.02 of this rule. Unless exempted, access to the OSP network (other than the local exchange company's) may be made through any other access number or keypad symbol. Exempted providers are required to maintain current lists of local emergency numbers. (7-1-93)

c. Provide or pass through the information required by Enhanced 911 service providers, including but not limited to, signaling system seven ("SS7") and automatic number identification ("ANI"). ()

02. Initial Application For Exemption. OSPs or ~~privately-owned pay telephone owners~~ PSPs can request an exemption from Rule 102.01 by filing an application for exemption with the Commission. The application must demonstrate that the OSP can immediately connect the caller with the correct emergency agencies that serve the telephone location and include: ~~(1-1-94)~~()

a. The full legal name, address and telephone number of the applicant, and any dba used by the applicant in Idaho; (1-1-94)

b. The legal form of business of the applicant, i.e., sole proprietorship, corporation or partnership, etc.; (1-1-94)

c. If a corporation, the name and address of the agent for service of process in the state of Idaho; (1-1-94)

d. On a separate page, the telephone number and location address of each pay telephone installed that the applicant wants included in the exemption (this page may be marked "Proprietary--for use by Commission personnel only"); (1-1-94)

e. The full name and address of the OSP facility; (1-1-94)

f. A description of the applicant's service agreements that ensure the OSP's compliance with the Commission's Rules; (1-1-94)

g. A statement of procedures for and a toll-free telephone number for reporting service difficulties and making billing inquiries; (1-1-94)

h. A statement explaining how emergency numbers are obtained and how they are associated with the correct locations; and (1-1-94)

i. A statement that the applicant will contractually require that its customers comply or will comply with the requirements set out in these OSP rules. (1-1-94)

03. Review Of Applications For Exemption. The Commission Staff will review the application for exemption and issue a letter of exemption if the Staff determines the applicant meets the criteria set forth in Rule 102.02. If a request for an applicant's exemption is denied by the Commission Staff, the applicant may petition the Commission to review the Staff's denial. (1-1-94)

04. ~~Semia~~Annual Update Of Information After Exemption Is Granted. When the Commission has granted an application for exemption under Rule 102.02, the applicant must provide the Commission Staff on ~~each February 1 and~~ August 1 ~~the~~ following: (1-1-94)(____)

- a. Any change in the information listed in Rule 102.02.a. through 102.02.i.; (1-1-94)
- b. A current list by telephone number and location address of each pay telephone installed that is covered by the exemption (this page may be marked "Proprietary--for Commission use only"); and (1-1-94)
- c. A current list of emergency numbers described in Rule 102.01 and a statement that the OSP has confirmed and updated the list. (1-1-94)

05. Emergency Dialing Instructions. All pay telephones owned or controlled by the OSP customer must be posted with emergency dialing instructions. ~~All telephones owned or controlled by the OSP customer must be posted with emergency dialing instructions.~~ (1-1-94)(____)

06. Termination Of Service For Violation Of This Rule. Consistent with this Commission's rules on termination of service (Telephone Customer Relations Rules 300-314, IDAPA 31.41.01.300 through 31.41.01.314 and Rule 213 of these rules), the LEC must terminate service to customers of record known to be in violation of Rule 102.01 that have not been granted an exemption under Rule 102.02. The Commission or its Staff shall notify the LEC in writing of customers it knows to be in violation and whose service should be terminated. (1-1-93)

103. ACCESS TO OTHER OSPs AND MTS COMPANIES REQUIRED (Rule 103).

Except as allowed by this rule, no telephone owned or controlled by an OSP customer and no OSP can block a telephone caller's access to an OSP or MTS company that serves the local exchange where the OSP customer is located, ~~except that local exchange companies that under state law have an exclusive franchise for intrastate operator and/or intraLATA MTS (long distance) services may restrict access to other intraLATA OSP or MTS companies consistent with their exclusive rights of service under state law.~~ Callers must be allowed access to the OSP or MTS company of their choice via the dialing patterns 950-, 800- and 101XXXX 0+ where allowed by the serving central office. The pay telephone instrument must transmit the access digits in the dialing pattern exactly as the caller dials them. ~~10XXX 1+ e~~Calls, ~~i.e., those~~ made by a dialing sequence that will bill the call back to the ~~pay telephone owner and/or customer of record~~ PSP rather than the telephone user, may be blocked. (1-1-94)(____)

104. DISCLOSURE OF OPERATOR SERVICE PROVIDER (BRANDING) AND CHARGES (Rule 104). Every operator service provider must: (7-1-93)

01. Identify Itself. Identify itself, audibly and distinctly (e.g., by saying "XYZ operator, may I help you?" or "Thank you for using XYZ") to the telephone caller at the beginning of each telephone call and before the telephone caller incurs any charge for the call; (7-1-93)

02. Permit Caller To Terminate Call. Permit the telephone caller to terminate the telephone call at no charge before the call is connected; (7-1-93)

03. Disclose To Caller. Disclose immediately to the telephone caller, upon request and at no charge to the telephone caller: (7-1-93)

- a. A quote of the total rates and charges (including surcharges) to be billed by OSPs and MTS companies for the call; (7-1-93)
- b. The methods by which rates or charges will be collected; and (7-1-93)
- c. The methods by which complaints concerning rates, charges or collection practices will be

resolved.

(7-1-93)

04. Disclose To The Consumer. Disclose, audibly and distinctly to the consumer (caller for non-collect calls, called party for collect calls), at no charge, and before connecting any intrastate operator service call, how to obtain the total cost of the call, including any aggregator surcharge, or the maximum possible total cost of the call, including any aggregator surcharge, before providing further oral advice to the consumer on how to proceed to make the call. The oral disclosure required in Rule 104.04 shall instruct consumers that they may obtain applicable rate and surcharge quotations either, at the option of the provider of operator services, by dialing no more than two (2) digits or by remaining on the line. ()

(BREAK IN CONTINUITY OF SECTIONS)

106. UNCOMPLETED CALLS -- SPLASHING (Rule 106).

01. Billing For Uncompleted Calls. OSPs are prohibited from: (7-1-93)

~~a. Billing for unanswered or unaccepted telephone calls in areas where equal access is available;~~
and (7-1-93)

~~b. Knowingly billing for unanswered or unaccepted telephone calls where equal access is not available.~~ Charges for unanswered or unaccepted calls must be removed from bills, ~~whether the calls were made from an equal access exchange or another exchange.~~ (7-1-93)()

02. Splashing. "Splashing" or "call splashing" means the transfer of a telephone call from one (1) provider of operator services to another provider in a manner that the subsequent provider is unable or unwilling to determine the actual originating location of the call and, because of that inability or unwillingness, is prevented from billing the call on the basis of its actual originating location. OSPs are prohibited from splashing calls unless the telephone caller: (7-1-93)

a. Requests to be transferred to another provider of operator services; (7-1-93)

b. Is informed before incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call; and (7-1-93)

c. Consents to be transferred. Except as allowed by the previous sentence, OSPs shall not bill for a call on a basis that does not reflect the origin of the call. (7-1-93)

107. ~~INFORMATIONAL FILINGS~~ INFORMATION ON BILLS (Rule 107).

~~**01. Filings With Commission.** OSPs shall file informational listings including rates and charges, terms and conditions of service, and availability of services with the Commission and update those listings as required by Section 62-606, Idaho Code, when services or rates change. OSPs shall provide the Commission with and keep current the name and telephone number of a company representative for complaints and billing inquiries. See Title 62 Rules 201 through 204, IDAPA 31.46.01.201 through 31.46.01.204.~~ (7-1-93)

~~**02. Bills.** Bills for OSP services shall notify the customer of the procedures and toll-free telephone number for handling complaints and billing inquiries and must comply with Telephone Customer Relations Rule 201, IDAPA 31.41.01.201. Calls billed to a credit card issued by a financial institution not affiliated with or issued in conjunction with an OSP or MTS carrier (e.g., VISA, Mastercard, Diner's Club, Discovery, American Express) need not contain Telephone Customer Relations Rule 201's call detail. Call aggregators shall ensure that no charge by the aggregator to the telephone caller for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.~~ (7-1-93)()

~~108. **TERMINATION OF LOCAL EXCHANGE SERVICE PROHIBITED (Rule 108).**~~

~~Local exchange companies are prohibited from terminating local exchange service for nonpayment of an OSP charge (except for operator services directly provided by or contracted for by the LEC). See Telephone Customer Relations Rule 300, IDAPA 31.41.01.300, for further explanation. OSPs may pursue all other remedies provided by law. (6-7-95)~~

~~109. -- 200. (RESERVED).~~

201. APPROVED INSTRUMENTS -- OPERATION OF INSTRUMENTS (Rule 201).

01. Registered Or Exempt Instruments. All owners of pay telephones and/or customers of record PSPs connecting pay telephones to the network must connect pay telephone instruments that: (7-1-93)

a. Are registered under 47 CFR Part 68 of the Federal Communications Commission (FCC) Rules and Regulations (October 1, 2000) and comply with all Americans with Disabilities Act (ADA) requirements listed in the Code of Federal Regulations at 28 CFR Part 36 (July 1, 2000), as codified in the volume of the Code of Federal Regulations dated July 1, 1993, and later compilations and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities ("ADAAG") (July 1, 2000). (7-1-93)()

b. If not registered, are connected behind a protective coupler registered under Part 68 of the FCC Rules and Regulations; or (7-1-93)

c. Are exempted from registration by the FCC. See Title 47, Part 68.1 through 68.318 (October 1, 2000), Code of Federal Regulations (CFR); in particular, 47 C.F.R. 68.100 et seq., 68.200 et seq., 68.300 et seq. (7-1-93)()

02. Instruments For The Hearing Impaired. All owners of pay telephones and/or customers of record PSPs connecting pay telephones to the network must connect pay telephones that comply with the requirements of the Telecommunications for the Disabled Act of 1982 (January 3, 1983) and 47 CFR, Parts 68.112 and 68.316 (October 1, 2000) (which address access to the handicapped and hearing aid compatibility). In addition, owners and/or customers of record providing pay telephone services must reasonably provide and clearly label amplified pay telephones in public places. Members of the general public may direct requests for amplified telephones in public places initially to the owner and/or customer of record of the pay telephones already providing service to the public place. If that request is denied, customers may then request the Commission to determine whether it is reasonable to direct that amplified pay telephones be provided by the owners and/or customers of record providing the existing pay telephone service. Specifically, where pay telephone service is already provided, members of the general public may request that amplified telephones be provided and clearly labeled in the following locations, and these requests will always be found reasonable: (7-1-93)()

a. Terminals and stations for transportation by common carrier (airports, railroad stations and bus stations); (7-1-93)

b. Lobbies of places of public accommodation offering lodging to the general public; (7-1-93)

c. Lobbies of medical or health care facilities, including hospitals, medical centers, nursing homes, etc.; and (7-1-93)

d. Lobbies of government buildings like courthouses, city halls, etc. Whenever a pay telephone is replaced at any location, or installed at any location without pay telephone service already in place, the newly installed pay telephone must be an amplified pay telephone, unless there are already clearly labeled amplified pay telephones reasonably available elsewhere at the location. (7-1-93)

03. Operation Of The Pay Telephones. All pay telephones must: (7-1-93)

a. Comply with Rule 203 on coin-free operator and emergency access and Rule 204 on return of coins; (1-1-94)

b. ~~If installed or replaced on or after October 1, 1991, be fully functioning telephones with assigned numbers that accept incoming calls and ring when a call is placed to that number, unless the owner and/or customer of record for the pay telephone has requested a waiver of this requirement from the Commission and the Commission has granted the request for a waiver. When waivers are granted to allow the restriction of incoming calls, the instrument must be labeled to alert callers to this restriction.~~ Payphones that do not accept incoming calls shall be clearly labeled to advise the user; (1-1-94)()

c. Allow access to any MTS company that originates calls in that exchange, as follows: Callers must be allowed access to the OSP or MTS company of their choice via the 950-, 800- and 101XXXX 0+ access dialing pattern where allowed by the serving central office. The pay telephone instrument must transmit the access digits in the dialing pattern exactly as the caller dials them, but ~~10XXX 1+~~ calls, i.e., those made by a dialing sequence that will bill the call back to the ~~pay telephone owner and/or customer of record~~ PSP rather than the telephone user, may be blocked; (7-1-94)()

d. Allow access to any toll-free number (e.g., 800 or 950 numbers) without charge; and (7-1-93)

e. Have a keypad or dial that remains engaged during the call and continues to be able to send signals during the call. (7-1-93)

202. CHARGES FROM ~~PRIVATELY OWNED~~ PAY TELEPHONES NOT REGULATED (Rule 202).

~~Charges for calls from privately owned pay telephones may differ from those of the LEC companies. A privately owned pay telephone provider~~ A PSP must file a price list or tariff with the Commission indicating the rates charged from its pay telephones unless all rates are set by the servicing OSP and are already filed with the Commission by the servicing OSP. (1-1-94)()

(BREAK IN CONTINUITY OF SECTIONS)

204. COMPLETION OF CALLS -- REFUNDS (Rule 204).

Pay telephones must be able to complete local as well as long-distance calls. If coin-operated, the pay telephone must ~~accept nickels, dimes and quarters and~~ return coins for uncompleted calls. ~~No pay telephone provider or OSP may knowingly charge for uncompleted calls.~~ (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

206. ~~LIGHTING~~—DIRECTORY (Rule 206).

~~Where electricity is available, pay telephones must be located in a well-lighted location.~~ The owner and/or customer of record PSP for the pay telephone must make a diligent effort to provide a current telephone directory in good condition. (7-1-93)()

207. LABELING OF PAY TELEPHONES (Rule 207).

Pay telephones must be labeled with the following information or the information must be posted in proximity to the instrument: (7-1-93)

01. Name, Address, And Phone Number: (7-1-93)

~~a.~~ Name and address or name and toll-free telephone number of the ~~customer of record (if privately owned)~~ PSP; ~~or~~ (7-1-93)()

~~b.~~ Name and toll-free telephone number of the local exchange company (if LEC owned). (7-1-93)

02. Local Exchange And Address. The local exchange number and address of the telephone (in rural areas without a street address, the name of the street or highway nearest the telephone and a milepost reference can

- serve as the address). (7-1-93)
- 03. Procedure For Reporting.** No cost procedure for reporting service difficulties and method of obtaining refunds and quotes for rates and charges. (7-1-93)
- 04. Charge.** The charge for a local call. (7-1-93)
- 05. Provider(s) Reached.** The presubscribed operator service provider(s) and the toll service provider(s) that will be reached when the telephone is used. (7-1-93)
- 06. Dialing Instructions.** Dialing instructions for completing calls and a statement that all MTS (long-distance) companies serving the area can be reached from the telephone by dialing the access code or number provided by the MTS (long-distance) company. (7-1-93)
- 07. Operational Characteristics.** (e.g., prepay or postpay). (7-1-93)
- 08. Emergency Dialing Instructions.** (7-1-93)
- ~~**09. Time Limit.** Where the length of a call is limited, the time limit per call. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

RULES 211 THROUGH 220 - ~~PRIVATELY OWNED~~ PAY TELEPHONES

- 211. CONNECTION OF ~~PRIVATELY OWNED~~ PAY TELEPHONES (Rule 211).**
~~Privately-owned pay telephones may shall~~ be connected only to public access lines (PAL). Every LEC must offer a public access line tariff and require privately-owned pay telephone providers to complete an application form for each location that has a pay telephone PAL tariff or price list. The completed application form must contain all the information required by the model PAL application devised by the Commission Staff on file with and available from the Commission Staff. Each LEC must send copies of all PAL applications to the Commission each month along with a monthly report showing the location, telephone number and provider's name of all PAL disconnections during the previous month. (See Rule 214) There must be one (1) PAL for each privately-owned pay telephone instrument. (1-1-94)(____)
- 212. PAYMENT OF BILLINGS -- DEPOSITS -- ~~PRIVATELY OWNED~~ PAY TELEPHONES (Rule 212).**
The customer of record for the public access line to which the privately-owned pay telephone is connected PSP is responsible for payment of all billings to that public access line the PAL to which the pay telephone is connected, including fraud calls (e.g., unbillable or incorrectly identified calls) made from the privately-owned pay telephone if the customer of record did not subscribe to line identification service or did not use a billing validation service to verify the billing information provided by the telephone caller. The LEC may require a reasonable security deposit as a condition of connection and continued service. (1-1-94)(____)
- 213. RESPONSIBILITY FOR COMPLIANCE -- ~~PRIVATELY OWNED~~ PAY TELEPHONES (Rule 213).**
- 01. LEC Termination With Notice.** The customer of record for the public access line to which the privately-owned pay telephone is connected PSP is responsible for compliance with the LEC's and Commission's rules for the provisions of pay telephone service, including those for installation and maintenance of instruments. Consistent with this Commission's Telephone Customer Relations Rules 300 through 314, IDAPA 31.41.01.300 through 31.41.01.314, on termination of service, the LEC must terminate service to customers of record known to be in violation of Rules 101 through 299. The Commission or its Staff shall notify the LEC in writing of customers it knows to be in violation and whose service should be terminated. (1-1-94)(____)
- 02. LEC Termination Without Notice.** Immediate termination without prior notice is required if the

Commission Staff notifies the LEC that the ~~privately-owned~~ pay telephone is: ~~(1-1-94)()~~

a. In a pattern of non-compliance with the Commission's rules; or (1-1-93)

b. In violation of a Commission rule within one (1) week of correcting a previous violation of the same rule. A pattern of non-compliance is defined as two (2) similar major violations within three (3) months. A major violation is further defined as blocking access to the caller's OSP or MTS company of choice (Rules 103 and 201.03.c.), or failure to provide access to emergency services as outlined by the rules (Rules 102 and 203), failure to return coin on a busy or non-answered call (Rule 204), or failure to accept an incoming call unless exempted by the Commission (Rule 201.03.b.). Telephones installed without meeting the amplification standards as outlined by Title III of the Americans with Disabilities Act 42 U.S.C. Sections 12181 through 12189 (September 22, 2000) will be subject to immediate disconnection (Rule 201.02). ~~(6-7-95)()~~

~~03. LEC Charges For Rule Violations. If the Commission Staff notifies the LEC that a privately-owned pay telephone is suspected of being in violation of the Commission's Rules, requests a LEC technician to perform an on-site test, and a violation is confirmed by the technician, the LEC may charge the privately-owned pay telephone customer of record its tariffed premises visit charge. (1-1-94)~~

~~214. APPLICATION FOR SERVICE—PRIVATELY-OWNED PAY TELEPHONES (Rule 214). Applicants to be customers of record for privately-owned pay telephones must apply for service with the LEC by filling out an application containing all the information required in the model PAL application on file with and available from the Commission Staff and provided by the LEC. The application is to be completed by both the owner of the telephone instrument and the customer of record, if they are not the same. (1-1-94)~~

~~215. COMPLIANCE WITH RULES 201 THROUGH 299 (Rule 215). The customer of record of the privately-owned pay telephone is responsible for complying with the requirements of Rules 201 through 299. These rules must be incorporated in all contracts between the customer of record and its customers (site owners or managers). Major violations as defined in Rule 213.02 must be listed in the contract as a ground for terminating the contract. (1-1-94)~~

~~216.—220. (RESERVED).~~

~~RULES 221 THROUGH 230—REPORTING~~

~~221. REMOVAL OF PAY TELEPHONES—CODIFICATION OF ORDER NO. 22496 (Rule 221).~~

~~01. Pre-Removal Report. Local exchange companies are required to report to the Commission their intention to remove one (1) of the LEC's public pay telephones at least twenty-eight (28) days before the date of removal. The report must list the reasons for removal, the telephone's location and telephone number, except this advance report need not be filed when: (7-1-93)~~

~~a. The LEC has an application to connect a privately-owned pay telephone at the same location in conjunction with the removal of the LEC's telephone; (7-1-93)~~

~~b. The LEC's telephone is removed in conjunction with the installation of a semipublic pay telephone; (7-1-93)~~

~~e. The LEC's telephone is one (1) of a bank of pay telephones and the remaining pay telephones are operational; (7-1-93)~~

~~d. The LEC's telephone is removed temporarily (for no more than two (2) weeks) for repairs; or (7-1-93)~~

~~e. The LEC is requested by the owner of the premises or the space provider to remove the telephone.~~

~~The Commission Staff may request further information on a case-by-case basis to determine whether a telephone's removal would be adverse to the public interest.~~ (7-1-93)

~~**02. Post-Removal Report.** No later than the fifteenth day of the month, LECs must report to the Commission on the number of pay telephones removed or disconnected from service the previous month. The report must list for each pay telephone the kind of ownership (whether owned privately, by the LEC or an MTS company), the location and the telephone number of the access lines affected. The Commission Staff may request further information on a case-by-case basis concerning reason(s) for removal, location of nearby pay telephones, etc.~~ (7-1-93)

~~**03. Order No. 22496 Codified.** This rule codifies the directives of Order No. 22496, issued May 16, 1989, in Case No. GEN-T-88-6, with certain technical modifications. This rule supersedes Order No. 22496 if there are differences between the rule's wording and Order No. 22496's wording.~~ (7-1-93)

~~22214. -- 299. (RESERVED).~~

300. FURTHER DEFINITIONS (Rule 300).

As used in Rules 300 through 310: (7-1-93)

01. Institutions Of Confinement. "Institutions of confinement" mean those portions of prisons, jails, mental hospitals, etc., that house or enclose inmates. (7-1-93)

a. One (1) whose liberties are legally restricted by judgment or order of a court, or (2) who are confined under arrest, involuntary commitment, or other legal process; and (7-1-93)

b. Who are physically restrained from leaving the premises. Halfway houses, house arrests, etc., where inmates have freedom during some or all of the day to leave or to make telephone calls from telephones other than those provided by the institution, are not institutions of confinement under this rule. (7-1-93)

02. Operator And Directory Assistance Services. "Operator and directory assistance services (operator services)" are any telecommunications services that include, as a component, any automatic or live assistance to a telephone caller to arrange for billing or completion, or both, of a pay telephone call from an institution of confinement. They include, but are not limited to, intercept, call completion and assistance, and directory assistance services, whether local, MTS, or both. (7-1-93)

03. Inmate Operator Service Providers. "~~Inmate~~ Operator service providers (IOSPs)" are companies that provide operator services from pay telephones in an institution of confinement. (7-1-93)(____)

04. Inmate OSP Customer. "IOSP customer" means the institution of confinement that collects and routes calls by inmates of the institution of confinement to an OSP. (7-1-93)(____)

05. Inmate Pay Telephone. "~~Inmate P~~pay telephone" means a telephone instrument that requires the use of any one (1) or more of coin, collect, third-party billing, or credit/calling cards in order to complete local or toll calls from an inmate of an institution of confinement. (7-1-93)(____)

06. Inmate Telephone Caller. "~~Inmate T~~telephone caller" or a "telephone user" is an inmate of an institution of confinement who originates or attempts to originate a call from a pay telephone in the institution. (7-1-93)(____)

07. Telephone Customer. "Telephone customer" means the person paying rates and charges for a pay telephone call originated by an inmate of an institution of confinement. (7-1-93)

301. ADOPTION OF RULES BY REFERENCE (Rule 301).

All IOSPs offering operator services from pay telephones in an institution of confinement, all customers of record providing pay telephone service from institutions of confinement, all IOSP customers (i.e., the institutions of confinement), and all ~~local exchange companies~~ (LECs), whichever are applicable, must comply with the following rules of the Commission adopted by reference: (7-1-93)(____)

01. Rules 104.01 Through 104.034. Disclosure of ~~Operator Service Provider~~ IOSP (Branding) and Charges. Except that branding required by this rule must be given to the pay telephone customer accepting a collect call before the collect call is accepted. (7-1-93)(____)

02. Rule 106.01. Uncompleted Calls--Splashing, ~~provided that on and after July 1, 1992, all OSPs providing service from institutions of confinement must have answer supervision and can no longer bill for unanswered or unaccepted calls under Rule 106.01.b., and provided further, splashing of calls from institutions of confinement is prohibited.~~ (7-1-93)(____)

03. Rule 107. ~~Informational Filings~~--Information on Bills. (7-1-93)(____)

~~**04. Rule 108.** Termination of Local Exchange Service Prohibited.~~ (6-7-95)

054. Rule 201.01. Approved Instruments. Registered or Exempt Instruments. (7-1-93)(____)

065. Rule 202. Charges From Pay Telephones Not Regulated. (7-1-93)(____)

~~**076. Rule 204.** Completion of Calls--Refunds.~~ (7-1-93)

~~**087. Rule 211.** Connection of ~~Privately Owned~~ Pay Telephones, except for the last sentence.~~ (7-1-93)(____)

~~**098. Rule 212.** Payment of Billings--Deposits--~~Privately Owned~~ Pay Telephones.~~ (7-1-93)(____)

~~**109. Rule 213.** Responsibility for Compliance--~~Privately Owned~~ Pay Telephones.~~ (7-1-93)(____)

~~**11. Rule 214.** Application for Service--~~Privately Owned~~ Pay Telephones, except for Subsections 214.03.b., f., g. and h.~~ (7-1-93)

302. INFORMATION TO BE DISPLAYED (Rule 302).

Pay telephones located in institutions of confinement designed to be used by inmates of the institutions must inform the telephone caller if the pay telephone is connected to an IOSP. The following information must be displayed on or posted in proximity to the instrument or made readily available to inmates: (7-1-93)(____)

01. Name, Address, And Toll-Free Number. Name, mailing address and toll-free telephone number of the IOSP and the name, mailing address and toll-free telephone number of the owner of the pay telephone if the owner is not the IOSP (these toll-free telephone numbers may be blocked to telephone callers in the institution of confinement, but must be accessible to telephone customers accepting calls from the pay telephone instrument). (7-1-93)(____)

02. PUC Address And Phone Number. The address and telephone numbers of the Idaho Public Utilities Commission and a statement of its consumer complaint authority over improper charges, inadequate service, etc. (7-1-93)

03. Total Charge. The total charge for completing a local call, if no rate quote is provided audibly or available. (7-1-93)(____)

04. Time Limit. Where the length of a call is limited, the time limit per call. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

304. COMPLIANCE WITH RULE 300 THROUGH 310 (Rule 304).

The IOSP and its customer (the institution of confinement) are responsible for complying with the requirements of

these ~~Rules 300 through 310~~ that apply to IOSP and pay telephone services. ~~These rules must be incorporated in all contracts and tariffs with Idaho OSP customers, and the OSP must advise new and renewing OSP customers of the IOSP customer's obligations under these rules. Failure to abide by these rules must be listed in the contract as a ground for terminating the contract.~~ (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

306. ~~PRIVACY (Rule 306 (RESERVED)).~~

~~Extensions to a pay telephone in an institution of confinement permitting third-party access to conversations by other inmates are prohibited. Authorized officers or employees of the institution of confinement may listen to or record pay telephone calls from inmates of the institution of confinement in accordance with statutes, ordinances, rules or orders of a court providing for listening or recording. The possibility that calls may be listened to or recorded must be posted on or near all pay telephones that may be used in that manner, except when this posting is contrary to law or court order. No listening or recording by persons not under the supervision of the administration of the institution of confinement or not possessing separate legal authority for the listening or recording is allowed.~~ (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

308. UNACCEPTED OR UNCOMPLETED CALLS (Rule 308).

Companies billing for collect calls originating from pay telephones in institutions of confinement cannot knowingly bill for unaccepted or uncompleted calls. ~~If a company providing operator services from an institution of confinement does not have answer supervision (a service that determines whether a collect call has been accepted rather than answered, e.g., an answering machine or a child might answer a call, but not accept it), the company billing the charges must remove charges from bills for persons who state they were billed for a call that was not accepted. (See Rule 301's adoption by reference of Rule 106 and its requirement of the provision of answer supervision services on or before July 1, 1992.) In particular, when a collect call has been made from a pay telephone in an institution of confinement, but the call has no identifying signals (like 0+) indicating that it is a call that will not be billed to the originating pay telephone, the OSP:~~ (7-1-93)(____)

01. No Charges. Shall not charge the customer of record of a pay telephone located outside the institution of confinement for calls placed from the institution of confinement and accepted at the other pay telephone; or (7-1-93)

02. Removal Of Charges. Shall remove the charges from the bill of the customer of record of a pay telephone located outside the institution of confinement, unless the customer of record has not subscribed to billed number identification services (or other similar fraud protection services) with its local exchange company. (7-1-93)

309. BLOCKING (Rule 309).

01. In General. Upon their own initiative IOSPs providing service to an institution of confinement may block access to: (7-1-93)(____)

- a. Toll-free numbers (e.g., 800 or 950 numbers); (7-1-93)
- b. Information service provider numbers (e.g., 900 or 976); (7-1-93)
- c. Numbers designed for emergency reporting by the general public (e.g., 911); (7-1-93)
- d. Directory assistance; (7-1-93)
- e. 101XXXX dialing sequences (which will reach other toll carriers); and (7-1-93)(____)

f. Incoming calls. I OSPs shall block local or long distance numbers as directed by the institution of confinement that is the I OSP customer. Any person may request the I OSP to block calls from a given institution of confinement to that person's telephone. This section is not an exhaustive listing of all circumstances under which I OSPs can block access to numbers from pay telephones in institutions of confinement. (7-1-93)(____)

02. Risk Of Nonpayment. I OSPs providing service to an institution of confinement may block access to a telephone customer's line when there is evidence of risk that the telephone customer cannot pay the I OSP's charges. Factors indicating a risk of nonpayment include, but are not limited to: (7-1-93)(____)

a. No or inadequate deposit on file to pay charges described in Subsection 309.02.b. below. A history with the I OSP of nonpayment, payment of less than the total amount due, or payment with dishonored checks; or (7-1-93)(____)

b. Accumulated charges and unbilled charges for I OSP services from that I OSP that exceed one hundred dollars (\$100) in a one-month period. (7-1-93)(____)

IDAPA 34 - SECRETARY OF STATE
34.05.06 - RULES GOVERNING LIEN FILINGS UNDER THE UCC
DOCKET NO. 34-0506-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules is July 1, 2001.

LEGAL AUTHORITY: In compliance with Sections 67-5220(1) and 6-5226, Idaho Code, notice is hereby given that the Secretary of State has adopted temporary rules and that proposed regular rulemaking procedures have been initiated. This action is authorized pursuant to Sections 67-903 (1977), 28-9-526 (2001), 28-9-525 (2001), 28-9-523 (2001), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

If a hearing is held, the hearing site will be accessible to individuals with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the Office address below.

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

The purpose of these rules is to implement the filing procedures mandated by the enactment of the Revised Article Nine of the Uniform Commercial Code-Secured Transactions (H.B. 205, 2001). Culminating a decade-long process, Revised Article 9 has been passed in 36 States (including the District of Columbia) and is pending in 15 others. Lenders, and those who sell goods on credit, often choose to take security interests in property held by debtors. For many types of property, these security interests can only be preserved if a financing statement is filing in the Secretary of State's Office giving notice that a lien exists on certain property held by a named debtor. The Rules list the very few reasons for which lien filings can be rejected, including an insufficient fee and the failure to give legible names and addresses for the debtor and secured party. The Rules go into some detail in describing how information, particularly debtor names, are entered in the Lien database and made accessible by search. The Rules also describe the search logic used in determining if the name of a given debtor is in the database. Cross-references are given to lien filings under other laws dealing with seed, farm labor, federal taxes and various state and county liens.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order for the Secretary of State to be in compliance with the deadline imposed by House Bill 205 which will go into effect on 1 July 2001.

FEE SUMMARY: No fees are either imposed or changed pursuant to this rule. All fees mentioned in the rule are either expressly provided in the revisions to Article 9 or are contained in other, previously promulgated, administrative rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted for two significant reasons: (1) The substance of these rules is narrowly circumscribed by the statutory requirement that they conform closely to Model Administrative Rules as published by the International Association of Corporation Administrators; and, (2) The necessity for temporary rules given the 1 July 2001 effective date for the Revised Article 9.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: Contact Fred C. Goodenough, Deputy Secretary of State, Commercial Division, at (208) 334-3191.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

Dated this 23rd day of May, 2001.

Fred C. Goodenough
Deputy Secretary of State
Commercial Division
700 West Jefferson St.
P.O. Box 83720
Boise, Idaho 83720-0080
Telephone: (208) 334-3191
Facsimile: (208) 334-2847

THE FOLLOWING IS THE TEXT OF DOCKET NO. 34-0506-0101

IDAPA 34
TITLE 05
Chapter 06

34.05.06 - RULES GOVERNING LIEN FILINGS UNDER THE UCC

000. LEGAL AUTHORITY AND REFERENCES.

In accordance with Sections 67-903(9) (1977) and 28-9-526 (2001), Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the duties of the Office; this authority includes rules to implement Revised Article 9 of the Uniform Commercial Code, House Bill 205 (2001). (7-1-01)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.05.06, "Rules Governing Lien Filings Under the UCC," IDAPA 34, Title 05, Chapter 06. (7-1-01)T

02. Scope. These rules shall govern the filing, acceptance, indexing and searching of financing statements in the Secretary of State's Office under Article 9 of the Uniform Commercial Code, as amended in 2001. (7-1-01)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, documents relating to the interpretation of these rules, and to the documentation of compliance with this chapter, are available for public inspection and copying at the Office of the Secretary of State. (7-1-01)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the filing requirements. (7-1-01)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into this rule. (7-1-01)T

005. OFFICE HOURS -- CONTACT INFORMATION.

The Office of the Secretary of State is located in Boise, Idaho, in the Statehouse located at 700 West Jefferson. The Commercial Division is in the Basement at the West End of the Capitol and is open from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The mailing address is: Secretary of State's Office, P.O. Box 83720, Boise, Idaho 83720-0080. The telephone number for lien inquiries is (208) 334-3191. The facsimile number is (208) 334-

2847. (7-1-01)T
006. -- 100. (RESERVED).

SECTION 1 -- GENERAL PROVISIONS

101. DEFINITIONS.

For the purpose of the rules contained in this chapter, the following definitions apply: (7-1-01)T

01. Amendment. A UCC document that purports to amend the information contained in a financing statement. Amendments include assignments, continuations and terminations. (7-1-01)T

02. Assignment. An amendment that purports to reflect an assignment of all or a part of a secured party's power to authorize an amendment to a financing statement. (7-1-01)T

03. Continuation. An amendment that purports to continue the effectiveness of a financing statement. (7-1-01)T

04. Correction Statement. A UCC document that purports to indicate that a financing statement is inaccurate or wrongfully filed. (7-1-01)T

05. File Number. The unique identifying information assigned to an initial financing statement by the filing officer for the purpose of identifying the financing statement and UCC documents relating to the financing statement in the filing officer's information management system. For a financing statement with an initial financing statement filed on or prior to June 30, 2001, the file number includes the seven-digit (7) number assigned to the financing statement by the filing officer. For a financing statement with an initial financing statement filed on or after July 1, 2001, the file number includes three (3) segments; the year of filing expressed as a four-digit (4) number, followed by a unique seven-digit (7) number assigned to the financing statement by the filing office and ending with a one-digit (1) verification number assigned by the filing office but algorithmically derived from the numbers in the first two (2) segments. The filing number bears no relation to the time of filing and is not an indicator of priority. (7-1-01)T

06. Filing Office And Filing Officer. The Idaho Secretary of State's Office. (7-1-01)T

07. Financing Statement. An initial financing statement and all UCC documents that relate to the initial financing statement. (7-1-01)T

08. Individual. A human being, or a decedent in the case of a debtor that is such decedent's estate. (7-1-01)T

09. Initial Financing Statement. A UCC document containing the information required to be in an initial financing statement pursuant to Section 2 of these rules which, when filed, causes the filing office to establish the initial record of the existence of a financing statement in the filing office's UCC information management system. (7-1-01)T

10. Organization. A legal person who is not an individual under Subsection 101.08. (7-1-01)T

11. Remitter. A person who tenders a UCC document to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the document for filing. "Remitter" does not include a person responsible merely for the delivery of the document to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process. (7-1-01)T

12. Secured Party Of Record. With respect to a financing statement, a secured party or representative of a secured party named on the initial financing statement or, if an assignee is designated on the initial financing statement, instead shall mean the secured party or representative named as such assignee, and shall mean each other

secured party or secured party representative named as an additional or substitute secured party on any amendment. Revised Article 9 provides that a person remains a secured party of record until the authorized filing of an amendment indicating that the person is no longer a secured party or secured party representative. However, as the filing officer cannot determine if such an amendment is in fact authorized, a secured party of record on a financing statement is not deleted from the filing officer's information management system until the financing statement lapses. (7-1-01)T

13. Termination. An amendment intended to indicate that the related financing statement has ceased to be effective with respect to the secured party authorizing the termination. (7-1-01)T

14. UCC. The Uniform Commercial Code as enacted in this state, Section 28-11-101, et seq., Idaho Code. (7-1-01)T

15. UCC Document. An initial financing statement, a correction statement or any amendment, including an assignment, a continuation, or a termination. The word "document" in the term "UCC document" shall not be deemed to refer exclusively to paper or paper-based writings. In due time, UCC documents may be expressed or transmitted electronically or through media other than such writings. (Note: this definition is used for the purpose of these rules only. The use of the term "UCC document" in these rules has no relation to the definition of the term "document" in Section 28-9-102(a)(30), Idaho Code.) (7-1-01)T

102. SINGULAR AND PLURAL FORMS. Singular nouns shall include the plural form, and plural nouns shall include the singular form, unless the context otherwise requires. (7-1-01)T

103. PLACE OF FILING. The Secretary of State's Office is the filing office for filing UCC documents relating to all types of collateral except for timber to be cut, as-extracted collateral (Section 28-9-102(a)(6), Idaho Code) and, when the relevant financing statement is filed as a fixture filing, goods which are or are to become fixtures. (7-1-01)T

104. FILING OFFICE IDENTIFICATION. In addition to the promulgation of these rules, the filing office will disseminate information of its location, mailing address, telephone and facsimile numbers, and its internet and other electronic "addresses" through usual and customary means. (7-1-01)T

105. OFFICE HOURS. Although the filing office maintains regular office hours, it receives transmissions by facsimile twenty-four (24) hours per day, three hundred sixty-five (365) days per year, except for scheduled maintenance and unscheduled interruptions of service. Electronic filings may be available in the near future, and will be possible twenty-four (24) hours per day, three hundred sixty-five (365) days per year, except for scheduled maintenance and unscheduled interruptions of service. (7-1-01)T

106. UCC DOCUMENT DELIVERY. UCC documents may be tendered for filing at the filing office as follows: (7-1-01)T

01. Personal Delivery, At The Filing Office's Street Address. The file time for a UCC document delivered by this method is when delivery of the UCC document is accepted by the filing office (even though the UCC document may not yet have been accepted for filing and subsequently may be rejected). (7-1-01)T

02. Courier Delivery, At The Filing Office's Street Address. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, the next close of business following the time of delivery (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected). A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business. (7-1-01)T

03. Postal Service Delivery To The Filing Office's Mailing Address. The file time for a UCC document delivered by this method is the next close of business following the time of delivery (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected). A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of

business on the next day the filing office is open for business. (7-1-01)T

04. Facsimile Delivery To The Filing Office's Facsimile Filing Telephone Number. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, 5 p.m. on the day the filing office is open to the public next following the time of delivery (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected). A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business. (7-1-01)T

107. SEARCH REQUEST DELIVERY.

UCC search requests may be delivered to the filing office by any of the means by which UCC documents may be delivered to the filing office. Requirements concerning search requests are set forth in Section 501. UCC search requests upon a debtor named on an initial financing statement may be made by an appropriate indication on the face of the initial financing statement form if the form is entitled to be filed with the standard form fee and the relevant search fee is also tendered with the initial financing statement (7-1-01)T

108. ACCEPTABLE FORMS.

The forms set forth in Section 28-9-521, Idaho Code, shall be accepted by the filing office. Forms approved by the International Association of Corporation Administrators on or prior to July 1, 2001, and forms approved by the filing office shall be accepted. (7-1-01)T

109. -- 110. (RESERVED).

111. FILING FEES.

Section 28-9-525, Idaho Code. (7-1-01)T

01. Filing Fee. The fee for filing and indexing a UCC document of one (1) or two (2) pages communicated on paper or in a paper-based format (including facsimiles) is six dollars \$(6). If there are additional pages, the fee is twelve dollars (\$12). When available, the fee for filing and indexing a UCC document communicated by a medium authorized by these rules which is other than on paper or in a paper-based format shall be three dollars (\$3). (7-1-01)T

02. UCC Search Fee. The fee for a UCC search request communicated on paper or in a paper-based format is twelve dollars (\$12). (7-1-01)T

112. (RESERVED).

113. METHODS OF PAYMENT.

Filing fees and fees for public records services may be paid by the following methods: (7-1-01)T

01. Cash. Payment in cash shall be accepted if paid in person at the filing office. (7-1-01)T

02. Checks. Personal checks, business checks, bank-certified checks or cashiers checks and money orders shall be accepted for payment if they are drawn on a bank acceptable to the filing office or if the drawer is acceptable to the filing office. (7-1-01)T

03. Prepaid Account. A remitter may open an account for prepayment of filing fees by submitting an application furnished by the filing officer. Fees may be prepaid in amounts not less than fifty dollars (\$50). The filing officer shall issue an account number to be used by a remitter who chooses to pay filing fees in advance. The filing officer shall deduct filing fees from the remitter's prepaid account when authorized to do so by the remitter. (7-1-01)T

114. OVERPAYMENT AND UNDERPAYMENT POLICIES.

01. Overpayment. The filing officer shall refund the amount of an overpayment exceeding two dollars (\$2) to the remitter. The filing officer shall refund an overpayment of two dollars (\$2) or less only upon the written request of the remitter. (7-1-01)T

02. Underpayment. Upon receipt of a document with an insufficient fee, the filing officer shall do one (1) of the following. (7-1-01)T

a. A notice of the deficiency shall be sent to the remitter and the document shall be held for a period of ten (10) days from the date of the notice, in anticipation of receipt of the fee. Upon receipt of the fee, the document will be filed as of the time and date of receipt of the full filing fee. If the fee has not been received within ten (10) days of the date of the notice, the document shall be returned to the remitter with a written explanation for the refusal to accept the document; or (7-1-01)T

b. The document shall be returned to the remitter as provided in Section 205. A refund of a partial payment may be included with the document or delivered under separate cover. (7-1-01)T

115. PUBLIC RECORDS SERVICES.

Public records services are provided on a non-discriminatory basis to any member of the public on the terms described in these rules. The following methods are available for obtaining copies of UCC documents and copies of data from the UCC information management system. (7-1-01)T

01. Individually Identified Documents. Copies of individually identified UCC documents are available either from a computer terminal in the reception area in the filing office or through any medium otherwise accepted by the filing office. There is a charge of twenty-five cents (\$.25) per page for printed information, but only if four (4) or more pages are printed. (7-1-01)T

02. Bulk Copies Of Documents. Bulk copies of UCC documents are available in TIF (image) format on CD-ROM. (7-1-01)T

03. Data From The Information Management System. A list of available data elements from the UCC information management system, and the file layout of the data elements, are available from the filing officer upon request. Data from the information management system is available as follows: (7-1-01)T

a. Full Extract. A bulk data extract of information from the UCC information management system is available on a monthly basis. (7-1-01)T

b. Format. Extracts from the UCC information management system are available in ASCII .txt format on CD-ROM. (7-1-01)T

04. Direct On-Line Services. On-line services providing UCC information are available on a subscription basis from the State's Internet Portal Manager, Idaho Information Consortium, Inc., d/b/a Access Idaho. A description of subscription services is available from the filing officer or Access Idaho. (7-1-01)T

116. FEES FOR PUBLIC RECORDS SERVICES.

Fees for public records services are established as follows: (7-1-01)T

01. Charge For Paper Copies. The charge for paper copies of individual documents is twenty-five cents (\$.25) per page if no staff assistance is utilized and one dollar (\$1) per page with staff assistance. Facsimile charge is an additional fifty cents (\$.50) per page. (7-1-01)T

02. Data From The Information Management System. The charge for a full extract is one hundred twenty-five dollars (\$125) per monthly delivery. (7-1-01)T

117. NEW PRACTICES AND TECHNOLOGIES.

The filing officer may adopt practices and procedures to accomplish receipt, processing, maintenance, retrieval and transmission of, and remote access to, Article 9 filing data by means of electronic, voice, optical and/or other technologies, and, without limiting the foregoing, to maintain and operate, in addition to or in lieu of a paper-based system, a non-paper-based Article 9 filing system utilizing any of such technologies. In developing and utilizing technologies and practices, the filing officer shall, to the greatest extent feasible, take into account compatibility and consistency with technologies, practices, policies and regulations adopted in connection with Article 9 filing systems in other states. (7-1-01)T

118. -- 199. (RESERVED).

SECTION 2 -- ACCEPTANCE AND REFUSAL OF DOCUMENTS

200. ROLE OF FILING OFFICER.

01. Duties And Responsibilities. The duties and responsibilities of the filing officer with respect to the administration of the UCC are ministerial. (7-1-01)T

02. What The Filing Officer Does Not Do. In accepting for filing or refusing to file a UCC document pursuant to these rules, the filing officer does not: (7-1-01)T

- a. Determine the legal sufficiency or insufficiency of a document. (7-1-01)T
- b. Determine that a security interest in collateral exists or does not exist. (7-1-01)T
- c. Determine that information in the document is correct or incorrect, in whole or in part. (7-1-01)T
- d. Create a presumption that information in the document is correct or incorrect, in whole or in part. (7-1-01)T

201. DUTY TO FILE.

Provided that there is no ground to refuse acceptance of the document under Section 202, a UCC document is filed upon its receipt by the filing officer with the filing fee and the filing officer shall promptly assign a file number to the UCC document and index it in the information management system. (7-1-01)T

202. GROUNDS FOR REFUSAL OF UCC DOCUMENT.

The following grounds are the sole grounds for the filing officer's refusal to accept a UCC document for filing. As used herein, the term "legible" is not limited to refer only to written expressions on paper: it requires, when appropriate, a machine-readable transmission for electronic transmissions and an otherwise readily decipherable transmission in other cases. (7-1-01)T

01. Debtor Name And Address. An initial financing statement or an amendment that purports to add a debtor shall be refused if the document fails to include a legible debtor name and address for a debtor, in the case of an initial financing statement, or for the debtor purporting to be added in the case of such an amendment. If the document contains more than one debtor name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the debtor name(s) that was (were) indexed, and a statement that debtors with illegible or missing names or addresses were not indexed. (7-1-01)T

02. Additional Debtor Identification. An initial financing statement or an amendment adding one or more debtors shall be refused if the document fails to identify whether each named debtor (or each added debtor in the case of such an amendment) is an individual or an organization, if the last name of each individual debtor is not identified, or if, for each debtor identified as an organization, the document does not include in legible form the organization's type, state of organization and organization number (or a statement that it does not have an organization number). UCC documents, including the UCC1 and UCC3, should not contain Social Security Account Numbers or other Taxpayer identification numbers although there are spaces for this information on the approved UCC1 and UCC3 form. If these numbers are entered on the forms, the filing officer shall cause them not to be readable on the scanned image retained by the filing office. (7-1-01)T

03. Secured Party Name And Address. An initial financing statement, an amendment purporting to add a secured party of record, or an assignment, shall be refused if the document fails to include a legible secured party (or assignee in the case of an assignment) name and address. If the document contains more than one secured party (or assignee) name or address and some names or addresses are missing or illegible, the filing officer shall index

the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the secured party (or assignee) names that were indexed, and a statement that secured parties with illegible or missing names or addresses were not indexed. (7-1-01)T

04. Lack Of Identification Of Initial Financing Statement. A UCC document other than an initial financing statement shall be refused if the document does not provide a file number of a financing statement which exists in the UCC information management system and which has not lapsed. (7-1-01)T

05. Other Required Information. A UCC document that does not identify itself as an initial financing statement or as another type of UCC document shall be refused. (7-1-01)T

06. Timeliness Of Continuation. A continuation shall be refused if it is not received during the six (6) month period concluding on the day upon which the related financing statement would lapse. (7-1-01)T

a. **First Day Permitted.** The first day on which a continuation may be filed is the date of the month corresponding to the date upon which the financing statement would lapse, six (6) months preceding the month in which the financing statement would lapse. If there is no such corresponding date during the sixth month preceding the month in which the financing statement would lapse, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse, although filing by certain means may not be possible on such date if the filing office is not open on such date. (7-1-01)T

b. **Last Day Permitted.** The last day on which a continuation may be filed is the date upon which the financing statement lapses. (7-1-01)T

07. Fee. A document shall be refused if the document is accompanied by less than the full filing fee tendered by a method described in Section 113. (7-1-01)T

08. Means Of Communication. UCC documents communicated to the filing office by a means of communication not authorized by the filing officer for the communication of UCC documents shall be refused. (7-1-01)T

203. (RESERVED).

204. TIME LIMIT.

The filing officer shall determine whether criteria exist to refuse acceptance of a UCC document for filing not later than the second business day after the date the document would have been filed had it been accepted for filing and shall index a UCC document not so refused within the same time period. (7-1-01)T

205. PROCEDURE UPON REFUSAL.

If the filing officer finds any basis under Section 202 to refuse acceptance of a UCC document, the filing officer shall return the document, if written, to the remitter and refund the filing fee. The filing office shall send a notice that contains the date and time the document would have been filed had it been accepted for filing (unless such date and time are stamped on the document), and a brief description of the reason(s) for refusal to accept the document under Section 202. The notice shall be sent to a secured party or the remitter as provided in Subsection 401.02.b. no later than the second business day after of the determination to refuse acceptance of the document. A refund may be delivered with the notice or under separate cover. (7-1-01)T

206. ACKNOWLEDGMENT.

01. When Filing Is A Paper Or Paper-Based UCC Document. At the request of a filer or remitter who files a paper or paper-based UCC document, the filing officer shall either: (7-1-01)T

a. Send to said filer or remitter an image of the record of the UCC document showing the file number assigned to it and the date and time of filing; or (7-1-01)T

b. If such filer or remitter provides a copy of such UCC document, note the file number and the date and time of filing on the copy and deliver or send it to said filer or remitter. (7-1-01)T

02. When Filing Is Not A Paper Or Paper-Based UCC Document. When appropriate for UCC documents not filed in paper or paper-based form, the filing officer shall communicate to the filer or remitter the information in the filed document, the file number and the date and time of filing. (7-1-01)T

207. OTHER NOTICES.

Nothing in these rules prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC document, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not have the resources to do so. THE RESPONSIBILITY FOR THE LEGAL EFFECTIVENESS OF FILING RESTS WITH FILERS AND REMITTERS AND THE FILING OFFICE BEARS NO RESPONSIBILITY FOR SUCH EFFECTIVENESS. (7-1-01)T

208. REFUSAL ERRORS.

If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC document that was refused for filing should not have been, the filing officer will file the UCC document as provided in these rules with a filing date and time assigned when such filing occurs. The filing officer will also file a filing officer statement that states the effective date and time of filing which shall be the date and time the UCC document was originally tendered for filing. The lapse date shall be calculated based upon the date the UCC document was originally tendered. (7-1-01)T

209. -- 299. (RESERVED).

SECTION 3 -- UCC INFORMATION MANAGEMENT SYSTEM

300. POLICY STATEMENT.

The filing officer uses an information management system to store, index, and retrieve information relating to financing statements. The information management system includes an index of the names of debtors named on financing statements which have not been lapsed for more than one (1) year. (7-1-01)T

301. PRIMARY DATA ELEMENTS.

The primary data elements used in the UCC information management system are the following: (7-1-01)T

01. Identification Numbers. (7-1-01)T

a. Each initial financing statement is identified by its file number as described in Subsection 101.05. Identification in the form of the file number of the initial financing statement is stamped on written UCC documents or is otherwise permanently associated with the record maintained for UCC documents in the UCC information management system. A record is created in the information management system for each initial financing statement and all information comprising such record is maintained in such system. Such record is identified by the same information assigned to the initial financing statement. (7-1-01)T

b. A UCC document other than an initial financing statement is identified by a unique file number assigned by the filing officer. In the information management system, records of all UCC documents other than initial financing statements are linked to the record of their related initial financing statement. (7-1-01)T

02. Type Of Document. The type of UCC document from which data is transferred is identified in the information management system from information supplied by the remitter. (7-1-01)T

03. Filing Date And Filing Time. The filing date and filing time of UCC documents are stored in the information management system. Calculation of the lapse date of an initial financing statement is based upon the filing date or the effective filing date as provided in Section 208 of these rules. (7-1-01)T

04. Identification Of Parties. The names and addresses of debtors and secured parties are transferred from UCC documents to the UCC information management system using one (1) or more data entry or transmittal techniques. (7-1-01)T

05. Status Of Financing Statement. In the information management system, each financing statement has a status of active or inactive. (7-1-01)T

06. Lapse Indicator. An indicator is maintained by which the information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse. The lapse date is determined as provided in Section 404. (7-1-01)T

302. NAMES OF DEBTORS WHO ARE INDIVIDUALS.

The definition of "individual" is found in Subsection 101.08. This rule applies to the name on a UCC document of a debtor or a secured party who is an individual. (7-1-01)T

01. Individual Name Fields. The names of individuals are stored in the same files as the names of organizations. Separate data entry fields are established for first (given), middle (given), and last names (surnames or family names) of individuals, and an indicator is marked with "I" to distinguish the name as that of an individual. The filing officer assumes no responsibility for the accurate designation of the components of a name but will accurately enter the data in accordance with the filer's designations. (7-1-01)T

02. Titles And Prefixes Before Names. Titles and prefixes, such as "Doctor," "Reverend," "Mr.," and "Ms.," should not be entered in the UCC information management system. However, as provided in Section 407, when a UCC document is submitted with designated name fields, the data will be entered in the UCC information management system exactly as it appears. (7-1-01)T

03. Titles And Suffixes After Names. Titles or indications of status such as "M.D." and "esquire" shall not be entered in the UCC information management system. Suffixes, such as "Sr.," "Jr.," "I," "II," and "III," and "Est" (estate) are entered in a field designated for name suffixes. (7-1-01)T

04. Truncation - Individual Names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. The length of data entry name fields are as follows. (7-1-01)T

- a. First name: Fifty (50) characters. (7-1-01)T
- b. Middle name: Fifty (50) characters. (7-1-01)T
- c. Last name: Two hundred fifty-five (255) characters. (7-1-01)T
- d. Suffix: Ten (10) characters. (7-1-01)T

05. No Assumed Business Names. An assumed business name, whether or not on file under Chapter 5, Title 53, Idaho Code, is not the legal name of the individual using the assumed business name. (7-1-01)T

303. NAMES OF DEBTORS THAT ARE ORGANIZATIONS.

This rule applies to the names of organizations which are debtors or secured parties on a UCC document. (7-1-01)T

01. Single Field. The names of organizations are stored in the same files as the names of individuals. The name of an organization is stored in the last-name field only, and an indicator is marked with "O" to distinguish the name as that of an organization. The filing officer assumes no responsibility for the accurate designation of an organizational name but will accurately enter the data in accordance with the filer's designations. (7-1-01)T

02. Truncation-Organization Names. The organization name field in the UCC database is fixed in length. The maximum length is two hundred fifty-five (255) characters. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. (7-1-01)T

03. No Assumed Business Names. An assumed business name, whether or not on file under Chapter 5,

Title 53, Idaho Code, is not the legal name of the organization using the assumed business name. (7-1-01)T

304. ESTATES.

Although they are not human beings, estates are treated as if the decedent were the debtor under Section 302. "Est" should be entered in the suffix field. (7-1-01)T

305. TRUSTS.

If the trust is named in its organic document(s), its full legal name, as set forth in such document(s), is used. Such trusts are treated as organizations. If the trust is not so named, the name of the settlor is used. If a settlor is indicated to be an organization, the name is treated as an organization name. If the settlor is an individual, the name is treated as an individual name. A UCC document that uses a settlor's name should include other information provided by the filer to distinguish the debtor trust from other trusts having the same settlor and all financing statements filed against trusts or trustees acting with respect to property held in trust should indicate the nature of the debtor. If this is done in, or as part of, the name of the debtor, it will be entered as if it were a part of the name under Sections 407 and 408. (7-1-01)T

306. INITIAL FINANCING STATEMENT.

Upon the filing of an initial financing statement the status of the parties and the status of the financing statement shall be as follows: (7-1-01)T

01. Status Of Secured Party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC document names an assignee, the secured party/assignor shall not be a secured party of record and the secured party/assignee shall be a secured party of record. (7-1-01)T

02. Status Of Debtor. The status of a debtor named on the document shall be active and shall continue as active until one (1) year after the financing statement lapses. (7-1-01)T

03. Status Of Financing Statement. The status of the financing statement shall be active. A lapse date shall be calculated, five (5) years from the file date, unless the initial financing statement indicates that it is filed with respect to a public-financing transaction or a manufactured-home transaction, in which case the lapse date shall be thirty (30) years from the file date; or, if the initial financing statement indicates that it is filed against a transmitting utility, in which case there shall be no lapse date. A financing statement remains active until one (1) year after it lapses, or if it is indicated to be filed against a transmitting utility, until one (1) year after it is terminated with respect to all secured parties of record. (7-1-01)T

307. AMENDMENT.

Upon the filing of an amendment the status of the parties and the status of the financing statement shall be as follows: (7-1-01)T

01. Status Of Secured Party And Debtor. An amendment shall affect the status of its debtor(s) and secured party(ies) as follows: (7-1-01)T

A. Collateral Amendment or Address Change. An amendment that amends only the collateral description or one (1) or more addresses has no effect upon the status of any debtor or secured party. If a statement of amendment is authorized by less than all of the secured parties (or, in the case of an amendment that adds collateral, less than all of the debtors), the statement affects only the interests of each authorizing secured party (or debtor). (7-1-01)T

b. Debtor Name Change. An amendment that changes a debtor's name has no effect on the status of any debtor or secured party, except that the related initial financing statement and all UCC documents that include an identification of such initial financing statement shall be cross-indexed in the UCC information management system so that a search under either the debtor's old name or the debtor's new name will reveal such initial financing statement and such related UCC documents. Such a statement of amendment affects only the rights of its authorizing secured party(ies). (7-1-01)T

c. Secured Party Name Change. An amendment that changes the name of a secured party has no effect on the status of any debtor or any secured party, but the new name is added to the index as if it were a new secured

party of record. (7-1-01)T

d. **Addition of a Debtor.** An amendment that adds a new debtor name has no effect upon the status of any party to the financing statement, except the new debtor name shall be added as a new debtor on the financing statement. The addition shall affect only the rights of the secured party(ies) authorizing the statement of amendment. (7-1-01)T

e. **Addition of a Secured Party.** An amendment that adds a new secured party shall not affect the status of any party to the financing statement, except that the new secured party name shall be added as a new secured party on the financing statement. (7-1-01)T

f. **Deletion of a Debtor.** An amendment that deletes a debtor has no effect on the status of any party to the financing statement, even if the amendment purports to delete all debtors. (7-1-01)T

g. **Deletion of a Secured Party.** An amendment that deletes a secured party of record has no effect on the status of any party to the financing statement, even if the amendment purports to delete all secured parties of record. (7-1-01)T

02. Status Of Financing Statement. An amendment shall have no effect upon the status of the financing statement, except that a continuation may extend the period of effectiveness of a financing statement. (7-1-01)T

308. ASSIGNMENT OF POWERS OF SECURED PARTY OF RECORD.

01. Status Of The Parties. An assignment shall have no effect on the status of the parties to the financing statement, except that each assignee named in the assignment shall become a secured party of record. (7-1-01)T

02. Status Of Financing Statement. An assignment shall have no effect upon the status of the financing statement. (7-1-01)T

309. CONTINUATION.

01. Continuation Of Lapse Date. Upon the timely filing of one (1) or more continuations by any secured party(ies) of record, the lapse date of the financing statement shall be postponed for five (5) years. (7-1-01)T

02. Status Of Parties. The filing of a continuation shall have no effect upon the status of any party to the financing statement. (7-1-01)T

03. Status Of Financing Statement. Upon the filing of a continuation statement, the status of the financing statement remains active. (7-1-01)T

310. TERMINATION.

01. Status Of Parties. The filing of a termination shall have no effect upon the status of any party to the financing statement. (7-1-01)T

02. Status Of Financing Statement. A termination shall have no effect upon the status of the financing statement and the financing statement shall remain active in the information management system until one (1) year after it lapses, unless the termination relates to a financing statement that indicates it is filed against a transmitting utility, in which case the financing statement will become inactive one (1) year after it is terminated with respect to all secured parties of record. (7-1-01)T

311. CORRECTION STATEMENT.

01. Status Of Parties. The filing of a correction statement shall have no effect upon the status of any party to the financing statement. (7-1-01)T

02. Status Of Financing Statement. A correction statement shall have no effect upon the status of the financing statement. (7-1-01)T

312. PROCEDURE UPON LAPSE.

If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date but no action is then taken by the filing office. On the first anniversary of such lapse date, the information management system renders or is caused to render the financing statement inactive and the financing statement will no longer be made available to a searcher unless inactive statements are requested by the searcher and the financing statement is still retrievable by the information management system. (7-1-01)T

313. -- 399. (RESERVED).

SECTION 4 -- FILING AND DATA ENTRY PROCEDURES

400. POLICY STATEMENT.

This section contains rules describing the filing procedures of the filing officer upon and after receipt of a UCC document. It is the policy of the filing officer to file promptly a document that conforms to these rules. Except as provided in these rules, data is transferred from a UCC document to the information management system exactly as the data is set forth in the document. Personnel who create reports in response to search requests type search criteria exactly as set forth on the search request. No effort is made to detect or correct errors of any kind. (7-1-01)T

401. DOCUMENT INDEXING AND OTHER PROCEDURES BEFORE ARCHIVING.

01. Cash Management. Transactions necessary to payment of the filing fee are performed. (7-1-01)T

02. Document Review. The filing office determines whether a ground exists to refuse the document under Section 202. (7-1-01)T

a. **File Stamp.** If there is no ground for refusal of the document, the document is stamped or deemed filed and a unique identification number and the filing date is stamped on the document or permanently associated with the record of the document maintained in the UCC information management system. The sequence of the identification number is not an indication of the order in which the document was received. (7-1-01)T

b. **Correspondence.** If there is a ground for refusal of the document, notification of refusal to accept the document is prepared as provided in Section 205. If there is no ground for refusal of the document, an acknowledgment of filing is prepared as provided in Section 206. Acknowledgment of filing or notice of refusal of a UCC document is sent to the secured party (or the first secured party if there are more than one (1)) named on the UCC document or to the remitter if the remitter so requests by regular mail or by overnight courier if the remitter provides a prepaid waybill or access to the remitter's account with the courier. (7-1-01)T

402. FILING DATE.

The filing date of a UCC document is the date the UCC document is received with the proper filing fee if the filing office is open to the public on that date; or, if the filing office is not so open to the public on that date, the filing date is the next date the filing office is so open, except that, in each case, UCC documents received after 5 p.m. shall be deemed received on the following day. The filing officer may perform any duty relating to the document on the filing date or on a date after the filing date. (7-1-01)T

403. FILING TIME.

The filing time of a UCC document is determined as provided in Section 106. (7-1-01)T

404. LAPSE DATE AND TIME.

A lapse date is calculated for each initial financing statement (unless the debtor is indicated to be a transmitting utility). The lapse date is the same date of the same month as the filing date in the fifth year after the filing date or relevant subsequent fifth anniversary thereof if a timely continuation statement is filed, but if the initial financing

statement indicates that it is filed with respect to a public-finance transaction or a manufactured-home transaction, the lapse date is the same date of the same month as the filing date in the thirtieth year after the filing date. The lapse takes effect at midnight at the end of the lapse date. The relevant anniversary for a February 29 filing date shall be March 1 in the fifth year following the year of the filing date. (7-1-01)T

405. ERRORS OF THE FILING OFFICER.

The filing office may correct the errors of filing officer personnel in the UCC information management system at any time. If the correction is made after the filing officer has issued a certification date that includes the filing date of a corrected document, the filing officer shall file a filing officer statement in the UCC information management system identifying the record to which it relates, the date of the correction and explaining the nature of the corrective action taken. The notation shall be preserved as long as the record is preserved in the UCC information management system. (7-1-01)T

406. ERRORS OTHER THAN FILING OFFICE ERRORS.

An error by a filer is the responsibility of such filer. It can be corrected by filing an amendment or it can be disclosed by a correction statement. (7-1-01)T

407. DATA ENTRY OF NAMES – DESIGNATED FIELDS.

A filing should designate whether a name is a name of an individual or an organization and, if an individual, also designate the first, middle and last names and any suffix. When this is done, Subsections 407.01 through 407.03 shall apply: (7-1-01)T

01. Organization Names. Organization names are entered into the UCC information management system exactly as set forth in the UCC document, even if it appears that multiple names are set forth in the document or if it appears that the name of an individual has been included in the field designated for an organization name. (7-1-01)T

02. Individual Names. On a form that designates separate fields for first, middle, and last names and any suffix, the filing officer enters the names into the first, middle, and last name and suffix fields in the UCC information management system exactly as set forth on the form. (7-1-01)T

03. Designated Fields Encouraged. The filing office encourages the use of forms that designate separate fields for individual and organization names and separate fields for first, middle, and last names and any suffix. Filers should be aware that the inclusion of a name in an incorrect field or the failure to transmit a name accurately to the filing office may cause a filing to be ineffective. (7-1-01)T

408. DATA ENTRY OF NAMES - NO DESIGNATED FIELDS.

A UCC document that is an initial financing statement or an amendment that adds a debtor to a financing statement and that fails to specify whether the debtor is an individual or an organization shall be refused by the filing office. If it is accepted for filing in error, the following rules in Subsections 408.01 through 408.04 shall apply: (7-1-01)T

01. Identification Of Organizations. A name is treated as an organization name if it contains words or abbreviations that indicate status such as the following and similar words or abbreviations in foreign languages: association, church, college, company, co., corp., corporation, inc., limited, ltd., club, foundation, fund, L.L.C., limited liability company, institute, society, union, syndicate, GmbH, S.A. de C.V., limited partnership, L.P., limited liability partnership, L.L.P., trust, business trust, co-op, cooperative and other designations established by statutes to indicate a statutory organization. In cases where organization or individual status is not designated by the filer and is not clear, the filing officer will use his own judgment. (7-1-01)T

02. Identification Of Individuals. A name is entered as the name of an individual and not the name of an organization when the name is followed by a title substantially similar to one (1) of the following titles, or the equivalent of one (1) of the following titles in a foreign language: proprietor, sole proprietor, proprietorship, sole proprietorship, partner, general partner, president, vice president, secretary, treasurer, M.D., O.D., D.D.S., attorney at law, Esq., accountant, CPA. In such cases, the title is not entered. (7-1-01)T

03. Individual And Organization Names On A Single Line. Where it is apparent that the name of an individual and the name of an entity are stated on a single line and not in a designated individual name field, the name

of the individual and the name of the entity shall be entered as two (2) separate debtors, one (1) as an individual and one (1) as an entity. Additional filing fees for the amendment to add additional debtor name(s) may be required.

(7-1-01)T

04. Individual Names. The failure to designate the last name of an individual debtor in an initial financing statement or an amendment adding such debtor to a financing statement should cause a filing to be refused. If the filing is accepted in error, or if only the last name is designated, the following data entry rules apply: (7-1-01)T

a. **Freestanding Initials.** An initial in the first position of the name is treated as a first name. An initial in the second position of the name is treated as a middle name. (7-1-01)T

b. **Combined Initials and Names.** An initial and a name to which the initial apparently corresponds is entered into one (1) name field only [e.g. "D. (David)" in the name "John D. (David) Rockefeller" is entered as "John" (first name); "D. (David)" (middle name); "Rockefeller" (last name)]. (7-1-01)T

c. **Multiple Individual Names on a Single Line.** Two (2) individual names contained in a single line are entered as two different debtors [e.g. the debtor name "John and Mary Smith" is entered as two (2) debtors: "John Smith" and "Mary Smith"]. (7-1-01)T

d. **One (1) Word Names.** A one (1) word name is entered as a last name [e.g. "Charro" is treated as a last name]. (7-1-01)T

e. **Nicknames.** A nickname is entered in the name field together with the name preceding the nickname, or if none, then as the first name (e.g., "William (Bill) Jones"). (7-1-01)T

409. VERIFICATION OF DATA ENTRY.

The filing officer uses double key entry to verify the accuracy of data entry tasks.

(7-1-01)T

410. INITIAL FINANCING STATEMENT.

01. New Record Bears The Unique UCC File Number. A new record is opened in the UCC information management system for each initial financing statement. The new record bears the unique file number of the financing statement and the date and time of filing.

(7-1-01)T

02. Name And Address Of Each Debtor. The name and address of each debtor that are legibly set forth in the financing statement are entered into the record of the financing statement. Each such debtor name is included in the searchable index and is not removed until one (1) year after the financing statement lapses. (7-1-01)T

03. Name And Address Of Each Secured Party. The name and address of each secured party that are legibly set forth in the financing statement are entered into the record of the financing statement. (7-1-01)T

04. Record Is Indexed According To The Name Of The Debtor. The record is indexed according to the name of the debtor(s) and is maintained for public inspection. (7-1-01)T

05. Lapse Date. A lapse date is established for the financing statement, and the lapse date is maintained as part of the record. No lapse date is established for a financing statement which indicates it is filed against a transmitting utility. (7-1-01)T

411. AMENDMENT.

01. Date And Time Of Filing Amendment. A record is created for the amendment that bears the file number for the amendment and the date and time of filing. (7-1-01)T

02. Amendment Initial Financing Statement. The record of the amendment is associated with the record of the related initial financing statement in a manner that causes the amendment to be retrievable each time a record of the financing statement is retrieved. (7-1-01)T

03. Amendment Financing Statement Lapses. The name and address of each additional debtor and secured parties are entered into the UCC information management system in the record of the financing statement. Each such additional debtor name is added to the searchable index and is not removed until one (1) year after the financing statement lapses. (7-1-01)T

04. New Lapse Date Is Established. If the amendment is a continuation, a new lapse date is established for the financing statement and maintained as part of its record. (7-1-01)T

412. CORRECTION STATEMENT.

A record is created for the correction statement that bears the file number for the correction statement and the date and time of filing. The record of the correction statement is associated with the record of the related initial financing statement in a manner that causes the correction statement to be retrievable each time a record of the financing statement is retrieved. (7-1-01)T

413. GLOBAL FILINGS.

01. Filing A Single UCC Document. The filing officer may accept for filing a single UCC document for the purpose of amending more than one (1) financing statement, for one (1) or both of the following purposes: (7-1-01)T

a. Amendment to change secured party name; or (7-1-01)T

b. Amendment to change secured party address. (7-1-01)T

02. Global Filing. A global filing shall consist of a written document describing the requested amendment on a form approved by the filing office. Acceptance of a global filing is conditioned upon the determination of the filing officer and is within the filing officer's sole discretion. (7-1-01)T

414. NOTICE OF BANKRUPTCY.

The filing officer shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system. (7-1-01)T

415. -- 499. (RESERVED).

SECTION 5 -- SEARCH REQUESTS AND REPORTS

500. GENERAL REQUIREMENTS.

The filing officer maintains for public inspection a searchable index for all records of UCC documents that provides for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement to which the record relates and which associates each initial financing statement and each filed UCC document relating to the initial financing statement. (7-1-01)T

501. SEARCH REQUESTS.

Search requests shall contain the following information: (7-1-01)T

01. Name Searched. A search request should set forth the full correct name of a debtor or the name variant desired to be searched and must specify whether the debtor is an individual or an organization. The full name of an individual should consist, whenever possible, of a first, middle, and last name, followed by any suffix that may apply to the name. The full name of an organization shall consist of the name of the organization as stated on the articles of incorporation or other organic documents in the state or country of organization or the name variant desired to be searched. A search request will be processed using the name in the exact form it is submitted. (7-1-01)T

02. Requesting Party. The name and address of the person to whom the search report is to be sent. (7-1-01)T

- 03. Fee.** The appropriate fee shall be enclosed, payable by a method described in Section 113. (7-1-01)T

502. OPTIONAL INFORMATION.

A UCC search request may contain any of the following information: (7-1-01)T

01. Copies of Documents. A request that copies of documents referred to in the report be included with the report. The request may limit the copies requested by limiting them by reference to the city of the debtor, the date of filing, or a range of filing dates on the financing statements located by the related search. The request may ask for copies of UCC documents identified on the primary search response. (7-1-01)T

02. Debtor Name. A request that the search of a debtor name be limited to debtors in a particular city. A report created by the filing officer in response to such a request shall contain the following statement: "A search limited to a particular city, the date of filing, or a range of filing dates may not reveal all filings against the debtor searched and the searcher bears the risk of relying on such a search." (7-1-01)T

03. Mode Of Delivery. Instructions on the mode of delivery requested, if other than by ordinary mail, will be honored if the requested mode is at the time available to the filing office. (7-1-01)T

503. RULES APPLIED TO SEARCH REQUESTS.

Search results are created by applying standardized search logic to the name presented to the filing officer by the person requesting the search. Human judgment does not play a role in determining the results of the search, except with respect to supplemental responses regarding individual debtor names that are not automated. The following, and only the following, rules are applied to conduct searches: (7-1-01)T

01. No Limit On Number Of Search Matches. There is no limit to the number of matches that may be returned in response to the search criteria. (7-1-01)T

02. Not Case Sensitive. No distinction is made between upper and lower case letters. (7-1-01)T

03. Punctuation. Punctuation marks and accents are disregarded. (7-1-01)T

04. Words And Abbreviations At The End Of A Name. Words and abbreviations at the end of a name that indicate the existence or nature of an organization as set forth in the "Ending Noise Words" list as promulgated and adopted by the International Association of Corporation Administrators, as amended from time to time, are disregarded (e.g., company, limited, incorporated, corporation, limited partnership, limited liability company or abbreviations of the foregoing). (7-1-01)T

05. "The" Disregarded. The word "the" at the beginning of the search criteria is disregarded. (7-1-01)T

06. Spaces. All spaces are disregarded. (7-1-01)T

07. Initials. For first and middle names of individuals, initials are equated with all names that begin with such initials, and no middle name or initial is equated with all middle names and initials. (7-1-01)T

08. Names Searched On. After taking the preceding rules into account to modify the name of the debtor requested to be searched and to modify the names of debtors contained in active financing statements in the UCC information management system, the search will reveal only names of debtors that are contained in active financing statements and, as modified, exactly match the name requested, as modified. (7-1-01)T

504. SEARCH RESPONSES.

Reports created in response to a search request shall include the following: (7-1-01)T

01. Filing Officer. Identification of the filing officer and the certification of the filing officer required by the UCC. (7-1-01)T

- 02. Report Date.** The date the report was generated. (7-1-01)T
- 03. Name Searched.** Identification of the name searched. (7-1-01)T
- 04. Certification Date.** The certification date applicable to the report; i.e., the date and time through which the search is effective to reveal all relevant UCC documents filed on or prior to that date. (7-1-01)T
- 05. Identification Of Initial Financing Statements.** Identification of each unlapsed initial financing statement filed on or prior to the certification date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time. (Lapsed financing statements remain active for one (1) year after the lapse date and may be requested on the search form.) (7-1-01)T
- 06. History Of Financing Statement.** For each initial financing statement on the report, a listing of all related UCC documents filed by the filing officer on or prior to the certification date. (7-1-01)T
- 07. Copies.** Copies of all UCC documents revealed by the search and requested by the searcher. (7-1-01)T
- 505. -- 599. (RESERVED).**

SECTION 6 -- OTHER NOTICES OF LIENS

600. POLICY STATEMENT.

The purpose of the rules in this section is to describe non-UCC liens maintained by the filing office. These liens are treated by the filing officer in a manner similar to UCC documents and are included, on request, with the reports described in Sections 504 and 505. (7-1-01)T

601. NOTICE OF FEDERAL TAX LIEN.

- 01. Filing.** Pursuant to Section 45-202, Idaho Code, federal tax liens on business entities, estates, and trusts are filed at the Secretary of State's Office. (7-1-01)T
- a. Fee. (7-1-01)T
- i. The fee for filing is six dollars (\$6); (7-1-01)T
- ii. If there is an attachment there is an additional fee of one dollar (\$1) per page. (7-1-01)T
- b. Duration. Pursuant to the Internal Revenue Code, federal tax liens have a duration of ten (10) years. (7-1-01)T
- 02. Mechanics Of Search.** (7-1-01)T
- a. Fee for Search. (7-1-01)T
- i. Six dollars (\$6) for information only; (7-1-01)T
- ii. Twelve dollars (\$12) for information and copies. (7-1-01)T
- b. Combination Search Available with UCC Search: (7-1-01)T
- i. Ten dollars (\$10) for information; (7-1-01)T
- ii. Sixteen dollars (\$16) for information and copies. (7-1-01)T

602. NOTICE OF STATE TAX LIEN.

- 01. Filing.** (7-1-01)T
- a. Where to File. The Secretary of State accepts electronic filings from the Idaho Tax Commission pursuant to Chapter 19, Title 45, Idaho Code, and Title 63, Idaho Code. (7-1-01)T
- b. Fee. None. (7-1-01)T
- c. Duration. Five (5) years. (7-1-01)T
- 02. Mechanics of Search.** (7-1-01)T
- a. Fee for Search. (7-1-01)T
- i. Six dollars (\$6) for information only; (7-1-01)T
- ii. Twelve dollars (\$12) for information and copies. (7-1-01)T
- b. Combination Search Available with UCC Search: (7-1-01)T
- i. Ten dollars (\$10) for information; (7-1-01)T
- ii. Sixteen dollars (\$16) for information and copies. (7-1-01)T

603. NOTICE OF OTHER LIEN IN FAVOR OF A GOVERNMENTAL BODY (NATURE AND DURATION).

- 01. State Agencies.** Generally under Chapter 19, Title 45, Idaho Code. (7-1-01)T
- a. Department of Labor, Chapter 13, Title 72, Idaho Code (unemployment insurance-five year duration). (7-1-01)T
- b. Department of Labor, Chapter 6, Title 45, Idaho Code (wage claims-five (5) year duration). (7-1-01)T
- c. Department of Health and Welfare, Chapter 12, Title 7, Idaho Code (child support-indefinite duration). (7-1-01)T
- d. Department of Health and Welfare, Chapter 2, Title 56, Idaho Code (medical assistance-five (5) year duration). (7-1-01)T
- 02. Counties.** Chapter 35, Title 31, Idaho Code (indigent medical-indefinite duration). (7-1-01)T
- 03. Mechanics Of Search.** (7-1-01)T
- a. Fee for Search. (7-1-01)T
- i. Six dollars (\$6) for information only; (7-1-01)T
- ii. Twelve dollars (\$12) for information and copies. (7-1-01)T
- b. Combination Search Available with UCC Search: (7-1-01)T
- i. Ten dollars (\$10) for information; (7-1-01)T

- ii. Sixteen dollars (\$16) for information and copies. (7-1-01)T

604. SEED AND FARM LABOR LIENS.

01. Mechanics of Filing. Seed and farm labor liens pursuant to Chapter 3, Title 45, Idaho Code are filed in the same manner as initial financing statements and may use only forms prescribed by the Secretary of State's Office. They are indexed by debtor name and will be revealed, on request, by searches under Sections 504 and 505.

(7-1-01)T

- a. Where to File. Seed and farm labor liens are filed with the filing office. (7-1-01)T
- b. Fee. (7-1-01)T
 - i. Four dollars (\$4), if typed; (7-1-01)T
 - ii. Eight dollars (\$8), if handwritten. (7-1-01)T
- c. Duration. (7-1-01)T
 - i. Farm labor liens remain in effect for twelve (12) months after filing and may be extended for six (6) months. (7-1-01)T
 - ii. Seed liens remain in effect for sixteen (16) months and may be extended for six (6) months. (7-1-01)T

02. Mechanics of Search. (7-1-01)T

- a. Fee for Search. (7-1-01)T
 - i. Six dollars (\$6) for information only; (7-1-01)T
 - ii. Twelve dollars (\$12) for information and copies. (7-1-01)T
- b. Combination Search Available with UCC Search: (7-1-01)T
 - i. Ten dollars (\$10) for information; (7-1-01)T
 - ii. Sixteen dollars (\$16) for information and copies. (7-1-01)T

605. AGRICULTURE COMMODITY LIENS.

01. Mechanics of Filing. Agricultural commodity liens pursuant to Chapter 18, Title 45, Idaho Code are filed in the same manner as initial financing statements and may use only forms prescribed by the Secretary of State's Office. These types of liens are indexed by debtor name and will be revealed, on request, by searches under Sections 504 and 505.

(7-1-01)T

- a. Fee. Five dollars (\$5). (7-1-01)T
- b. Duration. Ninety (90) days. (7-1-01)T

02. Mechanics Of Search. Fee for search: (7-1-01)T

- a. Five dollars (\$5), if combined with other searches; (7-1-01)T
- b. Ten dollars (\$10) for information; (7-1-01)T
- c. Sixteen dollars (\$16) for information and copies. (7-1-01)T

606. FARM PRODUCT LIENS.

01. Mechanics Of Filing. (7-1-01)T

a. Pursuant to Section 28-9-526, Idaho Code, farm product liens are filed in the same manner as initial financial statements and may use only forms prescribed by the Secretary of State's Office. They are indexed by debtor name and will be revealed, on request, by searches under Sections 504 and 505. (7-1-01)T

b. Where to File. Farm product liens are filed with the filing office. (7-1-01)T

c. Fee. (7-1-01)T

i. Ten dollars (\$10), if typed; (7-1-01)T

ii. Fourteen dollars (\$14), if handwritten; (7-1-01)T

iii. For attachments, it is an additional one dollar (\$1) per printer page. (7-1-01)T

d. Duration. Farm product liens remain in effect for five (5) years and may be extended to five (5) years if continuation is received six (6) months prior to lapse. (7-1-01)T

02. Mechanics Of Search. (7-1-01)T

a. Fee for Search: (7-1-01)T

i. Six dollars (\$6) for information only; (7-1-01)T

ii. Twelve dollars (\$12) for information and copies. (7-1-01)T

b. Combination Search Available with UCC Search: (7-1-01)T

i. Ten dollars (\$10) for information; (7-1-01)T

ii. Sixteen dollars (\$16) for information and copies. (7-1-01)T

607. -- 999. (RESERVED).

IDAPA 38 - IDAHO DEPARTMENT OF ADMINISTRATION
38.05.01 - RULES OF THE DIVISION OF PURCHASING
DOCKET NO. 38-0501-0101 (REPEAL)
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5717(10), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: Repeals existing purchasing rules. The repealed rules are being replaced by new rules.

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

To make rules consistent with statutory changes effective July 1, 2001.

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

NEGOTIATED RULEMAKING: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration at (208) 332-1832.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 25th day of May, 2001.

Joanna L. Guilfooy
Deputy Attorney General
Department of Administration
650 W. State Street, Room 100
P.O. Box 83720
Boise, ID 83720-0003
Ph: (208) 332-1832
Fax: (208) 334-2307

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 38 - IDAHO DEPARTMENT OF ADMINISTRATION
38.05.01 - RULES OF THE DIVISION OF PURCHASING
DOCKET NO. 38-0501-0102 (REWRITE)
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-5717(10), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

The new purchasing rules implement and reflect statutory changes to purchasing statutes effective July 1, 2001. These new rules replace existing rules that are being simultaneously repealed.

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

Statutory amendments in purchasing rules are effective July 1, 2001. These rules are needed to ensure consistency between statutes and rules.

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

NEGOTIATED RULEMAKING: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration at (208) 332-1832.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 25th day of May, 2001.

Joanna L. Guilfooy
Deputy Attorney General
Department of Administration
650 W. State Street, Room 100
P.O. Box 83720
Boise, ID 83720-0003
Ph: (208) 332-1832
Fax: (208) 334-2307

THE FOLLOWING IS THE TEXT OF DOCKET NO. 38-0105-0102

IDAPA 38
TITLE 05
Chapter 01

38.05.01 - RULES OF THE DIVISION OF PURCHASING

000. LEGAL AUTHORITY.

The following rules are promulgated in accordance with Sections 67-5717(11), 67-5732 and 67-2356(1), Idaho Code, by the administrator of the division of purchasing. (7-1-01)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 38.05.01, "Rules of the Division of Purchasing," Department of Administration, IDAPA 38, Title 05, Chapter 01. (7-1-01)T

02. Scope. These rules shall be utilized by any other state agency acquiring property under these rules or through delegated authority. (7-1-01)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. Any such documents are available for public inspection and copying at cost in the office of this agency. (7-1-01)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by Section 67-5733, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (7-1-01)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS.

The division of purchasing is located at 5569 Kendall Street in Boise, Idaho. The division's mailing address is Post Office Box 83720, Boise, Idaho 83720-0075. Office hours are 8 a.m. to 5 p.m., Monday through Friday. (7-1-01)T

006. CITATION.

The official citation of this chapter is IDAPA 38.05.01.000 et sequence. For example, this section's citation is IDAPA 38.05.01.006. (7-1-01)T

007. -- 010. (RESERVED).

011. DEFINITIONS.

01. Acquisition. The process of procuring or purchasing property by the state of Idaho. (7-1-01)T

02. Administrator. The Administrator for the division of purchasing. The administrator is the chief buyer. (7-1-01)T

03. Agency. All offices, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding other legislative and judicial branches of government, and excluding the governor, the lieutenant-governor, the secretary of state, the state controller, the state treasurer, the attorney general, and the superintendent of public instruction. (7-1-01)T

- 04. Alternate.** Property or services that are not at least a functional equal in features, performance or use of the brand, model or specification designated as the standard. (7-1-01)T
- 05. Bid.** A written offer that is binding on the bidder to perform a contract to purchase or supply property or services in response to an invitation to bid. (7-1-01)T
- 06. Bidder.** A vendor who has submitted a bid or quotation on specific property. (7-1-01)T
- 07. Brand Name Or Equal Specification.** This means a specification that uses a brand name to describe the standard of quality, performance or other characteristics being solicited and that invites the submission of equivalent products. (7-1-01)T
- 08. Brand Name Specification.** This means a specification calling for one (1) or more products by manufacturers' names or catalogue numbers. (7-1-01)T
- 09. Buyer.** An employee of the division of purchasing designated as a buyer, contract administrator, purchasing agent, contracting officer, or similar designation by the administrator, including, where appropriate, the administrator and other management personnel. The term also includes authorized employee(s) of a purchasing activity. (7-1-01)T
- 10. Component.** An item of property normally assembled or incorporated with other items into a unified productive whole at the site of use, which items belong to functional classes that may be interchangeable units of similar function but differing operational or productive capabilities. (7-1-01)T
- 11. Concession Services.** The granting by the purchasing activity of a right, franchise, authority, property interest or option to a contractor, regardless of whether an expenditure of state or other funds occurs. (7-1-01)T
- 12. Consultant Services.** This means work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis or advice in formulating or implementing programs or services or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting and planning. The consultant's services, opinions or recommendations will be performed according to the consultant's methods without being subject to the control of the agency except as to the result of the work. (7-1-01)T
- 13. Contract.** Contract means any state written agreement, including a solicitation or specification documents and the accepted portions of the solicitation, for the acquisition of property. Generally, the term is used to describe term contracts, definite or indefinite quantity or delivery contracts or other acquisition agreements whose subject matter involves multiple payments and deliveries. A contract shall also include any amendments mutually agreed upon by both parties. (7-1-01)T
- 14. Contractor.** A bidder or offeror who has been awarded an acquisition contract. (7-1-01)T
- 15. Director.** The chief officer of the department of administration. (7-1-01)T
- 16. Division.** The division of purchasing of the department of administration as established by Section 67-5714, Idaho Code. Whenever a purchase is made by the division on behalf of another agency, the division shall be deemed to be acting as the agent for such agency. (7-1-01)T
- 17. Document.** When used in these rules, may include electronic documents. (7-1-01)T
- 18. Equal.** Property that meets or exceeds the quality, performance and use of the brand, model or specifications in the invitation to bid, request for proposals or request for quotation. (7-1-01)T
- 19. Equipment.** Items of personal property that have a normal useful life expectancy or measurable

service life of two (2) or more years. (7-1-01)T

20. Formal Sealed Procedure. Procedure by which the buyer solicits competitive sealed bids or competitive sealed proposals by means of an invitation to bid or request for proposals. (7-1-01)T

21. Goods. Items of personal property including concession services, not qualifying as equipment, parts or supplies. (7-1-01)T

22. Information Technology Property. Includes, but is not limited to, all present forms of computer hardware, computer software or services used or required for automated data processing, computer related office automation or telecommunications. (7-1-01)T

23. Invitation To Bid. Means all documents, whether attached or incorporated by reference, utilized for soliciting formal sealed bids. (7-1-01)T

24. Lowest Responsible Bidder. The responsible bidder whose bid conforms in all material respects to the invitation to bid or request for proposals and reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price. (7-1-01)T

25. Offeror. A vendor who has submitted a proposal in response to a request for proposals for property to be acquired by the state. (7-1-01)T

26. Person. Any business, individual, union, committee, club or other organization or group of individuals, not including a state or public agency. (7-1-01)T

27. Procurement. The process of obtaining property for state use by lease, rent or any manner other than by purchase or gift. (7-1-01)T

28. Professional Services. Work rendered by an independent contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, engineering, actuarial, architecture, veterinarian, and research. The knowledge is founded upon prolonged and specialized intellectual training that enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skills. (7-1-01)T

29. Property. Goods, services, parts, supplies and equipment, both tangible and intangible, including, but nonexclusively, designs, plans, programs, systems, techniques and any rights and interests in such property. Includes concession services and rights to access or use state property or facilities for business purposes. (7-1-01)T

30. Proposal. A written response including pricing information to a request for proposals that describes the solution or means of providing the property requested and which proposal is considered an offer to perform a contract in full response to the request for proposals. Price may be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award. (7-1-01)T

31. Public Agency. Has the meaning set forth in Section 67-2327, Idaho Code. (7-1-01)T

32. Purchase. The act of acquiring or procuring property for state use or the result of an acquisition action. (7-1-01)T

33. Purchase Order. See also definition of Contract, typically used to acquire property. It is a notification to the contractor to provide the stated property, required material, equipment, supplies or services under the terms and conditions set forth in the purchase order. It may include the form of the state's acceptance of a bidder's proposal or bid. (7-1-01)T

- 34. Purchasing Activity.** The division or an agency delegated that authority by the administrator for the division. (7-1-01)T
- 35. Quotation.** An offer to supply property in response to a request for quotation and generally used for small or emergency purchases. (7-1-01)T
- 36. Request For Proposals.** Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals and is generally utilized in the acquisition of services or complex purchases. (7-1-01)T
- 37. Request For Quotation.** The document, form or method generally used for purchases solicited in accordance with small purchase or emergency purchase procedures. (7-1-01)T
- 38. Requisition.** A standard state or agency specific form that serves as a purchasing request and that requests that the purchasing activity acquire the stated requirements. (7-1-01)T
- 39. Sealed.** Includes bids electronically sealed and submitted in accordance with requirements or standards set by the division and bids manually sealed and submitted. (7-1-01)T
- 40. Sealed Procedure Limit.** That dollar amount, as established by these rules, above which the formal sealed bid procedure will be used. Said amount may be lowered by the administrator to maintain full disclosure or competitive purchasing or otherwise achieve overall state efficiency and economy. (7-1-01)T
- 41. Services.** Personal, general, professional or consultant services, in excess of personnel regularly employed for whatever duration and/or covered by personnel system standards, for which bidding or competition is not prohibited or made impractical by statute, rules and regulations or generally accepted ethical practices.(7-1-01)T
- 42. Small Purchase.** An acquisition that costs less than the sealed procedure limit. (7-1-01)T
- 43. Solicitation.** Means an invitation to bid, a request for proposals or other document issued by the purchasing activity for the purpose of soliciting bids, proposals or offers to perform a contract. (7-1-01)T
- 44. Specifications.** The explicit requirements furnished with an invitation to bid, request for proposals or request for quotations upon which a purchase order or contract is to be based. Unless specifically provided in a solicitation, specifications do not include solicitation conditions or contractual terms including, without limitation, items such as vendor qualification requirements, bid closing times, delivery time or payment terms. (7-1-01)T
- 45. State.** This means the state of Idaho including each agency unless the context implies other states of the United States. (7-1-01)T
- 46. State Or Statewide Contract.** Contracts for property or services administered by the division on behalf of or for the benefit of an agency. Statewide contracts apply to more than one (1) agency. The contract document will identify the conditions under which usage by agencies is required. (7-1-01)T
- 47. Supplies.** Items of personal property having an expendable quality or during their normal use are consumed and that require or suggest acquisition in bulk. (7-1-01)T
- 48. Telecommunications.** Means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images. (7-1-01)T
- 49. Vendor.** A person or entity capable of supplying property to the state. (7-1-01)T
- 50. Written.** When used in these rules, may include an electronic writing. (7-1-01)T
- 012. -- 020. (RESERVED).**

021. DELEGATION OF AUTHORITY OF ADMINISTRATOR.

The division shall administer the acquisition of all property for agencies except those for which the agencies have separate statutory purchasing authority. The administrator may delegate in writing such authority as deemed appropriate to any employees of the division or of a purchasing activity. Such delegations shall remain in effect unless modified or until revoked in writing. All delegations must be given in writing prior to the acquisition of the property. All delegated acquisitions must be made according to these purchasing rules. Delegations shall be subject to periodic reporting as directed by the administrator. (7-1-01)T

022. -- 030. (RESERVED).

031. COOPERATIVE PURCHASING POLITICAL SUBDIVISIONS.

The various bid statutes relating to municipal corporations, school districts and counties may authorize these political subdivisions to utilize any contract resulting from a state bid process. A public agency may use state contracts as authorized by statute and the terms of the state contract. (7-1-01)T

032. ACQUISITION OF CONCESSION SERVICES.

If there is no expenditure of state funds, the acquisition of concession services, including but not limited to, exclusive-rights contracts, franchises, vending services, options, pouring contracts, service contracts, advertising contracts, broadcast rights to sporting events or other similar types of goods, may be conducted by each purchasing activity as it determines to be in its best interest. While there is no statutory requirement for competitive bidding for concession services or the applicability of purchasing statutes to the award of contracts for concession services when no expenditure of state funds is involved, the purchasing activity is encouraged to utilize a competitive process if determined to be in its best interest. (7-1-01)T

033. PURCHASE OF TELECOMMUNICATIONS OR INFORMATION TECHNOLOGY PROPERTY.

Unless otherwise exempted by statute or these rules, all agency requests exceeding the sealed procedure limit for telecommunications or information technology property must be reviewed and approved by the Division of Information Technology Services within the Department of Administration before submission to the division. It is the requesting agency's responsibility to attach any approvals to any requisitions submitted to the division. Acquisitions of these types of property are subject to state acquisition requirements, so agencies should plan long enough in advance to allow for this review. The department's review and any subsequent acquisition will conform to the guidelines and policies established or adopted by the Information Technology Resource Management Council or other governing or policy board or council that may be created by statute or directive for the purpose of information technology oversight or review. (7-1-01)T

034. PUBLIC NOTICE.

Public notice of all acquisitions shall be made in accordance with Section 67-5718, Idaho Code, except for reverse public auction acquisitions. Notice of sole source acquisitions shall be in accordance with Section 67-5720, Idaho Code. (7-1-01)T

035. -- 040. (RESERVED).

041. PROCEDURE FOLLOWED IN THE SOLICITATION OF BIDS AND PROPOSALS.

Except as otherwise provided, the acquisition of property exceeding fifty thousand dollars (\$50,000) (the sealed procedure limit) shall be by the formal sealed procedure. (7-1-01)T

042. EXCEPTIONS TO FORMAL SEALED PROCEDURE.

Purchases meeting the following criteria need not be purchased by the formal sealed procedure: (7-1-01)T

01. Emergency Purchases. Emergency purchases as authorized by Section 67-5720, Idaho Code, and Section 43. (7-1-01)T

02. Small Purchases. Small purchases, unless the administrator specifically requires a formal sealed procedure, made in accordance with Section 44. (7-1-01)T

03. Sole Source Purchases. Sole source purchases made through direct solicitation with documented source selection, in accordance with Section 67-5720, Idaho Code, and Section 45. (7-1-01)T

04. Reverse Auctions. Purchases through reverse public auctions as authorized by Section 67-5720, Idaho Code. (7-1-01)T

05. Federal Government Acquisitions. Acquisitions from the United States of America or any agency thereof. (7-1-01)T

06. Rehabilitation Agency Acquisitions. Acquisitions of property that is provided by non-profit corporations and public agencies operating rehabilitation facilities serving the handicapped and disadvantaged and that is offered for sale at fair market price as determined by the administrator in accordance with these rules. (7-1-01)T

07. Correctional Industries. Purchases of road or street signs, metal motor license plates, wearing apparel, furniture, articles or containers for state use not for resale on the open market or any other property marketed directly by Correctional Industries in accordance with Section 20-245, Idaho Code. (7-1-01)T

08. Purchases From General Services Administration Federal Supply Contractors. Acquisitions of property may be made from General Services Administration federal supply contractors without the use of competitive bid. The administrator shall determine whether such property meets the purchasing activity's requirements and whether the price of acquisition is advantageous to the state. The administrator shall commemorate the determination in a written statement that shall be incorporated in the applicable file. If the administrator determines that the acquisition of property from General Services Administration contractors is not advantageous to the state, the acquisition shall be in accordance with competitive bidding procedures and requirements. (7-1-01)T

09. Existing State Or Statewide Contracts. Supplies, services or other property available under these contracts shall be purchased under such contracts in accordance with the provisions or requirements for use thereof. (7-1-01)T

10. Exempt Purchases. By written policy the administrator may exempt from the formal sealed procedure or the requirement for competitive acquisition that property for which bidding is impractical, disadvantageous or unreasonable under the circumstances. (7-1-01)T

a. Examples include, but are not limited to: (7-1-01)T

i. Special market conditions; (7-1-01)T

ii. Property requiring special contracting procedures due to uniqueness; (7-1-01)T

iii. Legal advertising, publication or placement of advertisements by state agency personnel directly with media sources; or (7-1-01)T

iv. Services for which competitive solicitation procedures are impractical. (7-1-01)T

b. Such policy shall describe the property exempted, the duration of the exemption, and any other requirements or circumstances appropriate to the situation. (7-1-01)T

043. EMERGENCY PURCHASES.

01. Definition Of Emergency Conditions. An emergency condition is a situation that creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures or other similar circumstances. The existence of such condition must create an immediate and serious need for property that cannot be met through normal acquisition methods. The buyer or the agency official responsible for purchasing shall make a written determination stating the basis for an emergency purchase and for the selection, if applicable, of the particular supplier. Such determination shall be sent promptly to the administrator for review and written approval that the purchase be undertaken as an emergency purchase. (7-1-01)T

02. Conditions. Emergency purchases shall be limited to only that property necessary to meet the

emergency. The director or administrator may delegate authority in writing to an agency or purchasing activity to make emergency purchases of up to an amount set forth in the delegation of authority. (7-1-01)T

044. SMALL PURCHASES.

01. General. Small purchases are those purchases or procurements expected to cost fifty thousand dollars (\$50,000) or less. Costs are determined based on the following: (7-1-01)T

- a. One-time purchases of property; or (7-1-01)T
- b. Total cost of a contract for services, including renewal or extension periods. (7-1-01)T

02. Splitting Of Requirements. Acquisition requirements shall not be artificially divided to avoid bid statutes, rules or policies. (7-1-01)T

03. Procedure. Unless impractical or impossible and documented in the file, these small purchase procedures require the acquisition to be publicly posted. Except as otherwise provided in this rule, no less than three (3) vendors having a significant Idaho presence as defined by Section 67-2349, Idaho Code, shall be solicited to submit quotations. Award shall be made to the responsible and responsive bidder offering the lowest acceptable quotation. The purchasing file will be fully documented for unacceptable quotations. Should it be impractical or impossible to solicit three (3) vendors, the file shall be fully documented and every effort should still be made to obtain the most favorable terms, conditions and price possible. (7-1-01)T

04. Form Of Request For Quotation. Unless otherwise prohibited by the buyer, the request for quotation and the quotation may be written, oral, electronic, telephonic or facsimile. (7-1-01)T

05. Quoting Time. The quoting time shall be determined by the buyer and should provide sufficient time for the vendor to prepare and return a quotation. The amount of time shall take into consideration such factors as complexity, urgency, availability of property and the number and location of vendors. (7-1-01)T

06. Statewide Contracts. Property available under single agency or statewide contracts shall be purchased under such contracts and not as a small purchase under this rule unless otherwise authorized by the administrator. (7-1-01)T

07. Professional, Consultant And Information Technology Services. Professional, consultant and information technology services acquired under this rule, where the services are reasonably expected to cost fifty thousand dollars (\$50,000) or less through a fixed price/not to exceed price contract for a term not exceeding one (1) year, may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state. (7-1-01)T

08. Purchases In Amounts Less Than Five Thousand Dollars. If the property to be acquired is expected to cost less than five thousand dollars (\$5,000), it may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state. (7-1-01)T

045. SOLE SOURCE PURCHASES.

01. Only A Single Supplier. Sole source purchase shall be used only if a requirement is reasonably available from a single supplier. A requirement for a particular proprietary property item does not justify a sole source purchase if there is more than one (1) potential bidder or offeror for that property item. (7-1-01)T

02. Examples Of Sole Source. Examples of circumstances that could necessitate a sole source purchase are: (7-1-01)T

- a. Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration. (7-1-01)T
- b. Where a sole supplier's item is needed for trial use or testing. (7-1-01)T

c. Purchase of mass produced movie or video films or written publications distributed or sold primarily by the publisher. (7-1-01)T

d. Purchase of property for which it is determined there is no functional equivalent. (7-1-01)T

03. Administrator Makes Determination. The determination as to whether an acquisition shall be made as a sole source shall be made by the administrator. Each request shall be submitted in writing by the using agency. The administrator may specify the application of such determination and its duration. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that an acquisition be restricted to one (1) potential contractor shall include an explanation as to why no other contractor is acceptable. (7-1-01)T

04. Negotiation In Sole Source Purchase. The buyer shall conduct negotiations, as appropriate, as to price, delivery and terms. (7-1-01)T

046. DETERMINATION OF FAIR MARKET PRICE FOR REHABILITATION AGENCY ACQUISITIONS.

Upon receipt of a rehabilitation agency proposal accompanied by detailed cost data, the administrator will conduct a survey of the market place by requesting current prices from at least three (3) vendors currently marketing the property being sought. The fair market price of a rehabilitation vendor shall not be greater than twenty-five percent (25%) of the lowest price received during the survey. The administrator will notify by letter the rehabilitation agency concerned advising it as to whether it is offering property at fair market price. The division or purchasing activity, if the acquisition is less than the sealed procedure limit or the contract is one (1) year or less in duration, may then contract with the rehabilitation agency at the proposed price. (7-1-01)T

047. -- 050. (RESERVED).

051. CONTENT OF THE INVITATION TO BID OR REQUEST FOR PROPOSALS.

The following shall be included in an invitation to bid or a request for proposals: (7-1-01)T

01. Submission Information. Information regarding the applicable opening date, time and location. (7-1-01)T

02. Specifications. Specifications developed in accordance with these rules including, if applicable, scope of work. (7-1-01)T

03. Contract Terms. Terms and conditions applicable to the contract. (7-1-01)T

04. Evaluation Criteria. Any evaluation criteria to be used in determining property acceptability. (7-1-01)T

05. Trade-In Property. If trade-in property is to be included, a description of the property and location where it may be inspected. (7-1-01)T

06. Incorporation By Reference. A brief description of any documents incorporated by reference that specifies where such documents can be obtained. (7-1-01)T

052. CHANGES TO INVITATION TO BID OR REQUEST FOR PROPOSALS.

An invitation to bid or request for proposals may be changed by the buyer through issuance of an addendum, provided the change is issued in writing prior to the bid opening date and is made available to all vendors receiving the original solicitation. Any material information given or provided to a prospective vendor with regard to an invitation to bid or request for proposals shall be made available in writing by the buyer to all vendors receiving the original solicitation. Oral interpretations of specifications or contract terms and conditions shall not be binding on the division unless confirmed in writing by the buyer and acknowledged by the division prior to the date of the opening. Changes to the invitation to bid or request for proposals shall be identified as such and shall require that the vendor acknowledge receipt of all addenda issued. The right is reserved to waive any informality. (7-1-01)T

053. PRICE ESCALATION.

Contractors shall not be entitled to price escalation except where specifically provided for in writing in the contract or purchase order. (7-1-01)T

054. -- 060. (RESERVED).

061. FORM OF SUBMISSION.

01. Manual Submissions. Unless otherwise provided in these rules, to receive consideration, in addition to any specific requirements set forth in the invitation to bid or request for proposals, bids or proposals submitted manually must be made on the form provided, which form must be properly completed and signed in ink. Photocopy or facsimile signatures will be rejected. All changes or erasures shall be initialed in ink. Unsigned or improperly submitted bids or proposals will be rejected. Telegraphed, telephonic or facsimile submissions will not be accepted except for emergency and small purchases. The purchasing activity does not assume responsibility for failure of any equipment. (7-1-01)T

02. Electronic Submissions. To receive consideration, in addition to any specific requirements set forth in the invitation to bid or request for proposals, bids or proposals submitted electronically must be submitted in accordance with and meet all applicable requirements of these rules. The purchasing activity does not assume any responsibility for failure of any computer or other electronic equipment. (7-1-01)T

062. -- 070. (RESERVED).

071. PRE-OPENING WITHDRAWAL OR MODIFICATION.

Manual submissions may be withdrawn or modified only as follows: Bids or proposals may be withdrawn or modified prior to the closing by written communication signed in ink by the submitting vendor. Bids or proposals may be withdrawn prior to closing in person upon presentation of satisfactory evidence establishing the individual's authority to act on behalf of the submitting vendor. Bids or proposals may be withdrawn or modified by telegraphic communication provided the telegraph is received prior to the closing. The withdrawal or modification, if done via telegraph, must be confirmed in writing signed in ink. The written confirmation must be mailed and postmarked no later than the closing date. If the written confirmation of the withdrawal or modification is not received within two (2) working days from the closing date, no consideration will be given to the telegraphic modification. Any withdrawing or modifying communication, including a telegram, must clearly identify the solicitation. A modifying letter or telegram should be worded so as not to reveal the amount of the original bid or proposal. No other form of withdrawal or modification (e.g., telephone or facsimile) will be accepted. (7-1-01)T

072. LATE BIDS/PROPOSALS, LATE WITHDRAWALS AND LATE MODIFICATIONS.

Any bid or proposal, withdrawal or modification received after the time and date set for opening at the place designated for opening is late. No late bid or proposal, late modification or late withdrawal will be considered. All late bids, other than clearly marked "no bids", will be returned to the bidder. Time of receipt will be determined by the official time stamp or receipt mechanism located at the purchasing activity. The purchasing activity does not assume any responsibility for failure of any delivery services or means or for the failure of any computer or other electronic equipment. (7-1-01)T

073. RECEIPT, OPENING, AND RECORDING OF BIDS AND PROPOSALS.

Upon receipt, all bids, proposals and modifications properly marked and identified will be time stamped, but not opened. They shall be stored in a secure place until bid opening time. Time stamping and storage may be through electronic means. Bids shall be opened publicly at the date and time specified in the invitation to bid. Proposals shall be opened publicly, identifying only the names of the offerors unless otherwise stated in the request for proposals. Bid and proposal openings may be electronic virtual openings. (7-1-01)T

074. MISTAKES.

The following procedures are established relative to claims of a mistake. (7-1-01)T

01. Mistakes In Bids. If a mistake is attributable to an error in judgment, the submission may not be corrected. Correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible, but at the discretion of the administrator and to the extent it is not contrary to the interest of the division or the fair treatment of

other submitting vendors. (7-1-01)T

02. Mistakes Discovered Before Opening. Mistakes detected prior to opening may be corrected by the submitting vendor by submitting a timely modification or withdrawing the original submission and submitting a corrected submission to the purchasing activity before the opening. (7-1-01)T

03. Mistakes Discovered After Opening But Before Award. This subsection sets forth procedures to be applied in three (3) situations described below in which mistakes are discovered after opening but before award. (7-1-01)T

a. **Minor Informalities.** Minor informalities are matters of form rather than substance evident from the bid or proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other submitting vendors, that is, the effect of the mistake on price, quantity, quality, delivery or contractual conditions is not significant. The buyer may waive such informalities. Examples include the failure of a submitting vendor to:

i. Return the required number of signed submissions. (7-1-01)T

ii. Acknowledge the receipt of an addendum, but only if: (7-1-01)T

(1) It is clear from the submission that the submitting vendor received the addendum and intended to be bound by its terms; or (7-1-01)T

(2) The addendum involved had a negligible effect on price, quantity, quality or delivery. (7-1-01)T

b. **Mistakes Where Intended Submission is Evident.** If the mistake and the intended submission are clearly evident on the face of the document, the submission shall be corrected to the intended submission and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the document are typographical errors, errors in extending unit prices (unit prices will always govern in event of conflict with extension), transposition errors and arithmetical errors. (7-1-01)T

c. **Mistakes Where Intended Submission is not Evident.** A vendor may be permitted to withdraw a low bid if: (7-1-01)T

i. A mistake is clearly evident on the face of the submission document but the intended submission is not similarly evident; or (7-1-01)T

ii. The vendor submits timely proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made. (7-1-01)T

04. Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract. (7-1-01)T

05. Written Approval Or Denial Required. In the event of a mistake discovered after the opening date, the administrator shall approve or deny, in writing, a request to correct or withdraw a submission. (7-1-01)T

075. -- 080. (RESERVED).

081. EVALUATION AND AWARD. Any contract award shall comply with these provisions. (7-1-01)T

01. General. The contract is to be awarded to the lowest responsible and responsive bidder or offeror. The solicitation shall set forth the requirements and criteria that will be used to make the lowest responsive and responsible determination. No submission shall be evaluated for any requirements or criteria that are not disclosed in the solicitation. (7-1-01)T

02. Standards Of Responsibility. Nothing herein shall prevent the buyer from establishing additional

responsibility standards for a particular purchase, provided that these additional standards are set forth in the solicitation. Factors to be considered in determining whether a vendor is responsible include whether the vendor has: (7-1-01)T

- a. Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability to meet all contractual requirements; (7-1-01)T
- b. A satisfactory record of integrity; (7-1-01)T
- c. Qualified legally to contract with the purchasing activity and qualified to do business in the state of Idaho; (7-1-01)T
- d. Unreasonably failed to supply any necessary information in connection with the inquiry concerning responsibility; (7-1-01)T
- e. Experience; or (7-1-01)T
- f. A prior performance record, if any. (7-1-01)T

03. Information Pertaining To Responsibility. A submitting vendor shall supply information requested by the buyer concerning its responsibility. If such submitting vendor fails to supply the requested information, the buyer shall base the determination of responsibility upon any available information or may find the submitting vendor nonresponsible if such failure is unreasonable. (7-1-01)T

04. Written Determination Of Nonresponsibility Required. If a submitting vendor that otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the buyer. (7-1-01)T

05. Extension Of Time For Acceptance. After opening, the buyer may request submitting vendors to extend the time during which their bids or proposals may be accepted, provided that, with regard to bids, no other change is permitted. The reasons for requesting such extension shall be documented. (7-1-01)T

06. Partial Award. A buyer shall have the discretion to award on an all or nothing basis or to accept any portion of a bid, excluding others, unless the bidder stipulates all or nothing in its bid. (7-1-01)T

07. Only One Submission Received. If only one (1) responsive submission is received in response to a solicitation, an award may be made to the single submitting vendor. In addition, the buyer may pursue negotiations in accordance with applicable conditions and restrictions of these rules. Otherwise, the solicitation may be rejected and: (7-1-01)T

- a. New bids or offers may be solicited; or (7-1-01)T
- b. The proposed acquisition may be canceled. (7-1-01)T

082. TIE BIDS. The following provisions shall apply to tie bids as defined herein. (7-1-01)T

01. Tie Bids - Definition. Tie bids are low responsive bids from responsible bidders that are identical in price or score. (7-1-01)T

02. Award. Award shall not be made by drawing lots, except as set forth below, or by dividing business among identical bidders. In the discretion of the buyer, award shall be made in any permissible manner that will discourage tie bids. Procedures that may be used to discourage tie bids include: (7-1-01)T

- a. If price is considered excessive or for other reason such bids are unsatisfactory, reject all bids, rebid and seek a more favorable contract in the open market; (7-1-01)T

b. Award to an Idaho resident or an Idaho domiciled bidder or for an Idaho produced product where other tie bid(s) are from out of state or to a bidder submitting a domestic product where other tie bid is for foreign (external to Idaho) manufactured or supplied property; (7-1-01)T

c. Where identical low bids include the cost of delivery, award the contract to the bidder farthest from the point of delivery; (7-1-01)T

d. Award the contract to the bidder who received the previous award and continue to award succeeding contracts to the same bidder so long as all low bids are identical; (7-1-01)T

e. Award to the bidder with the earliest delivery date. (7-1-01)T

03. Drawing Lots. If no permissible method will be effective in discouraging tie bids and a written determination is made so stating, award may be made by drawing lots or tossing a coin in the presence of witnesses if there are only two (2) tie bids. (7-1-01)T

083. PROPOSAL DISCUSSION WITH INDIVIDUAL OFFERORS.

01. Classifying Proposals. For the purpose of conducting proposal discussions under this rule, proposals shall be initially classified as: (7-1-01)T

a. Acceptable; (7-1-01)T

b. Potentially acceptable, that is reasonably susceptible of being made acceptable; or (7-1-01)T

c. Unacceptable. (7-1-01)T

02. "Offerors" Defined. For the purposes of this rule, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses that submitted unacceptable proposals. (7-1-01)T

03. Purposes Of Discussions. Discussions are held to facilitate and encourage an adequate number of potential offerors to offer their best proposals, by amending their original offers, if needed. (7-1-01)T

04. Conduct Of Discussions. The solicitation document must provide for the possibility of discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The buyer should establish procedures and schedules for conducting discussions. If during discussions there is a need for clarification or change of the request for proposals, it shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information derived from competing proposals are prohibited. Any oral clarification or change of a proposal shall be reduced to writing by the offeror. (7-1-01)T

05. Best And Final Offer. The buyer shall establish a common time and date for submission of best and final offers. Best and final offers shall be submitted only once unless the buyer makes a written determination before each subsequent round of best and final offers demonstrating another round is in the purchasing agency's interest, and additional discussions will be conducted or the agency's requirements will be changed. Otherwise, no discussion of, or changes in, the best and final offers shall be allowed prior to award. Offerors shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer. (7-1-01)T

084. NEGOTIATIONS.

In accordance with Section 67-5717(12), Idaho Code, the administrator may negotiate acquisitions as follows: (7-1-01)T

01. Price Agreements. The administrator may authorize and negotiate price agreements with vendors when such agreements are deemed appropriate. Price agreements shall provide for termination for any reason upon

not more than thirty (30) days' written notice. Price agreements may be appropriate when: (7-1-01)T

- a. The dollar value of items or transactions is relatively small; (7-1-01)T
- b. The property may not be conducive to standard competitive bidding procedures, such as automobile, truck or other equipment parts having individual low unit costs; (7-1-01)T
- c. There exists a need to establish multiple agreements with vendors supplying property that is similar in nature or function but is represented by different manufacturers or needed in multiple locations; or (7-1-01)T
- d. Non-exclusive agreements for periods not exceeding two (2) years are deemed necessary to establish consistent general business terms, including without limitation, price, use of catalogs, delivery or credit terms. (7-1-01)T

02. After A Competitive Solicitation. Negotiations may be used under this rule when the administrator determines in writing that negotiations may be in the best interest of the state and that: (7-1-01)T

- a. A competitive solicitation has been unsuccessful because, without limiting other possible reasons, all offers are unreasonable, noncompetitive or all offers exceed available funds and the available time and circumstances do not permit the delay required for resolicitation; (7-1-01)T
- b. There has been inadequate competition; or (7-1-01)T
- c. During the evaluation process it is determined that more than one (1) vendor has submitted an acceptable proposal or bid and negotiations could secure advantageous terms or a reduced cost for the state. (7-1-01)T

03. Examples. Examples of situations in which negotiations, as permitted by Subsection 084.02.c. of this rule, may be appropriate include but are not limited to: (7-1-01)T

- a. Ensuring that the offering vendor has a clear understanding of the scope of work required and the requirements that must be met; (7-1-01)T
- b. Ensuring that the offering vendor will make available the required personnel and facilities to satisfactorily perform the contract; or (7-1-01)T
- c. Agreeing to any clarifications regarding scope of work or other contract terms. (7-1-01)T

04. Conditions Of Use. Negotiations, as permitted by Subsection 084.02.c. of this rule, are subject to the following: (7-1-01)T

- a. The solicitation must specifically allow for the possibility of negotiation and describe, with as much specificity as possible, how negotiations may be conducted; (7-1-01)T
- b. Submissions shall be evaluated and ranked based on the evaluation criteria in the solicitation; (7-1-01)T
- c. Only those vendors whose proposals or bids are determined to be acceptable, in accordance with criteria for negotiations set forth in the solicitation, shall be candidates for negotiations; (7-1-01)T
- d. Negotiations shall be conducted first with the vendor that is the apparent low responsive and responsible bidder; (7-1-01)T
- e. Negotiations shall be against the requirements of and criteria contained in the solicitation and shall not materially alter those criteria, the specifications or scope of work; (7-1-01)T
- f. Auction techniques (revealing one vendor's price to another) and disclosure of information derived

from competing proposals is prohibited; (7-1-01)T

g. Any clarifications or changes resulting from negotiations shall be documented in writing; (7-1-01)T

h. If the parties to negotiations are unable to agree, the administrator shall formally terminate negotiations and may undertake negotiations with the next ranked vendor; and (7-1-01)T

i. If negotiations as provided for in this rule fail to result in a contract, as determined by the administrator, the solicitation may be cancelled and the administrator may negotiate in the best interest of the state with any qualified vendor. (7-1-01)T

05. Timing Of Use. If conducted, negotiations are the last step in the procurement process. Use of oral interviews or best and final procedures, as provided for in a solicitation, must precede negotiations as provided for in this rule. (7-1-01)T

085. -- 090. (RESERVED).

091. ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS.

Prior to the issuance of a purchase order or contract, the administrator shall have the right to accept or reject all or any part of a bid or proposal or any and all bids or proposals when: (7-1-01)T

01. Best Interest. It is in the best interests of the state of Idaho; (7-1-01)T

02. Does Not Meet Specifications. The submission does not meet the minimum specifications; (7-1-01)T

03. Not Lowest Responsible Bid. The submission is not the lowest responsible submission; (7-1-01)T

04. Bidder Is Not Responsible. A finding is made based upon available evidence that a submitting vendor is not responsible or otherwise capable of currently meeting specifications or assurance of ability to fulfill contract performance; or (7-1-01)T

05. Deviations. The item offered deviates to a major degree from the specifications, as determined by the administrator (minor deviations, as determined by the administrator, may be accepted as substantially meeting the requirements of the state of Idaho). Deviations will be considered major when such deviations appear to frustrate the competitive process or provides a submitting vendor an unfair advantage. (7-1-01)T

092. CANCELLATION OF SOLICITATION.

Prior to the issuance of a purchase order or contract, the purchasing activity reserves the right to reject all bids, proposals or quotations or to cancel a solicitation or request for quotation. In the event of the cancellation of an invitation to bid or request for proposals, all submitting vendors will be notified. Examples of reasons for cancellation are: (7-1-01)T

01. Inadequate Or Ambiguous Specifications. (7-1-01)T

02. Specifications Have Been Revised. (7-1-01)T

03. Cancellation Is In Best Interest Of State. (7-1-01)T

093. NOTICE OF REJECTION.

Bidders or offerors whose bids or proposals are rejected as non-responsive will be notified in writing of the reasons for such rejection. (7-1-01)T

094. -- 100. (RESERVED).

101. LEASES.

01. Lease For Personal Property. A lease for personal property may be entered into provided the lease is subject to the same requirements of competition that govern the purchase of property. Leases for periods exceeding one (1) year specifically require the approval of the administrator. (7-1-01)T

02. Lease Purchase Option. Unless a specific exemption is granted by the administrator or unless otherwise exempt by these rules, a lease purchase option may be exercised only if the lease containing the purchase option was awarded using the competitive process. Before exercising such an option, the buyer shall meet all applicable requirements of Section 67-5721, Idaho Code, including providing notice of the exercise of option as a sole source or competitively bidding the property by soliciting bids for new or used property. (7-1-01)T

102. TIME PURCHASE CONTRACTS.

01. Time Purchase For Personal Property. A time purchase or installment contract, that may include interest charges over a period of time, may be entered into provided: (7-1-01)T

a. Such contract is in the best interest of the agency. Installment payments should be used judiciously in order to achieve economy and not to avoid budgetary restraints. (7-1-01)T

b. Using agencies shall be responsible for ensuring that all statutory or other applicable requirements are met and that all budgetary or other required approvals are obtained. (7-1-01)T

c. Documentation of any required approval shall be submitted to the division with any required requisition. (7-1-01)T

d. Provision for installment payments must be included in the solicitation. (7-1-01)T

02. Lack Of Fund Contract Language Required. An installment or time purchase contract shall include appropriate language stating that the agency is not obligated to make payments beyond the term of any particular appropriation of state or federal funds that may exist from time to time and that the contract may be terminated upon such without any penalty or future liability. (7-1-01)T

103. -- 110. (RESERVED).

111. SPECIFICATIONS -- POLICIES AND DEVELOPMENT.

01. Purpose. Unless exempted by these rules or by the administrator, all solicitations and requests for quotations require specifications. Specifications set forth the characteristics of the property to be acquired. Specifications serve as the basis for obtaining property adequate and suitable for the using agency's needs in a cost effective manner, taking into account the costs of ownership and operation as well as initial acquisition costs. Specifications shall be drafted clearly to describe the agency's needs and to enable the vendors to determine and understand the agency's requirements. Specifications shall, as much as practical, be nonrestrictive to provide an equal basis for participation by an optimum number of vendors and to encourage competition. This information may be in the form of a description of the physical, functional or performance characteristics, a reference brand name or both. It may include a description of any required inspection, testing or preparation or delivery. Specifications may be incorporated by reference or contained in an attachment. (7-1-01)T

02. Use Of Functional Or Performance Descriptions. Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the agency. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of purchase requisitions their principal functional or performance needs. (7-1-01)T

03. Preference For Commercially Available Products. Requirements shall be satisfied by standard commercial products whenever practicable. (7-1-01)T

04. Brand Name Or Equal Specification. (7-1-01)T

a. A brand name or equal specifications may be used when the buyer determines that such a specification is in the agency's best interest. (7-1-01)T

b. A brand name or equal specification shall seek to designate as many different brands as are practicable as "or equal" and shall state that products substantially equivalent to those designated will be considered for award. (7-1-01)T

c. Unless the buyer authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design and functional or performance characteristics required. (7-1-01)T

d. Where a brand name or equal specification is used, the document shall contain explanatory language that the use of a brand name is for the purpose of designating the standard of quality, performance, and characteristics desired and is not intended to restrict competition. (7-1-01)T

05. Brand Name Specification. (7-1-01)T

a. Since use of a brand name specification is restrictive, such a specification may only be used when the administrator or designee makes a written determination. Such determination may be in any form, such as a purchase evaluation or a statement of single manufacturer justification. The written statement must state specific reasons for use of the brand name specification. (7-1-01)T

b. The administrator shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one (1) source can supply the requirement, the acquisition shall be made under Section 67-5720 of the Idaho Code. (7-1-01)T

06. Specification Of Alternates May Be Included. A specification may provide alternate descriptions of property where two (2) or more design, functional or performance criteria will satisfactorily meet the agency's requirements. (7-1-01)T

112. -- 120. (RESERVED).

121. DEFINITIONS.

For purposes of IDAPA 38.05.01, Sections 121 through 127, and unless the context expressly indicates otherwise, the following terms shall have the definitions ascribed to them: (7-1-01)T

01. Electronically Signed Communication. A message that has been processed by a computer in such a manner that ties the message to the individual that signed the message. (7-1-01)T

02. Message. An electronic representation of information intended to serve as a written communication with the division. (7-1-01)T

03. Person. A human being or any organization capable of signing a document, either legally or as a matter of fact. (7-1-01)T

04. Signer. The person who signs an electronically signed communication with the use of an acceptable technology to uniquely link the message with the person sending it. (7-1-01)T

05. Technology. The computer hardware or software-based method or process used to create electronic signatures. (7-1-01)T

122. ELECTRONIC SIGNATURES MUST BE CREATED BY AN ACCEPTABLE TECHNOLOGY.

For an electronic signature to be valid for use by the division, it must be created by a technology that is accepted for use by the division. (7-1-01)T

123. CRITERIA TO DETERMINE IF AN ELECTRONIC SIGNATURE TECHNOLOGY WILL BE ACCEPTED FOR USE BY THE DIVISION.

01. Criteria Of Section 67-2354, Idaho Code. For a technology to be accepted for use by the division, it must be capable of creating signatures that conform to requirements set forth in Section 67-2354, Idaho Code: (7-1-01)T

- a. It is unique to the person using it; (7-1-01)T
- b. It is capable of verification; and (7-1-01)T
- c. It conforms to IDAPA 38.05.01, Sections 121 through 123. (7-1-01)T

02. Additional Criteria. To be accepted, a technology must also be capable of creating a signature that: (7-1-01)T

- a. Is under the sole control of the person using it; (7-1-01)T
- b. Is linked to the data in such a manner that if the data are changed, the electronic signature is invalidated; and (7-1-01)T
- c. Meets ISO X.509 standards. (7-1-01)T

124. PUBLIC KEY CRYPTOGRAPHY.

The technology known as Public Key Cryptography is an accepted technology for use by the division, provided that the electronic signature is created consistent with the provisions in this Section. (7-1-01)T

01. Definitions. For purposes of this Section 124, and unless the context expressly indicates otherwise, the following terms shall have the definitions ascribed to them. (7-1-01)T

a. Approved Certification Authority. The certification authority authorized and accepted by the state to issue certificates for electronic signature transactions involving the state. (7-1-01)T

b. Asymmetric Cryptosystem. A computer algorithm or series of algorithms that utilize(s) two (2) different keys with the following characteristics: (7-1-01)T

- i. One (1) key signs a given message; (7-1-01)T
- ii. One (1) key verifies a given message; and (7-1-01)T
- iii. The keys have the property that, knowing one (1) key, it is computationally infeasible to discover the other key. (7-1-01)T

c. Certificate. A computer-based record that: (7-1-01)T

- i. Identifies the certification authority issuing it; (7-1-01)T
- ii. Names or identifies its subscriber; (7-1-01)T
- iii. Contains the subscriber's public key; (7-1-01)T
- iv. Is electronically signed by the certification authority issuing or amending it; and (7-1-01)T
- v. Conforms to widely-used industry standards. (7-1-01)T

d. Certification Authority. A person or entity that issues a certificate, or in the case of certain

certification processes, certifies amendments to an existing certificate. (7-1-01)T

e. Key Pair. A private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify an electronic signature that the private key creates. (7-1-01)T

f. Private Key. The key of a key pair used to create an electronic signature. (7-1-01)T

g. Proof of Identification. The document or documents presented to a certification authority to establish the identify of a subscriber. (7-1-01)T

h. Public Key. The key of a key pair used to verify an electronic signature. (7-1-01)T

i. Subscriber. A person who: (7-1-01)T

i. Is the subject listed in a certificate; (7-1-01)T

ii. Accepts the certificate; and (7-1-01)T

iii. Holds a private key that corresponds to a public key listed in that certificate. (7-1-01)T

02. Electronic Signature To Be “Unique”. Section 67-2354, Idaho Code, requires that an electronic signature be “unique to the person using it”. A public key-based electronic signature may be considered unique to the person using it, if: (7-1-01)T

a. The private key used to create the signature on the document is known only to the signer; (7-1-01)T

b. The electronic signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetrical cryptosystem and the signer’s private key; (7-1-01)T

c. Although not all electronically signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and (7-1-01)T

d. It is computationally infeasible to derive the private key from knowledge of the public key. (7-1-01)T

03. Signature Is Capable Of Verification. Section 67-2354, Idaho Code, requires that an electronic signature be “capable of verification”. A public-key based electronic signature is capable of verification if: (7-1-01)T

a. The acceptor of the electronically signed document can verify the document was electronically signed by using the signer’s public key; (7-1-01)T

b. If a certificate is a required component of a transaction, that the certificate was valid; and (7-1-01)T

c. If a certificate is a required component of a transaction, the issuing certification authority identifies which, if any, form(s) of proof of identification it required of the signer prior to issuing the certificate. (7-1-01)T

04. Control Of Electronic Signature. Subsection 123.02.a. requires that the electronic signature remain “under the sole control of the person using it”. Whether a signature is accompanied by a certificate or not, the person who holds the key pair, or the subscriber identified in the certificate, assumes a duty to retain control of the private key and prevent its disclosure to any person not authorized to create the subscriber’s electronic signature. (7-1-01)T

05. Electronic Signature Linked To The Message. The electronic signature must be linked to the

message of the document in such a way that if the data are changed, the electronic signature is invalidated. (7-1-01)T

06. Electronic Signature Must Meet ISO X.509 Standards. The electronic signature must meet ISO X.509 standards. (7-1-01)T

07. Approved Certification Authority. The division shall only accept certificates from an approved certification authority. (7-1-01)T

125. CRITERIA FOR THE DIVISION TO USE IN ACCEPTING ELECTRONIC SIGNATURES.

01. Level Of Security Used To Identify The Signer. Prior to accepting an electronic signature, the division shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted. (7-1-01)T

02. Level Of Security Used To Transmit The Signature. Prior to accepting an electronic signature, the division shall ensure that the level of security used to transmit the signature is sufficient for the transaction being conducted. (7-1-01)T

03. Certificate Format Used By The Signer. If a certificate is a required component of an electronic signature transaction, the division shall ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of the division. (7-1-01)T

126. RETENTION OF CERTIFICATES.

All electronically signed messages received by the division in accordance with this rule, as well as any information resources necessary to permit access to the message and to verify the electronic signature, shall be retained by the division as necessary to comply with applicable law pertaining to records retention requirements for that message. (7-1-01)T

127. ELECTRONIC SIGNATURE REPUDIATION.

It is the responsibility of the rightful holder of the private key to maintain the private key's security. Repudiation of an electronically signed and transmitted message may only occur by the determination of a court of competent jurisdiction that the private key of the rightful holder was compromised through no fault of the rightful holder and without knowledge on the part of the rightful holder. It is the legal prerequisite for a claim of repudiation that the repudiator have filed a notice of revocation with the certification authority prior to making the claim of repudiation. (7-1-01)T

128. -- 999. (RESERVED).

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.81 - RULES GOVERNING ISSUANCE OF TEMPORARY
PERMITS IN LIEU OF FULL REGISTRATION

DOCKET NO. 39-0381-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 49-201 and 49-432, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

This rule is being amended to reflect changes to code in H270 and H369, passed by the 2001 Legislature. H270 modified the duration and fees charged for temporary permits. H369 added language to provide a new type of permit to authorize temporary operation of vehicles in excess of their registered maximum gross weight.

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

Compliance with effective dates of amendments to code.

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

No fee is being imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule-making is based on changes to Idaho Code, and not subject to negotiation.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Frew, Port of Entry Manager, 334-8694.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 23rd day of May, 2001.

Linda L. Emry, Management Assistant
Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
3311 West State Street
P O Box 7129
Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-334-8195

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0381-0101

IDAPA 39
TITLE 03
Chapter 81

**39.03.81 - RULES GOVERNING ISSUANCE OF ~~INTRANSIT~~ TEMPORARY
PERMITS IN LIEU OF FULL REGISTRATION**

000. LEGAL AUTHORITY.

This rule is adopted under authority of Sections 49-201 and 49-432, ~~49-433 and 49-1101 through 49-1104~~, Idaho Code. (6-4-90)(7-1-01)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter shall be IDAPA 39.03.81, "Rules Governing Issuance of Temporary Permits In Lieu of Full Registration". (7-1-01)T

02. Scope. This ~~rule~~ chapter clarifies the requirements governing the issuance of ~~intransit~~ temporary permits for resident and nonresident vehicle operators or owners. (6-4-90)(7-1-01)T

002. WRITTEN INTERPRETATIONS.

The Idaho Transportation Department has no written interpretations of this chapter. (7-1-01)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (7-1-01)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (7-1-01)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of P.O. Box 7129, Boise, ID 83707-1129. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. The Port of Entry Section may be contacted during office hours by phone at 208-334-8688 or by fax at 208-334-8696. (7-1-01)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-01)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

~~01. Caravan Permit.~~ A temporary permit issued to motor vehicles for sale or resale which are being transported interstate or intrastate under Sections 49-1101 and 49-1102, Idaho Code, unless licensed dealers are exempted by Sections 49-104 or 49-1627, Idaho Code. (1-2-93)

021. First Available Location. The first vendor along an ~~nonresident~~ owner's or operator's route of

travel from whom ~~trip~~ one hundred twenty (120) hour temporary permits in lieu of registration can be purchased. (6-4-90)(7-1-01)T

~~03. **Intransit Permit.** A single trip permit, caravan permit or ninety-six (96) hour trip permit. (6-4-90)~~

02. Increased Registered Weight Temporary Permit. Temporary authority to exceed the registered maximum gross weight of a vehicle as authorized by Section 49-432, Idaho Code. (7-1-01)T

03. Licensed Vehicle. A vehicle currently registered in any jurisdiction. (7-1-01)T

~~04. **Ninety-Six One Hundred Twenty Hour Trip Temporary Permit.** A ~~ninety-six~~ one hundred twenty (96)120 hour temporary ~~trip~~ permit issued in lieu of an ~~special fuel permit~~ IFTA license/decals and/or full vehicle licensing and registration as authorized by Section 49-432, Idaho Code. (1-2-93)(7-1-01)T~~

~~05. **Single Trip Permit.** A permit issued in lieu of licensing to operate an unlicensed, untaxed vehicle from one point in Idaho to another under Section 49-433, Idaho Code. Vehicles exceeding twenty-six thousand (26,000) pounds and operating on special fuel must comply with appropriate sections of Chapter 24, Title 63, Idaho Code, and specifically Section 63-2440, Idaho Code. (1-2-93)~~

~~065. **Vendor.** A governmental agency, private or commercial business which sells ~~trip~~ temporary permits as an agent of the Idaho Transportation Department. (1-2-93)(7-1-01)T~~

011. -- 099. (RESERVED).

100. GENERAL PROVISIONS.

01. Availability. ~~Intransit~~ One hundred twenty (120) hour temporary permits in lieu of registration are available to ~~residents and to nonresidents~~ owners or operators whose state jurisdiction of residence allows temporary ~~trip~~ permits to like vehicles from the state of Idaho. Increased registered weight temporary permits are available to currently registered vehicles capable of legally operating at the higher gross vehicle weight as declared by the owner or operator. (6-4-90)(7-1-01)T

02. Purchase Of ~~Intransit~~ Temporary Permits. (6-4-90)(7-1-01)T

a. ~~Residents~~ Owners or operators electing to use ~~intransit~~ increased registered weight temporary permits in lieu of registration must purchase permits prior to movement of vehicles on the public highways or roads. Failure to do so will may result in enforcement action and may include mandatory full licensing and registration of such vehicle as required by Sections ~~49-402 and~~ 49-434, Idaho Code. The temporary permit shall be on a form prescribed by the department and prominently displayed on the windshield of the permitted vehicle. (6-4-90)(7-1-01)T

b. ~~Intransit~~ One hundred twenty (120) hour temporary permits in lieu of registration must be purchased by ~~nonresidents~~ owners or operators of unlicensed vehicles prior to their movement on the highway. Licensed vehicles may purchase one hundred twenty (120) hour permits in lieu of registration at the first available location as defined by this rule. The ~~trip~~ temporary permit shall be on a form prescribed by the Department and must be prominently displayed on the windshield of the permitted vehicle. (6-4-90)(7-1-01)T

c. All temporary permits shall be made available for inspection by any law enforcement officer and authorized personnel of the department upon request. (7-1-01)T

~~03. **Purchase Of Ninety-Six Hour Permits.** (6-4-90)~~

~~04. Section 49-432, Idaho Code, provides that owners of motor vehicles or combinations of vehicles over eight thousand (8,000) pounds gross vehicle weight subject to registration may, in lieu of full licensing and registration, purchase a ~~ninety-six~~ one hundred twenty (96)120 hour ~~trip~~ temporary permit in lieu of registration for the operation of such vehicles for a ~~ninety-six (96) hour~~ periods of one hundred twenty (120) hours. (6-4-90)(7-1-01)T~~

b. Fees for ninety-six (96) hour trip permits are legislated in Section 49-432, Idaho Code. A base issuance fee of twelve dollars (\$12) per permit is assessed plus a mill per mile fee based upon the maximum gross weight of the vehicle. (6-4-90)

e. Section 49-432, Idaho Code, provides that owners or operators of motor vehicles currently and validly registered over fifty thousand (50,000) pounds gross vehicle weight may purchase an increased registered weight temporary permit for the operation of such vehicles in excess of the registered maximum gross weight for periods of thirty (30) days. Such permits shall be in addition to any other permit that may be required for excess weight as specified by Section 49-1004, Idaho Code. (7-1-01)T

f. Section 49-432, Idaho Code, provides that owners or operators of motor vehicles currently and validly registered may purchase an increased registered weight temporary permit for the operation of such vehicles in excess of the registered maximum gross weight for periods of one hundred twenty (120) hours. Such permits shall be in addition to any other permits that may be required for excess weight as specified by Section 49-1004, Idaho Code. (7-1-01)T

101. -- 199. (RESERVED).

200. PERMIT REQUIREMENTS.

01. Proof Of Ownership. An operator or owner of a vehicle shall show proof of ownership before a permit is issued. (6-4-90)

a. Resident vehicle proof of ownership ~~can~~ may be documented by: (7-1-01)T

i. ~~A~~ copy of the Idaho title identifying the owner and vehicle; (7-1-01)T

ii. ~~A~~ copy of a valid lease agreement identifying the owner and the vehicle; (7-1-01)T

iii. ~~A~~ copy of an expired registration identifying the current owner and the vehicle; or (7-1-01)T

iv. ~~A~~ copy of a valid bill of sale transferring ownership of the vehicle. (~~1-2-93~~)(7-1-01)T

b. Nonresident vehicle proof of ownership ~~can~~ may be documented by: (7-1-01)T

i. ~~A~~ copy of a valid registration from a base ~~state~~ jurisdiction, which qualifies for a permit, identifying the owner and the vehicle; (7-1-01)T

ii. ~~A~~ copy of an expired lease agreement of an owner/operator not acting as a lessee which identifies the owner and the vehicle; (7-1-01)T

iii. ~~A~~ copy of a current lease agreement, providing the base ~~state~~ jurisdiction qualifies for a permit, which identifies the owner/operator; (7-1-01)T

iv. ~~A~~ copy of a valid bill of sale transferring ownership of the vehicle; or (7-1-01)T

v. ~~A~~ copy of the title identifying owner and vehicle. (~~1-2-93~~)(7-1-01)T

02. Weight Of Vehicle. ~~Ninety-six~~ One hundred twenty (96)120 hour ~~trip~~ temporary permits in lieu of registration shall ~~be sold for~~ authorize the legal operation of the permitted vehicle to the maximum combined gross weight of a vehicle, not to exceed one hundred five thousand five hundred (105,500) pounds. (~~6-4-90~~)(7-1-01)T

03. Determination Of Maximum Gross Weight. *If the registration or proof of ownership of a vehicle does not show the maximum gross weight, the maximum gross weight shall be declared by the owner or operator at the time the permit is purchased. (6-4-90)*

~~04. **Add-On Miles.** If an owner or operator of a vehicle has in his possession a ninety-six (96) hour trip permit which has not exceeded the ninety-six (96) hour time limit and additional miles are needed, an "add-on miles permit" for the additional mileage shall be sold. A separate ninety-six (96) hour trip permit form shall be prepared; however, the twelve dollar (\$12) issuance fee shall not be charged for the "add-on miles". (6-4-90)~~

~~05. **Permit Restriction.** An owner or operator of a vehicle already registered in this state cannot purchase a permit for the purpose of increasing the registered maximum gross weight. (6-4-90)~~

~~063. **Purchase Of Multiple Permits.** Residents or nonresidents who qualify for permits may purchase more than one (1) permit at a time to cover a time period ~~in excess of ninety-six (96) hours~~ not to exceed ninety (90) days. Additional time periods must be purchased in increments of ~~ninety-six~~ one hundred twenty (96/120) hours or thirty (30) days and ~~the base issuance fee of twelve dollars (\$12) shall be charged~~ assessed the appropriate fees for each permit increment. (6-4-90)(7-1-01)T~~

~~074. **Permit Denial.** Any person who has been notified by mail at his last known business address as it appears on ~~D~~department records, that his registration has been suspended or revoked shall not be allowed to register in Idaho by securing an intransit temporary permit. Any person, having been duly notified, who purchases a permit and subsequently operates a vehicle displaying such permit while his registration is suspended or revoked is in violation of this rule. Any person failing to provide proof of current registration shall not be allowed to temporarily permit for increased registered weight. Any person obtaining a temporary permit for increased registered weight without a current registration is in violation of this rule. (1-2-93)(7-1-01)T~~

~~05. **Violation Of Permit.** If an owner or operator of a vehicle exceeds the operating weight authorized by temporary permit, such owner or operator may be issued a citation for violation of Section 49-438, Idaho Code. The violation shall be limited to the difference between the amount of the actual operating weight and the operating weight authorized by temporary permit. (7-1-01)T~~

201. -- 299. (RESERVED).

300. REFUND OF FEES.

~~01. **Cause For Refund.** The ~~D~~department will grant refunds for permits sold by its vendors or by Ports of Entry, if the permit was sold as the result of an error made by the ~~D~~department or its vendors. (6-4-90)(7-1-01)T~~

~~02. **Request For Refunds.** Owners or operators shall address all requests for refunds of ~~trip~~ temporary permit fees to the Idaho Transportation Department, Ports of Entry Section, P.O. Box 7129, Boise, Idaho 83707-1129. (6-4-90)(7-1-01)T~~

~~03. **Documentation For Refunds.** The following documentation must accompany refund requests: (6-4-90)~~

- ~~a. Both the yellow display copy and the white receipt copy of the permit; (6-4-90)~~
- ~~b. Proof that the vehicle held a valid Idaho registration at the time the permit was issued; and (6-4-90)~~
- ~~c. Proof that special fuel tax was paid at the pump or that the permitted vehicle was registered with the Idaho Tax Commission for quarterly payment of fuel tax at the time the permit was sold. (6-4-90)~~

~~04. **Denial Of Refund.** If the certificate of registration of the permitted vehicle was mailed from ~~the Commercial Vehicle Unit~~ Motor Carrier Services or the Division of Motor Vehicles ~~Bureau~~ to the correct address of the owner of the vehicle thirty (30) days or more prior to the purchase of the permit or if cause for refund was not provided, a request for refund shall be denied. (1-2-93)(7-1-01)T~~

301. -- 399. (RESERVED).

400. ~~INTRANSIT~~ TEMPORARY PERMIT VENDOR PROGRAM.

01. Vendor Authorization. ~~Intransit permit~~ Vendors may be established to sell ~~ninety-six (96) hour~~ ~~trip~~ ~~temporary permits, single trip permits and caravan permits~~ provided the vendor meets state requirements. (6-4-90)(7-1-01)T

02. Payment To Vendor. Vendors shall be paid by the ~~D~~department at the rate of ~~two~~ three dollars (\$3) per ~~intransit~~ permit sold. Permits sold in multiple increments shall be deemed to be issued as one (1) permit for purposes of payment or remuneration to the vendor. (1-2-93)(7-1-01)T

401. -- 499. (RESERVED).

500. ADDITIONAL REQUIREMENTS.

Any overlegal permit required pursuant to Section 49-1004, Idaho Code, shall be in addition to those required by this rule. (6-4-90)(7-1-01)T

501. -- 999. (RESERVED).

IDAPA 48 - DEPARTMENT OF COMMERCE
48.01.04 - IDAHO GEM COMMUNITY IMPLEMENTATION GRANT PROGRAM
DOCKET NO. 48-0104-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is May 1, 2001.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to HB301.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

The need is to establish requirements for the newly appropriated \$400,000 for a Gem Community Implementation Grant Program. The temporary and proposed rule provides qualified Gem Communities with program priorities and a process for applying and implementing these grants.

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

Temporary rule justification is to confer a benefit by having program criteria and procedures in place by the beginning of the application cycle for Gem Community Implementation Grants, which is July 1, 2001.

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

No fee is being imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking of the need for temporary rulemaking (see justification above).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Robert Ford at (208) 334-2470.

Anyone may submit written comments regarding this proposed rule. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 1st day of May, 2001.

Robert Ford, Program Manager
Division of Rural and Community Development
Idaho Department of Commerce
Telephone: (208) 334-2470
FAX: (208) 334-2631

700 West State Street
P.O. Box 83720
Boise, ID 83720-0093

THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0104-0101

IDAPA 48
TITLE 01
Chapter 04

48.01.04 - IDAHO GEM COMMUNITY ~~ACTION~~ IMPLEMENTATION GRANT PROGRAM

000. LEGAL AUTHORITY.

The Idaho Gem Community ~~Action~~ Implementation Grant Program was created as part of Governor ~~Andrus' FY91~~ Kempthorne's Rural Development Initiative. The ~~Second~~ First Regular Session of the ~~52nd~~ Fifty-sixth Idaho State Legislature made ~~one-time~~ funds available to ~~continue~~ create the Gem Community ~~Action~~ Implementation Grant (GCAI) Program within the Idaho Department of Commerce (IDC). (2-7-94)(5-1-01)T

001. TITLE AND SCOPE.

01. Title. These rules shall be known as IDAPA 48.01.04, "Idaho Gem Community Implementation Grant Program". (5-1-01)T

02. Scope. These rules establish the process for application for and awarding of Idaho Gem Community ~~Action~~ Implementation Grants. ~~Contact with Department staff is helpful, and encouraged, in determining eligibility for a proposed project. Department staff are also available for technical assistance and answers to questions about the rules.~~ (2-7-94)(5-1-01)T

~~002. -- 009. (RESERVED).~~

002. WRITTEN INTERPRETATIONS.

The Idaho Department of Commerce may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements can be inspected and copied at the Idaho Department of Commerce, 700 W State Street, Boise, Idaho 83720-0093.

(5-1-01)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to Section 67-5270, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General". (5-1-01)T

004. INCORPORATION BY REFERENCE.

These rules do not contain documents incorporated by reference.

(5-1-01)T

005. OFFICE -- OFFICE HOURS OFFICE HOURS, MAILING ADDRESS, AND STREET ADDRESS.

The headquarters office of the Idaho Department of Commerce is in Boise, Idaho. This office is open from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The Department's mailing address, unless otherwise indicated, is Idaho Department of Commerce, P.O. Box 83720, Boise ID 83720-0093. The street address is 700 West State Street, Boise, Idaho. The telephone number is (208) 334-2470 and the FAX number is (208) 334-2631.

(5-1-01)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records relating to this chapter are public records except to the extent such records are by law exempt from disclosure.

(5-1-01)T

007. -- 011. (RESERVED).

0102. OBJECTIVE.

The primary objective of the Gem Community ~~Action~~ Implementation Grant Program is to fund community development projects of Certified Gem Communities for the purpose of: ~~(2-7-94)(5-1-01)T~~

01. **Improving The Local Economy.** (2-7-94)
02. **Retaining Or Creating Jobs.** (2-7-94)
03. **Promoting The Community For Economic Development And Tourism.** (2-7-94)
04. **Assisting Business Expansion And Diversification.** (2-7-94)
- ~~05. **Supporting Cultural Development.** (2-7-94)~~
- ~~06. **Expanding Recreational Activities, Events And Facilities.** (2-7-94)~~
- ~~07. **Historic Preservation And City Beautification.** (2-7-94)~~

0143. ELIGIBLE APPLICANTS.

Active Certified Gem Communities under ten thousand (10,000) persons and other Active Certified Gem Communities at the discretion of the director are eligible to apply for ~~one (1)~~ GCAI grants for a maximum of ~~ten~~ fifty thousand dollars (\$~~50,000~~). ~~Communities that have previously received a one thousand dollars (\$1,000) Gem Community matching grant are eligible to apply for up to nine thousand dollars (\$9,000) in GCAI funding.~~ GCAI grants shall be made to cities/counties of active certified Gem Communities. The grants may be administered by their designees as established by formally adopted resolutions. ~~(2-7-94)(5-1-01)T~~

0124. ELIGIBLE ACTIVITIES.

For a project to be eligible for GCAI funding the project must meet the following conditions: ~~(2-7-94)(5-1-01)T~~

01. **Project Concept.** The project concept must be included in the applicant's current Gem Community one year plan. (2-7-94)
02. **Purpose Of Project.** The purpose of the project must be consistent with one (1) or more of the GCAI program objectives listed in Section 0102. ~~(2-7-94)(5-1-01)T~~

0135. ELIGIBLE COSTS.

Eligible costs for the use of GCAI funds are limited to: ~~(2-7-94)(5-1-01)T~~

01. **Materials.** (2-7-94)
02. **Construction Contracts.** (2-7-94)
03. **Architect And Engineering Services And Legal And Professional Services Required For Project Implementation.** ~~(2-7-94)(5-1-01)T~~
04. **Equipment.** (2-7-94)
05. **Equipment Installation.** (2-7-94)
06. **Advertising.** (2-7-94)
07. **Printing.** (2-7-94)
08. **Construction Of Infrastructure For Economic Expansion.** (5-1-01)T
09. **Rehabilitation And Development Of Public Property To Support Business Development.** (5-1-01)T

10. Acquisition Of Real Estate For Business Development. (5-1-01)T

11. Matching Funds For Other State Federal And Foundation Economic Development Grants.
(5-1-01)T

0146. INELIGIBLE ACTIVITIES/COSTS.

Gem Community ~~Action~~ Implementation Grant funds shall not be used for: (2-7-94)(5-1-01)T

01. Payroll Costs. Payroll costs for city, county, development corporation or other community agencies. (2-7-94)

02. Real Property Acquisition. Construction, rehabilitation, or operation of schools, general government facilities, jails or state facilities. (2-7-94)(5-1-01)T

03. Administrative Costs. Expenses related to administering Gem Community ~~Action~~ Implementation Grants will not be reimbursable to the grantee from GCAI funds. (2-7-94)(5-1-01)T

04. Political Activities. GCAI funds shall not be used for political purposes or to engage in lobbying or other partisan political activities. (2-7-94)(5-1-01)T

05. Religious Activities. GCAI funds shall not be used for the construction, rehabilitation or operation of active churches or religious structures used for religious purposes. (2-7-94)(5-1-01)T

0157. SELECTION.

The GCAI grant process is *not* competitive on a quarterly cycle. All Active Certified Gem Communities are eligible to apply for funding *on a first come first serve basis* at any time depending upon grant fund availability. A two (2) step review process is used: (2-7-94)(5-1-01)T

01. Review Of Proposals. The Gem Community staff reviews proposals for completeness, allowable costs and compliance with grant rules and makes recommendations for funding to the IDC Director. (2-7-94)

02. Grant Awards. The IDC Director makes all GCAI grant awards. (2-7-94)(5-1-01)T

03. Director Discretion. The IDC Director may make grant awards at any time to take advantage of special opportunities. (5-1-01)T

0168. -- 019. (RESERVED).

020. APPLICATION PROCESS.

01. Applications. Applications for Gem Community ~~Action~~ Implementation Grants may be submitted by eligible communities at any time. ~~Pre-applications are not required although communities are encouraged to discuss the project and proposal with the Gem Community Staff prior to releasing the Public Notice of Intent to apply for funding.~~ (2-7-94)(5-1-01)T

02. Application For Funding. Application for funding is made by submitting one (1) copy of the grant proposal in the required format to the Idaho Department of Commerce. (2-7-94)

~~021. PUBLIC NOTICE-~~

~~Prior to applying for GCA funds, communities are required to permit public comment and review of the proposal. A formal public hearing is not required. Proper notification shall be given by public display advertisement in a local newspaper no less than seven (7) days prior to the date of proposal submission. The notice shall include:~~ (2-7-94)

~~01. Description Of Project.~~ *A brief description of the proposed project.* (2-7-94)

~~02. Amount Requested.~~ *The amount of funds being requested.* (2-7-94)

~~03. Notification Of Acceptance Of Comments. Notification that both written and verbal comments will be accepted. (2-7-94)~~

~~04. Location And Hours. The location and hours the applicant will use to accept comments. (2-7-94)~~

0221. -- 029. (RESERVED).

030. PROPOSAL FORMAT.

GCAI applications shall be submitted on eight and one-half by eleven inches (8 1/2" x 11") white paper. The text shall be typed, with numbered pages. The types of headings and numbering systems are optional to the applicant. The proposal should contain the following information and sections: ~~(2-7-94)(5-1-01)T~~

01. Cover Page. The cover should include one (1) signature from each city council/mayor and county commission of the community. The designated grant administrator and a contact person should also be named on the cover page. (2-7-94)

02. Table Of Contents. (2-7-94)

03. Project Description. Include a brief narrative description of the project that contains: (2-7-94)

a. Project need and benefits expected. Reference the project's purpose in the Community one (1) year plan. (2-7-94)

b. Time line. Show anticipated start date, end date and projected times for completion of major components of the project. (2-7-94)

c. The applicant shall include a description of the proposed administration of the project and how the accounting will be performed. If the lead community economic development organization or one city or county in a multi-city/county community is to be named grant administrator, a formally adopted resolution designating the administrator shall be included in the proposal. (2-7-94)

04. Project Budget. Applicants must show a line item breakdown for the use of the GCAI funds and the amount and use of matching funds. Applicants shall also include the following: ~~(2-7-94)(5-1-01)T~~

a. A narrative explaining donations used for match, and how they will contribute to the completion of the project. (2-7-94)

b. Letters of commitment of matching funds. All sources of matching funds shall be documented by including letters of commitment from the donor. (2-7-94)

c. ~~Copies of any written comments received during the public comment period and a copy of the public notice.~~ Formally adopted resolutions from each city council and county commission of the certified community. ~~(2-7-94)(5-1-01)T~~

031. MATCHING FUNDS.

All GCAI grantees must provide ~~one hundred percent (100%) one to one (1:1)~~ a minimum of twenty percent (20%) match of either cash or in-kind donations for the GCAI funds received. Match can be comprised of any combination of cash and in-kind donations. ~~(2-7-94)(5-1-01)T~~

01. Match. Match can be from private, local, state, federal, or foundation sources. (2-7-94)

02. Relation To Project. All match must be related to the planning, implementation or operation of the project. (2-7-94)

03. Documentation Of Match. Match must be documented by receipt, invoice, time cards, or by other written document signed by the donor. (2-7-94)

04. **GCAI Funds.** GCAI funds may be used to match other state, federal and foundation grant funds. (2-7-94)(5-1-01)T

05. **Expenses Used As Match.** Up to ~~one~~ two thousand five hundred dollars (~~\$72,050~~) of the grantee's/administrator's administrative expenses related to the project may be used as match for the grant. (2-7-94)(5-1-01)T

032. **GRANT PAYMENT.**
Payment of GCAI grants will be made in the following manner: (2-7-94)(5-1-01)T

01. **Payment Of Funds.** Grantees shall normally receive payment of GCAI funds on a reimbursement basis ~~with a maximum of two (2) reimbursement requests.~~ Grant payment procedures will be established in the GCI Grant Contract. To receive reimbursement, the grantee must submit receipts and match documentation for the grant amount being requested. The Department will reimburse allowable costs up to the maximum grant amount for which both receipts and match is provided. (2-7-94)(5-1-01)T

02. **Special Circumstances.** In special circumstances due to the small size of the community or the nature of the project, grantees may request receipt of GCAI funds on other than a reimbursement basis. The Department will review the requests and determine the payment procedures necessary to avoid hardship to the community. (2-7-94)(5-1-01)T

033. **REPORTING.**
All GCAI grant recipients are required to submit the following two (2) reports: (2-7-94)(5-1-01)T

01. **Status Report.** A status report is required ~~at the approximate mid-point of the project~~ with each request for payment. It should contain the following information: (2-7-94)(5-1-01)T

- a. A short narrative outlining the project status, successes, problems, etc. (2-7-94)
- b. Press clippings, pictures and other information about the project as available. (2-7-94)

02. **Final Report.** All grantees shall submit a final report containing the following information: (2-7-94)

- a. A narrative describing the success of the project. (2-7-94)
- b. A description of the impact the project has had and will have on the community including long term benefits anticipated. (2-7-94)
- c. A description of any special contributions or work provided on the project. (2-7-94)
- d. Any other information about the project not already submitted, i.e., pictures, press clippings, etc. (2-7-94)

(BREAK IN CONTINUITY OF SECTIONS)

035. **CONFLICT OF INTEREST.**
No official, officer, employee, family member or agent of the Department of Commerce, or of a grantee, shall profit financially, directly or indirectly from GCAI funds under their control. (2-7-94)(5-1-01)T

036. **CREDIT STATEMENT.**
All activities funded by the Idaho Gem Community ~~Action~~ Implementation Grant program shall credit the program. The following credit statement will be placed on all GCAI funded brochures, slide shows, videos, films, displays,

advertising, press releases and other printed materials:

~~(2-7-94)~~(5-1-01)T

01. Credit Statement. “This publication made possible by a Gem Community ~~Action~~ Implementation Grant, Idaho Department of Commerce” or “paid, Gem Community ~~Action~~ Implementation Grant, Idaho Department of Commerce”.

~~(2-7-94)~~(5-1-01)T

02. Failure To Comply. Failure to comply with crediting the GCAI grant program could jeopardize payment of that portion of the project.

~~(2-7-94)~~(5-1-01)T

03. Other Credit. Credit may also be given to other sources of assistance. (2-7-94)

(BREAK IN CONTINUITY OF SECTIONS)

040. BID PROCESS.

GCAI grantees shall contact a minimum of three (3) vendors for quotes or bids for the purchase of goods or services over twenty-five hundred thousand dollars (\$25,000). Prior to reimbursement for such costs, the appropriate information shall be submitted to the Department which documents the following:

~~(2-7-94)~~(5-1-01)T

01. Item Or Service (To Be) Purchased. (2-7-94)

02. Written Record. A written record of three (3) or more companies or vendors contacted for bids or quotes. List vendors contacted and their response. Include those contacted whether or not a response was received.

(2-7-94)

03. Reasons For Selection. Grantees reasoning for selecting the vendor chosen. (2-7-94)

(BREAK IN CONTINUITY OF SECTIONS)

042. PROJECT LOSES VIABILITY.

If a project loses its viability after selection for funding and prior to any expenditure of GCAI funds, the project may be terminated by mutual agreement of the grantee and the Department. The community retains its eligibility to apply for GCAI funds.

~~(2-7-94)~~(5-1-01)T

01. Lose Of Viability. If a project loses its viability after the grantee expends GCAI funds, the grantee must notify the Department as soon as possible. Reasonable efforts may be made to modify, restructure or amend the project contract at the discretion of the Department.

~~(2-7-94)~~(5-1-01)T

02. Termination Of Funding. Funding for projects may be terminated by the Department at any time for gross misuse or abuse of funds. Upon receipt of a notice of termination the grantee will stop all expenditures of GCAI funds and return all unspent GCAI funds to the Department. The Department will make a fair and reasonable final payment to the grantee based on the work completed, allowable costs incurred and documentation provided.

~~(2-7-94)~~(5-1-01)T

IDAPA 48 - DEPARTMENT OF COMMERCE
48.01.05 - RURAL COMMUNITY BLOCK GRANT (RCBG)
DOCKET NO. 48-0105-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is May 1, 2001.

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant Section 67-4703, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

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

The need is to establish requirements for the newly appropriated \$3 million for a Rural Community Block Grant Program. The temporary and proposed rule provides qualified rural communities with program priorities and a process for applying and implementing Rural Community Block Grants.

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

Temporary rule justification is to confer a benefit by having program criteria and procedures in place by the beginning of the application cycle for Rural Community Block Grants, which is May 1, 2001.

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

No fee is being imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking of the need for temporary rulemaking (see justification above).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Gloria Mabbutt at (208) 334-2470.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 25, 2001.

DATED this 16th day of May, 2001.

Gloria Mabbutt, Program Manager
Division of Rural and Community Development
Idaho Department of Commerce
Telephone: (208) 334-2470
FAX: (208) 334-2631

700 West State Street
P.O. Box 83720
Boise, ID 83720-0093

THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0105-0101

IDAPA 48
TITLE 01
Chapter 05

48.01.05 - RURAL COMMUNITY BLOCK GRANT PROGRAM (RCBG)

000. LEGAL AUTHORITY.

The Department of Commerce, through these rules, is implementing the state's Rural Community Block Grant Program as authorized by Section 67-4703, Idaho Code. (5-1-01)T

001. TITLE AND SCOPE.

01. Title. These Rules shall be cited as IDAPA 48.01.05, "Rural Community Block Grant Program (RCBG)". (5-1-01)T

02. Scope. These rules establish the process and procedures for Application for and the awarding of Rural Community Block Grants. (5-1-01)T

002. WRITTEN INTERPRETATIONS.

The Idaho Department of Commerce may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements can be inspected and copied at the Idaho Department of Commerce, 700 W. State Street, Boise, Idaho 83720-0093. (5-1-01)T

003. ADMINISTRATIVE APPEALS.

Any person who is aggrieved by a decision regarding the imposition of sanctions shall be entitled to an administrative appeal pursuant to Title 67, Chapter 52, Idaho Code, Idaho Administrative Procedures Act. (5-1-01)T

004. INCORPORATION BY REFERENCE.

All state and federal requirements of the RCBG Program are included in the RCBG Application Handbook. The Grant Agreement between the Department and RCBG recipients shall contain the appropriate certifications pertaining to these state and federal regulations. These certifications shall be the basis of project compliance in the administration and management of the RCBG project. The RCBG Application Handbook and RCBG Grant Agreement are available on-line at the Department of Commerce web site at: <http://www.idoc.state.id.us>. (5-1-01)T

005. OFFICE -- OFFICE HOURS-MAILING ADDRESS AND STREET ADDRESS.

The mailing address of the Idaho Department of Commerce is Division of Rural and Community Development, 700 West State Street, P.O. Box 83720, Boise, Idaho 83720-0092; the telephone number is (208) 334-2470; and the facsimile machine number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8 a.m. to 5 p.m. Monday through Friday. (5-1-01)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules adopted by this chapter are public records. (5-1-01)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

All definitions pertaining to the RCBG Program shall be incorporated in the RCBG Application Handbook.

(5-1-01)T

011. ELIGIBLE APPLICANTS.

Applicants for the Idaho Rural Community Block Grants are as follows:

(5-1-01)T

01. City Applicants. Rural cities are those generally less than ten thousand (10,000) in population. Cities contiguous to large cities are not eligible to apply. (5-1-01)T

02. County Applicants. Counties may apply for county wide projects or on behalf of unincorporated communities. Counties cannot apply for projects that benefit larger cities. (5-1-01)T

03. Special Purpose Districts. Special purpose districts are not eligible, although they may be involved in the execution of a project by mutual agreement. (5-1-01)T

04. Indian Tribes. Indian tribes may be considered as an applicant or may be a partner in a project by mutual agreement. (5-1-01)T

012. GRANT PROGRAM.

01. Eligible Activities.

(5-1-01)T

a. Projects to provide or expand the capacity of infrastructure, usually water, sewer or streets, or other infrastructure utilities to a specific business expansion or new location, that will result in job creation; (5-1-01)T

b. Acquisition and/or rehabilitation of real property to lease/purchase to a company for construction of a new plant building; (5-1-01)T

c. Construction of a commercial building for a company to lease/purchase; (5-1-01)T

d. Provision of publicly regulated utilities such as telecommunications, power, gas and rail upgrades needed for business expansions; (5-1-01)T

e. Match for other state and federal funding programs, including, but not limited to the Community Development Block Grant Program and Economic Development Administration grants; (5-1-01)T

f. Consulting, engineering and planning studies needed for a potential grant project; (5-1-01)T

g. Elimination of substandard physical conditions which impairs sound growth or presents an economic liability on an area or spot basis. (5-1-01)T

h. Funds may be used to finance the substantial rehabilitation of privately owned existing buildings or structures used for business, commercial, or industrial purposes. (5-1-01)T

02. Other Eligible Activities.

(5-1-01)T

a. Code Enforcement. Code enforcement involves the payment of salaries and overhead cost directly related to the enforcement of local codes. RCBG funds may be used only in deteriorated or deteriorating areas where enforcement, together with public or private improvements or services, may be expected to arrest the decline of the area. (5-1-01)T

b. Environmental Review. Environmental review of the environmental conditions or impact of a project. (5-1-01)T

c. Mixing Eligible and Ineligible Activities. A public facility eligible for RCBG assistance may be funded even if it is part of a multiple-use building containing ineligible uses if: (5-1-01)T

i. The eligible portion of the building is a designated and discreet area of the building; (5-1-01)T

- ii. The applicant can determine the costs attributable to the eligible use or eligible portion of the facility as distinct from the overall costs of the facility. (5-1-01)T
- d. Clearance of Buildings. Clearance, demolition, removal of buildings and facilities, and movement of structures to other sites. (5-1-01)T
- e. Disposition of Property. Costs associated with the disposition (through sale, lease, donation, or otherwise) of any real property acquired with RCBG funds, or with the retention of real property for public purposes. Reasonable costs of temporarily managing such property (or property acquired under urban renewal) until final disposition of the property is made. Disposition costs include fees paid for: appraisals, surveys, marketing, legal services, financial services, transfer taxes and other costs involved in the transfer of ownership of property. Any proceeds from the disposition of such property shall be considered program income. (5-1-01)T
- f. Relocation Payment. Relocation payments and assistance for displaced individuals, families, business organizations, and farm operations when determined by the grantee to be appropriate. (5-1-01)T
- g. Administrative Activities. Payment of reasonable administrative costs and carrying charges related to the planning and implementation, including the management, coordination and monitoring of activities necessary for the completion of successful grant projects. These costs shall not exceed five percent (5%) of the RCBG. (5-1-01)T
- h. Technical Assistance. RCBG funds may be used by the grantee (or provided by a grantee to a sub-grantee) to increase their capacity to carry out eligible economic development activities. Such costs are not included in the five percent (5%) limitation on administrative and planning costs. (5-1-01)T
- i. Allowable Costs in Application. An applicant may be reimbursed for some of the administrative or engineering costs incurred during the preparation of the Application. No such expenses incurred will be reimbursed unless a grant is awarded. Such expenses are the responsibility of the applicant if a grant is not awarded. Any such administrative costs become part of and cannot exceed the five percent (5%) limitation on administrative costs of the grant. (5-1-01)T

013. INELIGIBLE ACTIVITIES.

As a general rule, any activity not authorized in these rules is ineligible to receive RCBG funds. This section identifies two (2) areas that are ineligible and provides guidance in determining eligibility of other activities frequently associated with economic development. The following activities may not be carried out using RCBG funds: (5-1-01)T

01. General Conduct Of Government. Assistance to buildings, or portions thereof, used predominantly for the general conduct of government. However, the removal of architectural barriers and historic preservation of such building is eligible. Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body or the recipient meets regularly, courthouses, jails, police stations, and other state or local government office buildings. Also ineligible are school buildings, school offices, and university and college vocational-technology facilities. Where acquisition of real property includes an existing building and improvements, part of which is to be utilized for the general conduct of government, the acquisition cost attributable to the land is eligible, provided a national objective is met with the other eligible use of the property and building. Only the portion of the building required for the eligible activity is an eligible grant expense. (5-1-01)T

02. Local Government Expenses. Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with RCBG funds. (5-1-01)T

03. Political Purposes. (5-1-01)T

04. Churches. (5-1-01)T

05. Equipment. The purchase of equipment, fixtures, motor vehicles, furnishings or other personal property, which is not an integral structural fixture, is generally ineligible. RCBG funds may be used; however, to

purchase such items when necessary for use by a recipient or its sub-recipients in the administration of activities assisted with RCBG funds. (5-1-01)T

06. Operating And Maintenance Expenses. (5-1-01)T

014. -- 018. (RESERVED).

019. GRANT APPLICATION PROCESS.
The required RCBG Application process is described in the RCBG Application Handbook. (5-1-01)T

020. SUBMITTAL OF APPLICATIONS.
Applications must be mailed or hand-delivered to the Department's mailing address. (5-1-01)T

021. APPLICATION REVIEW.
Any applicant or project not meeting the threshold criteria shall be disqualified and the Application shall not be reviewed further. (5-1-01)T

022. PRESENTATION TO ECONOMIC ADVISORY COUNCIL.

01. Presentations. Presentations shall be made by key elected officials of the applicant. These elected officials include mayors, council members or county commissioners or other project partners. The presentation should include: (5-1-01)T

- a. The need for the project; (5-1-01)T
- b. The local commitment to the project; (5-1-01)T
- c. The economic impact of the project on the community; and (5-1-01)T
- d. Any additional information that should be given special consideration. (5-1-01)T

023. REVIEW AND RANKING CRITERIA FOR RURAL COMMUNITY APPLICATIONS.
(One Thousand (1,000) Points Possible). (5-1-01)T

01. Community Distress Factors -Two Hundred (200) Points. (5-1-01)T

- a. High unemployment. (5-1-01)T
- b. Low per capita income. (5-1-01)T
- c. Sudden distress. (5-1-01)T
- d. Other long term distress factors. (5-1-01)T
- e. Lack of developed business sites/infrastructure. (5-1-01)T
- f. Lack of resources to impact distress factors. (5-1-01)T

02. Project Benefits - Two Hundred (200) Points. (5-1-01)T

- a. Impact on distress factors. (5-1-01)T
- b. Direct job creation or retention. (5-1-01)T
- c. Job quality and fringe benefits. (5-1-01)T
- d. Indirect secondary jobs. (5-1-01)T

- e. Project and business management capacity. (5-1-01)T
- f. Long-term program. (5-1-01)T
- g. Indirect investment potential. (5-1-01)T
- h. Direct investment in community asset. (5-1-01)T
- i. Minority benefit. (5-1-01)T
- 03. Community Project Support - Two Hundred (200) Points.** (5-1-01)T
 - a. Project support and involvement. (5-1-01)T
 - b. Local investment. (5-1-01)T
 - c. Other match. (5-1-01)T
- 04. Project Feasibility -Two Hundred (200) Points.** (5-1-01)T
 - a. Planning, costs and schedule. (5-1-01)T
 - b. Cost estimates. (5-1-01)T
 - c. Business Commitment. (5-1-01)T
 - d. Creation of marketable asset. (5-1-01)T
- 05. Economic Advisory Council -Two Hundred (200) Points.** (5-1-01)T
- 024. -- 030. (RESERVED).**
- 031. STANDBY APPLICATIONS.**

At its quarterly meeting, the Economic Advisory Council may recommend Applications for funding even though not enough funds are available to fund the project(s). These Applications become standby projects. Standby projects shall be eligible for funding should additional funds become available or surplus funds exist. At any subsequent quarterly meeting, the Advisory Council may review and recommend a standby project to the Governor for funding. Standby status shall continue through the fourth quarterly meeting. The Application must remain eligible and must continue to meet all requirements of the program rules. (5-1-01)T
- 032. LOSS OF VIABILITY.**
 - 01. Loss Of Viability Criteria.** (5-1-01)T
 - a. The inability to secure the other project financing; (5-1-01)T
 - b. The lack of due diligence to pursue the implementation of project requirements; (5-1-01)T
 - c. The lack of local coordination with all funding and regulatory agencies; (5-1-01)T
 - d. The inability to develop agreements necessary to manage the cash flow and ownership of the project where several different entities are involved in the project; or (5-1-01)T
 - e. The inability to complete a project of the same general size and benefits as presented in the Application. (5-1-01)T

02. Process. (5-1-01)T

a. If, during the period between the award of a grant and signing of a grant contract, a project loses its viability, the Department may terminate its award status. The Department shall, by letter, notify the applicant that in the judgment of the Department, the applicant's project is no longer viable. The applicant shall have a clearly stated period of time no less than fourteen (14) days to demonstrate the project's viability. If viability cannot be demonstrated within the stated period of time the applicant's award status shall be terminated and the funds may be available for the next standby project. (5-1-01)T

b. After a grant contract has been executed, the Department shall periodically evaluate the progress of the project. If, at any time, the project loses viability or cannot be completed as described in the Application and contract, the Department shall, by letter, notify the grantee that the grant contract shall be terminated within a clearly stated period of time of no less than fourteen (14) days from the date of the letter. The grantee may, within the stated period, demonstrate substantial progress on the project and request the Department revoke the termination. If viability cannot be demonstrated within the specified amount of time, the grant shall be terminated. (5-1-01)T

033. -- 999. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0103

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105, 39-107 and 39-128, Idaho Code. In addition, this rulemaking updated citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(1) of the Clean Air Act.

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

Wednesday, August 8, 2001, 7 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

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

DESCRIPTIVE SUMMARY: In 1999 the Department of Environmental Quality (DEQ) promulgated Section 861, Standards of Performance for Hospital/Medical/Infectious Waste Incinerators, as directed by the Legislature in Section 39-128, Idaho Code. This proposed rule simply clarifies that all owners or operators of hospital/medical/infectious waste incinerators subject to Section 861 must comply with the provisions of Section 39-128, Idaho Code. This proposed rule also update citations to the federal regulations incorporated by reference to July 1, 2001 in order to maintain conformance with EPA's regulations as well as fulfilling the requirement of Idaho's delegation agreement with EPA under Section 112(1) of the Clean Air Act. This includes the Maximum Achievable Control Technology (MACT) Standards promulgated as National Emissions Standards for Hazardous Air Pollutants (NESHAPS).

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2001 for adoption of a pending rule. The rules is expected to be final and effective upon the conclusion of the 2002 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Due to the simple nature of this proposed rule, DEQ did not conduct negotiated rulemaking.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Tim Teater at (208) 373-0502 or tteater@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before August 10, 2001.

DATED this 23rd day of May, 2001.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0103

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

- 01. Affected States.** All States: (5-1-94)
- a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b. That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)
- c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)
- d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)
- g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate", one hundred (100) tpy or more, if the area is "serious", fifty (50) tpy or more, if the area is "severe", twenty-five (25) tpy or more, and if the area is "extreme", ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant listed in Subsections 006.84.a. through 006.84.e. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-5-00)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2000~~1~~, are hereby incorporated by reference. (~~3-30-01~~)()

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

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

02. Availability Of Referenced Material. Copies of the documents incorporated by reference into

these rules are available at the following locations: (5-1-94)

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

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

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)

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

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

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Department of Environmental Quality, November 1996. (3-19-99)

c. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

e. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

f. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

g. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

h. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

i. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

j. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

k. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

l. Permits, 40 CFR Part 72, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2000~~1~~. (~~3-30-01~~)()

- o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- p. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2000~~1~~, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (~~3-30-01~~)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

861. STANDARDS OF PERFORMANCE FOR HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS THAT COMMENCED CONSTRUCTION AFTER JUNE 20, 1996, OR FOR WHICH MODIFICATION IS COMMENCED AFTER MARCH 16, 1998.

01. Applicability. All owners or operators of each individual hospital/medical/infectious waste incinerator for which construction is commenced after June 20, 1996 or for which modification is commenced after March 16, 1998 are subject to Section 861 except as noted in Subsection 861.02. (4-5-00)

02. Exemptions. (4-5-00)

a. A combustor is not subject to Section 861 during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor: (4-5-00)

i. Notifies the Department of an exemption claim; and (4-5-00)

ii. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste and/or chemotherapeutic waste is burned. (4-5-00)

b. Any co-fired combustor is not subject to Section 861 if the owner or operator of the co-fired combustor: (4-5-00)

i. Notifies the Department of an exemption claim; (4-5-00)

ii. Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and (4-5-00)

iii. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor. (4-5-00)

c. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to Section 861; (4-5-00)

d. Any combustor which meets the applicability requirements under 40 CFR Part 60, Subparts Cb, Ea or Eb (relates to certain municipal waste combustors) is not subject to Section 861; (4-5-00)

e. Any pyrolysis unit is not subject to Section 861; (4-5-00)

f. Cement kilns firing hospital waste and/or medical/infectious waste are not subject to Section 861; (4-5-00)

g. Physical or operational changes made to an existing hospital/medical/infectious waste incinerator solely for the purpose of complying with emission guidelines under 40 CFR Part 60, Subpart Ce are not considered a

modification and do not result in an existing hospital/medical/infectious waste incinerator becoming subject to Section 861; (4-5-00)

h. Affected facilities subject to Section 861 are not subject to the requirements of 40 CFR Part 64. (4-5-00)

03. Definitions. As used in Section 861, definitions shall have the meaning given in 40 CFR Part 60 including, but not limited to: (4-5-00)

a. "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. (4-5-00)

b. "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, ten percent (10%) or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted. (4-5-00)

c. "Hospital" means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty-four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision. (4-5-00)

d. "Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste. (4-5-00)

e. "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation. (4-5-00)

f. "Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans. (4-5-00)

g. "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)). (4-5-00)

h. "Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in Subsections 861.03.h.i. through 861.03.h.vii. The definition of medical/infectious waste does not include hazardous waste identified or listed under 40 CFR Part 261; household waste as defined in 40 CFR Section 261.4(b)(1); ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation; and domestic sewage materials identified in 40 CFR Section 261.4(a)(1): (4-5-00)

i. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures. (4-5-00)

ii. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

- (4-5-00)
- iii. Human blood and blood products including: (4-5-00)
- (1) Liquid waste human blood; (4-5-00)
- (2) Products of blood; (4-5-00)
- (3) Items saturated and/or dripping with human blood; or (4-5-00)
- (4) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category. (4-5-00)
- iv. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips. (4-5-00)
- v. Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals. (4-5-00)
- vi. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases. (4-5-00)
- vii. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades. (4-5-00)
- i. "Modification or modified hospital/medical/infectious waste incinerator" means any change to a hospital/medical/infectious waste incinerator unit after July 2, 1999: (4-5-00)
- (1) The cumulative costs of the modifications, over the life of the unit, exceed fifty percent (50%) of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or (4-5-00)
- (2) The change involves a physical change or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Sections 129 or 111 of the Clean Air Act. (4-5-00)
- j. "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable); (4-5-00)
- k. "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy. (4-5-00)
- 04. Requirements.** The following requirements apply to all owners or operators of HMIWI subject to Section 861. (4-5-00)
- a. All owners or operators of hospital/medical/infectious waste incinerators subject to Section 861 must comply with 40 CFR Part 60, Subpart Ec as incorporated by reference into these rules at Section 107. Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the

state. (4-5-00)

b. Beginning September 15, 2000 or on the effective date of an EPA-approved operating permit program under Clean Air Act Title V and the implementing regulations under 40 CFR Part 70, whichever date is later, affected facilities shall operate pursuant to a permit issued under the EPA approved state operating permit program. (4-5-00)

c. All owners or operators of hospital/medical/infectious waste incinerators subject to Section 861 must comply with provisions of Section 39-128, Idaho Code. ()

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS**

DOCKET NO. 58-0106-9701

(This docket was originally numbered 16-0106-9701)

NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has vacated this rulemaking previously initiated under this docket. The action is authorized by Chapters 1 and 74, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

In August 1999, DEQ published a proposed rule under Docket No. 16-0106-9701. In response to comments received, DEQ has revised the proposed rule. The revised proposed rule substantially varies in content from that which was proposed in August 1999; therefore, DEQ has vacated the August 1999 proposed rulemaking and has published the revised proposed rule under Docket No. 58-0106-0101.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this vacation of rulemaking, contact Dean Ehlert at (208)373-0502 or dehlert@deq.state.id.us.

DATED this 23rd day of May, 2001.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418
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**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS**

DOCKET NO. 58-0106-9901

(This docket was originally numbered 16-0106-9901)

NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has vacated this rulemaking previously initiated under this docket. The action is authorized by Chapters 1 and 74, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

In August 1999, DEQ published the proposed repeal of the Solid Waste Management Rules and Standards under Docket No. 16-0106-9901 in conjunction with the proposal of a new rule under Docket No. 16-0106-9701. The proposed rule initiated under Docket No. 16-0106-9701 has been vacated; therefore, the proposed repeal has been vacated.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Dean Ehlert at (208)373-0502 or dehlert@deq.state.id.us.

DATED this 23rd day of May, 2001.

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.06 - SOLID WASTE MANAGEMENT RULES

DOCKET NO. 58-0106-0101 (REWRITE)

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105, 39-107 and 39-7408C, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed new rule and the proposed repeal of the current rule (Docket No. 58-0106-0102) will be held as a statewide, interactive video teleconference originating in Boise, Idaho on July 31, 2001 at 7:00 p.m. MDT (6:00 p.m. PDT). A representative from DEQ will be at each site to facilitate the hearing. The allotted time for the hearing will be distributed evenly between the six sites. The interactive public hearing will enable the participants to listen to comments that are being made throughout the state, not just the comments that are made at their hearing site. Hearing locations are:

**J. R. Williams Bldg. (Hall of Mirrors)
East Conference Room
700 W. State, Boise, Id**

**College of Southern Idaho
Evergreen Bldg. Room C95
315 Falls Ave., Twin Falls, Id**

**Idaho State University
Eli M. Oboler Library Room B35
850 S. 9th, Pocatello, Id**

**ISU Center for Higher Education
Room 314
1770 Science Center Dr., Idaho Falls, Id**

**North Idaho College
Molstead Library Room 270
1000 W. Garden Ave., Coeur d'Alene, Id**

**Lewis & Clark State College
Sam Glenn Bldg., Room 50
500 8th Ave., Lewiston, Id**

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

DESCRIPTIVE SUMMARY: In this rulemaking, the Idaho Department of Environmental Quality (DEQ) proposes the adoption of a new rule in conjunction with the proposed repeal of the current rule (Docket No. 58-0106-0102).

The purpose of this rulemaking is to address non-municipal solid waste as directed by the Joint Legislative Task Force on Environmental Common Sense Initiative. The proposed rule will provide statewide consistency for non-municipal solid waste management, ensure proper management of non-municipal solid waste, and provide specific siting and operational requirements based on volume of waste, waste characteristics, type of waste management facility, and potential impact to human health and the environment. The proposed rule provides an application submittal process for owners and operators and provides DEQ with an application review and approval process.

In 1996 DEQ was directed by the Legislature (Section 39-7408C, Idaho Code) to adopt a siting license fee to cover the cost incurred by DEQ when reviewing a commercial solid waste siting application. This fee was approved by the 1999 Legislature. The commercial solid waste siting license fee found at Section 994 of the existing Solid Waste Management Rules and Standards has been included in this proposed rule.

Coinciding with the publication of this proposed rule, DEQ is proposing repeal of the current rule (published under Docket No. 58-0106-0102). The proposed actions have been scheduled so that both actions, once adopted by the Board of Environmental Quality and approved by the Legislature, will take effect simultaneously.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October or November 2001 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2002 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: The text of the rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The negotiation was open to the public. Participants in the negotiation included industry and government representatives. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 97-5, May 7,

1997, page 47, under Docket No. 16-0106-9701.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Dean Ehlert at (208)373-0502 or dehlert@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before August 3, 2001.

DATED this 23rd day of May, 2001.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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THE FOLLOWING IS TEXT OF DOCKET NO. 58-0106-0101

IDAPA 58, TITLE 01, Chapter 06

58.01.06 - SOLID WASTE MANAGEMENT RULES

000. LEGAL AUTHORITY.

Sections 39-105 and 39-107, Idaho Code, authorize the Board of Environmental Quality to adopt rules and administer programs to protect surface water quality, ground water quality and air quality, and to regulate solid waste treatment or disposal and the licensure and certification requirements pertinent thereto. Section 39-7408C, Idaho Code, authorizes the Board of Environmental Quality to establish by rule municipal solid waste commercial siting license fees. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as Rules of the Department of Environmental Quality IDAPA 58.01.06, "Solid Waste Management Rules". ()

02. Scope. These rules establish requirements applicable to all solid waste and solid waste management sites in Idaho, except as specifically provided in Subsection 001.03. ()

03. Wastes Not Regulated Under These Rules. These rules do not apply to the following solid wastes provided that the wastes are not mixed with wastes otherwise regulated by these rules: ()

a. Liquid wastes the discharge or potential discharge of which is regulated under a federal, state or local water pollution or wastewater land application permit, including management of any solids if management of the solids is a permit term or condition; ()

b. Hazardous wastes regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, and the rules adopted thereunder; ()

c. Polychlorinated biphenyl (PCB) waste regulated under the Toxic Substance Control Act, 15 U.S.C. 2601, et seq., with the exception that the PCB Waste Disposal Act, Chapter 62, Title 39, Idaho Code, and these rules shall apply to PCB waste authorized by federal law to be disposed of at a nonhazardous waste landfill that is permitted, licensed or registered under Idaho Law; ()

d. Slash or slashing areas resulting from the harvesting of timber and the disposal of which is managed pursuant to Chapter 1, Title 38, Idaho Code; ()

e. Wastes used, managed, stored and disposed in accordance with The Wood and Mill Yard Debris Technical Guidance Manual published by the Department and developed pursuant to Sections [171] 166 through [174] 169, Chapter 1, Title 39, Idaho Code. The Department will seek public comment prior to finalizing any revisions to the Wood and Mill Yard Debris Technical Guidance Manual; ()

f. Clean soils and clean dredge spoils as regulated under Section 404 of the federal Clean Water Act provided that they are not hazardous wastes regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code and the rules adopted thereunder; ()

g. Septage taken to a sewage treatment plant permitted by either the U.S. Environmental Protection Agency or the Department pursuant to IDAPA 58.01.15, "Rules Governing the Cleaning of Septic Tanks"; ()

h. Radioactive materials regulated as source material, special material, or by-product material under the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2011, et seq; ()

i. Petroleum Contaminated Soils (PCS) from a leaking petroleum storage tank system managed as a one (1) time remediation pursuant to IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"; or ()

j. Asbestos as regulated by the Toxic Substances Control Act, as amended, 15 U.S.C. Sections 2601, et seq. ()

k. Inert wastes; ()

l. Manures and crop (plant) residues ultimately returned to the soils at agronomic rates; ()

m. Any agricultural solid waste which is managed and regulated pursuant to rules adopted by the Idaho Department of Agriculture only when such rules are at least as protective of human health and the environment as these rules; ()

n. Overburden, waste dumps and low grade stock piles from mining if stored at the mine site; ()

o. Slag from the production of elemental phosphorus regulated by rules to be adopted by the Board; ()

p. Phospho-gypsum from the production of phosphate fertilizers, which includes the production of phosphoric acid regulated by rules to be adopted by the Board; and ()

q. Wood waste used for ornamental, animal bedding, mulch and plant bedding, or road building purposes. ()

04. Solid Waste Management Facilities Not Regulated Under These Rules. These rules do not apply to the following solid waste management facilities: ()

a. Solid waste management facilities accepting only solid waste excluded by Subsection 001.03; ()

- b. Recycling centers; or ()
- c. Backyard composting sites. ()

002. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality may have written statements that pertain to the interpretation of the rules in this chapter. Any such written statements shall be available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. ()

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". ()

004. APPLICABILITY.

These rules apply to all solid waste unless excluded by Subsection 001.03 and to all existing, new or modified solid waste management sites in Idaho identified in Subsection 004.01 and 004.02, unless excluded by Subsection 001.04. ()

01. Solid Waste Facility Other Than MSWLF Applicability. Sections 000 through 499 and Section 999 apply to all solid waste facilities other than MSWLF, as specified therein. ()

02. Municipal Solid Waste Landfill Applicability. Sections 000 through 007, and Sections 500 through 999 apply to all MSWLFs, as specified therein. ()

005. DEFINITIONS.

01. Backyard Composting. Composting operations used only by the owner or person in control of a residential dwelling unit to process garbage and yard waste generated at that dwelling unit. ()

02. Commercial Solid Waste Facility. A facility owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excluding a facility owned or operated by a political subdivision, state or federal agency or, municipality or a facility owned or operated by any individual, association, firm, or partnership exclusively for the disposal of solid waste generated by such individual, association, firm, or partnership. ()

03. Composting Facility. See definition of Processing Facility. ()

04. Contaminant. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in the environment or which naturally occurs at a lower concentration. ()

05. Department. The Idaho Department of Environmental Quality. ()

06. Director. The Director of the Idaho Department of Environmental Quality. ()

07. Disposal. Discharge, deposit, injection, dumping, spilling, leaking, leaching, migration or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water. ()

08. Existing Facility. A facility operating and receiving solid waste on April 1, 2002. ()

09. Facility. Any area used for any solid waste management activity, including but not limited to: ()

- a. Storage; ()

- b. Transfer; ()
- c. Processing; ()
- d. Separation; ()
- e. Incineration; ()
- f. Treatment; ()
- g. Salvaging; or ()
- h. Disposal of solid waste. ()

10. Garbage. Any waste consisting of putresible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including wastes materials from households, markets, storage facilities, handling and sale of produce and other food products. ()

11. Ground Water. Any water of the state that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ()

12. Hazardous Substance. Any substance defined as a hazardous substance pursuant to Section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601 et seq., or Section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251, et seq.), excluding petroleum contaminated soils. ()

13. Household Waste. Any solid waste, including kitchen wastes, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas. ()

14. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. ()

15. Inert Waste. Noncombustible, nonhazardous, and non-putresible solid wastes that are likely to retain their physical and chemical structure and have a de minimis potential to generate leachate under expected conditions of disposal, which includes resistance to biological attack. "Inert waste" includes, but is not limited to, rock, concrete, cured asphaltic concrete, masonry block, brick, gravel, and dirt. ()

16. Landfill. An area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 CFR 257.2. ()

17. Leachate. A liquid that has passed through or emerged from waste and contains soluble, suspended, or miscible materials removed from such waste. ()

18. Lift. A vertical rise of compacted solid waste that is complete when it is no longer practical to add additional height without the addition of a cover layer to provide structural stability. ()

19. Modification. Any change in the physical characteristics, waste types managed, method of operation, or lateral expansion beyond the boundaries of a site. The following shall not be considered a modification: ()

- a. Repair and replacement of existing equipment; ()
- b. Increase in production rate that does not exceed the Tier level criteria or approved facility capacity; ()

- ()
- c. An increase in hours of operation if more restrictive hours of operation are not specified in a certification; and ()
- d. Acquisition of property that is not to be used for the processing or disposal of solid waste. ()
- 20. Municipal Solid Waste Landfill Unit (MSWLF).** As regulated under Chapter 74, Title 39, Idaho Code, a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. ()
- 21. Non-Municipal Solid Waste (NMSW).** A solid waste that is: ()
- a. Not mixed with household waste; or ()
- b. Not excluded from these rules by Subsection 001.03. ()
- 22. Non-Municipal Solid Waste Landfill (NMSWLF).** A landfill that accepts only non-municipal solid waste. ()
- 23. Open Burning.** The combustion of solid waste without: ()
- a. Control of combustion air to maintain adequate temperature for efficient combustion; ()
- b. Containment of the combustion reaction in an enclosed device so as to provide sufficient residence time and mixing for complete combustion; and ()
- c. Control of the emission of the combustion products. ()
- 24. Open Dump.** A facility for the disposal of solid waste that does not comply with these rules. ()
- 25. Operator.** The person(s) responsible for the overall operation of a solid waste management site or part of a solid waste management site. ()
- 26. Owner.** The person(s) who owns a solid waste management site or part of a solid waste management site. ()
- 27. Person.** Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency, or instrumentality, municipality, industry, or any other legal entity which is recognized by law as the subject of rights and duties. ()
- 28. Processing Facility.** A facility that uses any method to prepare solid waste for reuse by biological or chemical decomposition, excluding waste handling at transfer stations or recycling centers. ()
- 29. Projected Waste Volume.** The total actual or potential solid waste volume in tons per day, or an equivalent measurement, proposed to be received or processed at a solid waste facility. ()
- 30. Pumpable Waste.** Wastes, including non-domestic septage, sludge, wastewater and non-municipal solid wastes, which are pumped from a holding area or container into a watertight tank truck or equivalent and transported for processing or disposal. ()
- 31. Qualified Professional.** Qualified professional means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in compliance with applicable provisions of Idaho Code. ()

32. **Recyclables.** Used, end, or waste products with useful properties that can be reused. ()
33. **Recycling.** The reclamation of solid waste and its subsequent introduction into an industrial process by which the materials are transformed into a new product in such a manner that the original identity as a product is lost. ()
34. **Recycling Center.** A materials recovery facility that receives recyclables, then sorts, bales, loads, or physically alters the material and transports the commodities to markets. ()
35. **Salvage.** The reclamation of solid waste at a disposal site. ()
36. **Scavenge.** The unauthorized removal of materials from a solid waste management site. ()
37. **Septage.** A semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system. ()
38. **Site.** Any contiguous geographic area with one (1) or more facilities owned or operated by the same person for any of the following activities: ()
- a. Storage; ()
 - b. Transfer; ()
 - c. Processing; ()
 - d. Separation; ()
 - e. Incineration; ()
 - f. Treatment; ()
 - g. Salvaging; or ()
 - h. Disposal of solid waste. ()
39. **Site Size.** The sum in acres of all proposed or existing solid waste landfill units. ()
40. **Solid Waste.** Any garbage or refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. ()
41. **Speculative Accumulation.** Stock piles of materials or recyclables to be processed for reuse or disposal when fifty percent (50%) of the material is not reused or disposed by the end of the following calendar year after the date of first receipt by the solid waste facility, and which may create a nuisance or public health impact. ()
42. **Storm Water.** Accumulation of water from natural precipitation, including snow melt. ()
43. **Tipping Floor.** An area at a transfer station or incinerator that receives and contains all uncontained waste materials. ()
44. **Transfer Station.** A solid waste management facility or portion thereof where solid wastes are transferred from a vehicle or container and subsequently transported to another solid waste management facility. A transfer station does not include a rural drop-box or other facility where individuals are authorized to store individual waste for ultimate collection and disposal. A transfer station includes waste tire collection sites as defined in 39-6501, ()

Idaho Code. ()

45. Yard Waste. Weeds, straw, leaves, grass clippings, brush, wood, and other natural, organic, materials typically derived from general landscape maintenance activities. ()

006. ABBREVIATIONS.

01. BRC. Below Regulatory Concern. ()

02. CFR. Code of Federal Regulations. ()

03. EPA. Environmental Protection Agency. ()

04. ISWFA. Idaho Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code. ()

05. MSWLF. Municipal Solid Waste Land Fill. ()

06. NMSW. Non-Municipal Solid Waste. ()

07. NMSWLF. Non-Municipal Solid Waste Land Fill. ()

08. PCS. Petroleum Contaminated Soils. ()

09. RCRA. Resource Conservation and Recovery Act. ()

10. U.S.C. United States Code. ()

007. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 007.02 shall constitute the full adoption by reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. ()

02. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: ()

a. Appendices I and II of 40 CFR Part 258, revised as of July 1, 1999. ()

b. 40 CFR 258.12, revised as of July 1, 1999. ()

c. 40 CFR 258.15, revised as of July 1, 1999. ()

03. Availability Of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: ()

a. Department of Environmental Quality, 1410 N. Hilton, Boise ID 83706-1255. ()

b. Idaho State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051. ()

c. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174. ()

008. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. ()

009. SOLID WASTE MANAGEMENT FACILITY CLASSIFICATION.

01. BRC Facilities. A facility is below regulatory concern (BRC) provided it is a processing facility that does not manage PCS or pumpable waste, and the cumulative volume of solid waste at the facility at any one time is less than or equal to three hundred (300) cubic yards. ()

02. Tier I Facility. A Tier I facility is: ()

a. A landfill that only accepts for disposal materials that are not likely to produce leachate including, but not limited to, glass, plastic, cardboard, wood, composition roofing material, roofing paper, or ceramics, and which has a total disposal capacity of less than or equal to two thousand (2000) cubic yards. ()

b. A processing facility that only processes wastes including, but not limited to, untreated or unpainted wood, yard waste, sheet rock, clean paper products, inert wastes, animal manures, plant or crop residues, or garbage without meats or animal fats, and the cumulative volume of wastes at the facility at any one time is less than or equal to six hundred (600) cubic yards. ()

c. A processing facility that only manages PCS not excluded under Subsection 001.03.i. or pumpable wastes and the cumulative volume of material at the facility at any one (1) time is less than or equal to two hundred (200) cubic yards; or ()

d. An emergency solid waste management facility that only accepts debris resulting from a natural disaster. ()

03. Tier II Facility. A Tier II facility is a facility that does not qualify as a BRC, Tier I or Tier III facility. ()

04. Tier III Facility. A Tier III facility is a facility accepting hazardous substances, radioactive waste, materials with a high pathogen potential, or managing solid waste in a manner or volume that the Department determines may form toxic leachate or gases, or may pose a high risk to human health or the environment. ()

05. Site Specific Classification: ()

a. An owner or operator of a facility classified as a Tier I, Tier II, or Tier III facility may request to be regulated pursuant to the requirements of a lower classification. An owner or operator requesting site specific classification must submit to the Department information demonstrating to the Department's satisfaction that, when in compliance with the requirements of a lower classification, the facility would not produce pollutants or contaminants that may degrade waters or the air of the state of Idaho, or generate leachate or noxious gases. The information included in any request under this subsection shall include, at a minimum: ()

i. Characterization of waste and expected quantities of waste; ()

ii. Site characterization including; ()

(1) Site geology report; ()

(2) Site soils report; ()

(3) Ground water report; ()

(4) Site climatic data; ()

iii. Facility design plan; ()

iv. Operating Plan; and ()

- v. Closure Plan. ()

06. General and Site Specific Classification Process. The Department's review of a request for a site specific classification shall be conducted pursuant to the process set forth in Section 032. ()

010. BELOW REGULATORY CONCERN FACILITIES.

01. Applicable Requirements. The owner and operator of a new BRC facility shall comply with the following general operating requirements prior to accepting waste. The owner and operator of an existing BRC facility shall comply with the following general operating requirements within two (2) years from April 1, 2002: ()

- a. Subsection 035.01; ()
b. Subsection 035.02; ()
c. Subsection 035.10; ()
d. Subsection 035.11; and ()
e. Subsection 035.13. ()

02. Application Content, Review and Approval Requirements. The owner and operator of a BRC facility are not required to submit a Notice or application. The owner or operator of a BRC facility may request a conference with the Department to ensure the Department concurs with the owner and operator's BRC determination, and to ensure the facility meets all applicable BRC requirements. ()

03. Documentation Requirements. The owner and operator shall maintain on site documentation, such as a daily log of the quantity of waste received, that verifies the facility's BRC status. ()

011. TIER I FACILITIES.

The owner and operator of a new Tier I facility shall receive Department approval of the Notice required by this Section before beginning construction. The owner and operator of an existing Tier I facility shall submit and receive Department approval of the required Notice demonstrating compliance with Subsections 011.01.b. through 011.01.d. within two (2) years of April 1, 2002, and shall submit and receive approval for Subsection 011.01.a. within five (5) years of April 1, 2002. ()

01. Applicable Requirements. ()

a. General siting requirements. The owner and operator of a Tier I facility shall comply with the siting requirements of Section 034. ()

b. General operating requirements. The owner and operator of a Tier I facility shall comply with the following operating requirements of Section 035: ()

- i. Subsection 035.01; ()
ii. Subsection 035.02; ()
iii. Subsection 035.03.a.; ()
iv. Subsection 035.03.c.; ()
v. Subsection 035.08; ()
vi. Subsection 035.09; ()

- vii. Subsection 035.10; ()
- viii. Subsection 035.11; ()
- ix. Subsection 035.13; and ()
- x. Subsection 035.14. ()
- c. Tier I Processing Facilities. In addition to the requirements of Subsection 011.01.a. and 011.01.b., the owner and operator of a Tier I processing facility shall comply with the following requirements of Section 050: ()
 - i. Subsection 050.01; and ()
 - ii. Subsection 050.03. ()
- d. Tier I Landfills. In addition to the requirements of Subsection 011.01.a. and 011.01.b., the owner and operator of a Tier I landfill shall comply with the following requirements of Section 055: ()
 - i. Subsection 055.01.a.; ()
 - ii. Subsection 055.01.c.i.; ()
 - iii. Subsection 055.01.c.ii.; ()
 - iv. Subsection 055.01.c.iii.; ()
 - v. Subsection 055.01.c.vi.; ()
 - vi. Subsection 055.01.d.ii.; ()
 - vii. Subsection 055.01.d.iii.; ()
 - viii. Subsection 055.01.d.iv.; and ()
 - ix. Subsection 055.01.e. ()
- 02. Notice Content, Review And Approval Requirements For Tier I Facilities. ()**
 - a. The owner or operator of a Tier I facility is required to submit a Notice of the facility's operation. The notice shall include: ()
 - i. Information demonstrating the facility's compliance with the applicable requirements of Subsection 011.01; ()
 - ii. The name, address and phone number of the facility owner and operator. The Notice may also include the name, address and phone number of any agent designated to receive communications regarding the facility; ()
 - iii. A description of the site; ()
 - iv. A description of all facilities at the site; ()
 - v. A legal description or address of the facility; and ()
 - vi. A site map indicating the property boundaries, location of waste processing or disposal areas, location of existing wells, springs, water supply lines, and sewage disposal facilities. ()

b. The Department shall review the Notice pursuant to the Tier I Notice Submittal and Approval procedures contained in Section 030 to determine accurate facility classification and compliance with the requirements of Subsection 011.01. The Department shall review the Notice pursuant to the Tier I Notice Submittal and Approval procedures contained in Section 030. ()

c. Prior to commencing any facility modification, the owner and operator shall submit to the Department a revised Notice to reflect anticipated changes. If a proposed modification would alter the Tier status of a facility, the owner and operator shall comply with the application content, review and approval requirements for that Tier. ()

03. Documentation Requirements. The owner and operator of a Tier I facility shall maintain on site: ()

a. For a new Tier I facility, for the life of the facility, the Department-approved Notice required by this section and documentation verifying the facility's Tier I status. ()

b. For an existing Tier I facility, within two (2) years of April 1, 2002, the Department-approved Notice required by this Section and documentation verifying the facility's Tier I status. An existing Tier I facility shall, within five (5) years of April 1, 2002, comply with Section 011.01.a. and 055.01.a. ()

012. REQUIREMENTS FOR TIER II FACILITIES.

The owner and operator of a new Tier II facility shall establish compliance with the requirements of this section by obtaining Department approval of the applications required in Subsection 012.02.a. and 012.02.b. before beginning construction and Subsection 012.02.c. prior to accepting waste. The owner and operator of an existing Tier II facility shall establish compliance with the requirements of this Section by obtaining Department approval of the applications required in Subsection 012.02.b. and 012.02.c. within two (2) years of April 1, 2002, and Subsection 012.01.a. within five (5) years of April 1, 2002. The owner and operator of a Tier II facility shall meet the requirements of Subsection 012.01.f. prior to facility closure. ()

01. Applicable Requirements. ()

a. General Siting Requirements. The owner and operator of a Tier II facility shall comply with the siting requirements of Section 034. ()

b. General Operating Requirements. The owner and operator of a Tier II facility shall comply with the operating requirements of Section 035. ()

c. Tier II Processing Facilities. The owner and operator of a Tier II processing facility shall comply with Section 050, excluding Subsection 050.02. ()

d. Tier II Incinerators and Transfer Stations. The owner and operator of a Tier II incinerator or transfer station shall comply with Section 053. ()

e. Tier II Landfills. The owner and operator of a Tier II landfill shall comply with Section 055, excluding Subsections 055.01.b., 055.01.c.v., and 055.02.b.i. ()

f. Closure Requirement. The owner and operator of a Tier II facility shall comply with the closure and post-closure care requirements of Section 037. ()

02. Application Content, Review And Approval Requirements For Tier II Facilities. The owner and operator of a new Tier II facility shall obtain Department approval of each application required by this Subsection pursuant to the Tier II and Tier III Application Review and Approval process contained in Section 032. All applications submitted to the Department shall comply with Subsection 031.01. ()

a. Siting Application. The owner and operator of a Tier II facility shall submit to the Department a Siting Application compliant with Subsection 031.02, within the time frames stated in Section 012. ()

b. Design Application. The owner and operator of a Tier II facility shall submit to the Department a Design Application containing that information required by Subsection 031.03, within the time frames stated in Section 012. ()

c. Operating Application. The owner and operator of a Tier II facility shall submit to the Department an Operating Application containing that information required by Subsection 031.04, within the time frames stated in Section 012. ()

d. The owner and operator of an existing Tier II facility may comply with the design and operating application requirements of this Section by submitting the required information in any form, which may include existing permits, applications or any necessary addendums. ()

e. Modification Application. The owner and operator shall submit to the Department for review and approval a Modification Application describing any proposed modification. The owner and operator of a Tier II facility shall not implement the modification prior to Department approval. If a proposed modification alters the classification of a facility, the owner and operator shall comply with the application content, review and approval requirements for the new classification. ()

03. Documentation Requirements. The owner and operator of a Tier II facility shall maintain on site each Department-approved Application required by this Section. ()

013. REQUIREMENTS FOR TIER III FACILITIES.

The owner and operator of a new Tier III facility shall establish compliance with the requirements of this section by obtaining Department approval of the application required in Subsection 013.02.a. and 013.02.b. before beginning construction and Subsection 013.02.c. prior to accepting waste. The owner and operator of an existing Tier III facility shall establish compliance with the requirements of this Section by obtaining Department approval of the application required in Subsection 013.02.b. and 013.02.c. within two (2) years of April 1, 2002, and Subsection 013.01.a. within five (5) years of April 1, 2002. The owner and operator of a Tier III facility shall meet the requirements of Subsection 013.01.f. prior to facility closure. ()

01. Applicable Requirements. ()

a. General Siting Requirements. The owner and operator of a Tier III facility shall comply with the siting requirements of Section 034. ()

b. General Operating Requirements. The owner and operator of a Tier III facility shall comply with the operating requirements of Section 035. ()

c. Ground Water Monitoring Requirements. The owner and operator of a new Tier III facility shall comply with the ground water monitoring requirements of Section 036. ()

d. Tier III Processing Facilities. The owner and operator of a Tier III processing facility shall comply with Section 050. ()

e. Tier III Incinerators and Transfer Stations. The owner and operator of a Tier III incinerator or transfer station shall comply with Section 053. ()

f. Tier III Landfills. The owner and operator of a Tier III landfill shall comply with Section 055. ()

g. Closure Requirement. The owner and operator of a Tier III facility shall comply with the closure requirements of Section 037. ()

02. Application Content, Review And Approval Requirements For Tier III Facilities. The owner and operator of a new Tier III facility shall obtain Department approval of each application required by this Subsection pursuant to the Tier II and Tier III Application Review and Approval process contained in Section 032.

All applications submitted to the Department shall comply with Subsection 031.01. ()

a. Siting Application. The owner and operator of a Tier III facility shall submit to the Department a Siting Application compliant with Subsection 031.02, within the time frames stated in Section 013. ()

b. Design Application. The owner and operator of a Tier III facility shall submit to the Department a Design Application containing that information required by Subsection 031.03, within the time frames stated in Section 013. ()

c. Operating Application. The owner and operator of a Tier III facility shall submit to the Department an Operating Application containing that information required by Subsection 031.04, within the time frames stated in Section 013. ()

d. Groundwater Monitoring Application. The owner and operator of a Tier III facility shall submit to the Department a Groundwater Monitoring Application containing that information required by Subsection 031.05, within the time frames stated in Section 013. ()

e. The owner and operator of an existing Tier III facility may comply with the application requirements of this Section by submitting the required information in any form, which may include existing permits, applications or any necessary addendums. ()

f. Modification Application. The owner and operator shall submit to the Department a Modification Application describing the proposed modification no less than sixty (60) days prior to the proposed modification of the facility. The owner and operator of a Tier III facility shall not implement the modification prior to Department approval. If a proposed modification alters the classification of a facility, the owner and operator shall comply with the application content, review and approval requirements for the new classification. ()

03. Documentation Requirements. The owner and operator of a Tier III facility shall maintain on site each Department-approved Application required by Section 013. ()

014. -- 029. (RESERVED).

030. TIER I NOTICE SUBMITTAL AND APPROVAL.

01. Notice Submittal. The owner and operator shall submit a Notice to the Department. The Notice shall meet all applicable requirements specified in Section 011. ()

02. Prenotice Conference. The owner or operator may request that the Department convene a prenotice conference with any interested federal, state, and local entities to discuss the approval procedures, notification content, timetables for notification processing, siting or operational requirements. ()

03. Notice Approval. On receipt of a Notice, the Department shall, within thirty (30) days, either, approve the Notice upon finding the requirements of Subsection 011.01 of these rules are met, or deny the Notice upon finding the requirements of Subsection 011.01 of these rules are not met. Any denial of a Notice shall identify the deficiency(ies) in the Notice, and the information relied upon in making such determination, and shall state that the owner and operator may submit additional information in the form of an amended Notice, withdraw the Notice, or request a conference to discuss the Department's determination. ()

04. Notice Valid For One Year. Unless otherwise stated in the Department's approval of the facility's Notice, the Department's approval shall become invalid if the owner and operator fail to begin construction within one (1) year from the date of approval, or if after construction has begun, work is suspended for more than one (1) year. An owner and operator may apply for an extension provided that a written extension request is received by the Department no less than one month prior to expiration of the approval. Within fifteen (15) days from Department receipt of extension request, the Department shall approve the extension request or deny the extension request and state the basis for denial. ()

031. APPLICATION CONTENT.

01. Application Requirements. Each application shall be submitted to the Department in writing and shall include the owner and operator's name, mailing address, facility address, phone number, the proposed Tier level for the facility, and any additional information as described in Subsections 031.02 through 031.06. ()

02. Siting Application. The following information shall be submitted to the Department in a Siting Application: ()

- a. A map indicating the following: ()
 - i. Highways, roads, and adjacent communities; ()
 - ii. Property boundaries; ()
 - iii. Total acreage of the site; ()
 - iv. Off-site and on-site access roads and service roads; ()
 - v. Type(s) of land use adjacent to the facility and a description of all facilities on the site; ()
 - vi. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the proposed facility property lines; ()
 - vii. High tension power line rights-of-way, fuel transmission pipeline rights-of-way, and proposed and existing utilities; ()
 - viii. Proposed or existing fencing; ()
 - ix. Proposed and existing structures at the facility and within five hundred (500) feet of the facility boundary. This shall include location of employee buildings, and scales (if provided); and ()
 - x. Direction of prevailing winds. ()
- b. Documentation demonstrating compliance with the siting requirements and restrictions specified in Section 034. If the documentation has been certified by a qualified professional, the Director shall approve the siting application unless the Director finds the evidence supports a contrary opinion. ()

03. Design Application. The following information shall be submitted to the Department in a Design Application: ()

- a. Building and construction design blueprints; ()
- b. A map illustrating a storm water run-on/run-off system designed to minimize the spread and impact of contaminants from the facility to surface or ground water, or beyond the boundary of the facility; ()
- c. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and ()
- d. Any facility specific design elements required by these rules. ()

04. Operating Application. In an operating application, the owner and operator of a facility shall submit to the Department an Operating Plan that includes a description of the wastes to be accepted, the methods for maintaining compliance with each of the applicable general operating requirements of Section 035, and complies with any applicable facility specific requirements found in Sections 050 through Section 055. ()

05. Ground Water Monitoring Application. The following information shall be submitted to the

Department in a Ground Water Monitoring Application: ()

- a. A map showing soil types, depth to ground water, ground water flow direction and locations of proposed ground water monitoring wells; and ()
- b. A monitoring schedule indicating sample frequency and constituents to be analyzed. ()

06. Closure Plan Application. The following information shall be submitted to the Department in a Closure Application: ()

- a. A complete and accurate legal description of the facility; ()
- b. A map of the facility, showing pertinent facility features, including: ()
 - i. Facility boundaries, drainage patterns, location of fill areas, and location of access control measures; ()
 - ii. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the facility boundary; ()
 - iii. Location of disposal trenches and description of waste disposed; and ()
 - iv. Proposed final contours of the closed facility, drawn to a reasonable scale with five (5) foot intervals for the operational area, and ten (10) foot intervals for the remainder of the facility; ()
- c. Estimated date of last receipt of waste; ()
- d. A description of how public access to the closed facility will be controlled; ()
- e. Estimated total cubic yards, or tons, of waste in place; ()
- f. Total acreage of the facility and acres containing waste; ()
- g. Closure equipment and procedures to be used; ()
- h. Texture, depth and permeability of final cover material; ()
- i. Design and construction plan for any necessary final cover; ()
- j. Placement, design, and management of run-on and run-off storm water controls; ()
- k. Types of vegetation and planting procedures to be used for establishing vegetative cover; ()
- l. Details of any proposed changes to any existing groundwater monitoring system; ()
- m. Details of any proposed changes to any existing landfill gas control system; ()
- n. Details of any proposed changes to any existing leachate collection system; and ()
- o. Other information requested by the Department as the Department determines is necessary to protect human health and the environment. ()

032. TIER II AND TIER III APPLICATION REVIEW AND APPROVAL.

01. Application Submittal. The owner and operator shall submit three (3) copies of each required application to the Department. The owner and operator may submit applications for siting, design, operation, or ground water monitoring approval sequentially or concurrently. ()

02. Preapplication Conference. The owner or operator may request that the Department convene a preapplication conference with any interested federal, state and local entities to discuss the approval procedures, application content, time tables for application processing, siting and design requirements. ()

03. Application Review. ()

a. On receipt of an application the Department shall, within thirty (30) days, notify the owner and operator in writing whether the submission is complete and whether the application identifies an appropriate Tier level. The notice shall identify any deficiencies in the application, and the information relied upon in making the determination, and shall state that an applicant may submit additional information in the form of an amended application, withdraw the application or request a conference to discuss the Department's determination. ()

b. Upon receipt of the Department's determination that a siting application is complete, the owner and operator shall publish a notice in a newspaper of general circulation as determined in Section 31-819, Idaho Code, in the county and the immediate vicinity of the proposed facility. The notice shall include the name and location of the proposed facility, a general description of the proposed operations, the location where the application may be reviewed, and instructions directing the public to submit comments to the Department within sixty (60) days of the date of publication. The owner and operator shall provide a copy of the published notice to the Department within five (5) business days of publication. ()

c. The Department shall approve, deny, or approve with conditions each application. Failure to issue a decision within the stated time shall be deemed approval. Approval conditions shall relate to protection of human health and the environment as required in these rules. ()

i. For a siting application, the Department shall notify the owner and operator in writing of the Department's decision within thirty (30) days of the date of the close of the public comment period. The Department and the owner and operator may agree, in writing to a longer period of time for the Department's determination. Design, Operating and Ground Water Monitoring Applications shall not be reviewed until the Siting Application is approved. ()

ii. For the Design, Operating and Ground Water Monitoring applications, the Department shall notify the owner and operator in writing of the Department's decision within sixty (60) days from the date the application is determined to be complete. ()

d. If the Department denies an application, the written decision shall state the basis for the denial, and the information relied upon in making the determination. ()

04. Application Valid For One Year. Unless otherwise stated in the Department's approval of the facility's application, the Department's approval shall become invalid if the owner and operator fail to begin construction within one (1) year from the date of approval, or if after construction has begun, work is suspended for more than one (1) year. Owners and operators may apply for an extension provided that the written request is received by the Department no less than one month prior to expiration of the approval. Within fifteen (15) days from Department receipt of extension request, the Department shall approve the extension request or deny the extension request and state the basis for denial. ()

033. (RESERVED).

034. GENERAL SITING REQUIREMENTS.

01. Flood Plain Restriction. Pursuant to 40 CFR 257.3-1, a facility shall not be located within a one hundred (100) year flood plain if the facility will restrict the flow of the one hundred (100) year flood, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. ()

02. Endangered Or Threatened Species Restriction. The owner and operator shall establish compliance with the requirements of 40 CFR 257.3-2, by providing appropriate documentation demonstrating

whether the United States Fish and Wildlife Service or the Idaho Department of Fish and Game has designated any portion of the proposed facility location as critical habitat for endangered or threatened species. ()

03. Surface Water Restriction. To implement 40 CFR 257.3-3, the active portion of a facility shall not be located: ()

a. Within three hundred (300) feet of a perennial stream or river; and ()

b. Within three hundred (300) feet of any lake or pond, unless such lake or pond is an integral part of the NMSWLF's operation for storm water and/or leachate management. ()

04. Geologic Restrictions. To implement 40 CFR 257.3-4, no facility may be located on land that would be considered unstable or would threaten the integrity of the design. ()

05. Property Line Restriction. The active portion of a facility shall not be located closer than one hundred (100) feet to the property line. ()

06. Park, Scenic Or Natural Use Restriction. The active portion of a facility shall not be located closer than one thousand (1,000) feet from the boundary of any state or national park, or land reserved or withdrawn for scenic or natural use. ()

07. Variance From Siting Requirement. Any existing or planned facility that cannot meet the criteria of this Section may apply for a variance from the Department. The Department may approve a written request for a variance provided the owner and operator demonstrate to the Department's satisfaction that the variance is at least as protective of public health and the environment as the siting requirements in this section. ()

035. GENERAL OPERATING REQUIREMENTS.

The owner and operator of a solid waste facility shall comply with the requirements of this Section. ()

01. Compliance With Federal, State And Local Rules. All solid waste facilities, including storage, collection, transfer, transport, processing, separation, incineration, treatment, or disposal, shall comply with applicable Federal, State, and local law. Applicable requirements may include, but are not limited to: ()

a. IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; ()

b. IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"; ()

c. IDAPA 58.01.11, "Ground Water Quality Rule"; ()

d. Chapter 65, Title 67, Idaho Code, Local Land Use Planning; ()

e. Chapter 44, Title 31, Idaho Code, Solid Waste Disposal Sites; ()

f. Chapter 1, Title 52, Idaho Code, Nuisances; and ()

g. 40 CFR Part 122. EPA Administered Permit Program: The National Pollutant Discharge Elimination System. ()

02. Prohibited Activities. The following activities are prohibited: ()

a. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. "Regulated waste" and "decontaminated" for the purpose of this Section shall have the same meaning as defined at 29 CFR 1910.1030; ()

b. Owning, operating or maintaining an open dump; ()

- c. Speculative accumulation, unless otherwise approved in an operations plan; and ()
 - d. Disposal of radioactive waste except in the following facilities: ()
 - i. A facility regulated by the Department under a permit that specifically addresses radioactive waste disposal; or ()
 - ii. A facility licensed by the U.S. Nuclear Regulatory Commission. ()
- 03. Signs.** Facilities open to the general public shall clearly post visible and legible signs at each entrance to the facility. The signs shall specify at a minimum: ()
- a. The name of the facility; ()
 - b. The hours of operation; and ()
 - c. An emergency phone number. ()
- 04. Waste Types.** To implement 40 CFR 257.3-4, only the solid waste types listed in the approved operations plan may be accepted for disposal or processing. ()
- 05. Waste Monitoring And Measurement.** Provisions shall be made for monitoring or measuring all solid waste delivered to a facility. The waste monitoring program shall include: ()
- a. A daily written log listing the types and quantities of wastes received; ()
 - b. A plan for monitoring and handling receipt of unauthorized wastes; ()
 - c. Routine characterization of the wastes received; and ()
 - d. Other measures included in an approved Operating Plan. ()
- 06. Communication.** Communication devices shall be available or reasonably accessible at the site. ()
- 07. Fire Prevention And Control.** To implement 40 CFR 257.3-8(b), adequate provisions shall be made for controlling or managing fires at the site. ()
- 08. Facility Access.** To implement 40 CFR 257.3-8(d), unauthorized vehicles and persons shall be prohibited access to the facility. A facility open to the public shall accept waste only when an attendant is on duty. The facility shall be fenced or otherwise blocked to access when an attendant is not on duty. ()
- 09. Scavenging And Salvaging.** To implement 40 CFR 257.3-8(d), scavenging by the public at a facility is prohibited; however, salvaging may be conducted in accordance with a written operations plan and only by the owner, operator or an authorized agent. ()
- 10. Nuisance Control.** To implement 40 CFR 257.3-6, the owner and operator shall control nuisances, including but not limited to: ()
- a. Disease or Discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; ()
 - b. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; ()
 - c. Odor. The facility shall be operated to control malodorous gases; and ()

d. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. ()

11. Bird Hazards To Aircraft. Pursuant to 40 CFR 257.3-8(c), no facility may handle putrescible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft. ()

12. Restroom. A restroom shall be available or reasonably accessible at the site. ()

13. Open Burning And Fires. To implement 40 CFR 257.3-7(a) and (b) and 257.3-8(b), open burning is prohibited at facilities except as authorized by these rules and IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho". ()

a. No open burning shall be conducted during an air pollution episode, declared in accordance with IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho". ()

b. No open burning shall be allowed two (2) years from the date the Director approves an economical and reasonable alternative to open burning under the authority of IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho". ()

c. Open burning is authorized only if it is infrequent and the materials are agricultural wastes, silviculture wastes, land clearing debris, diseased trees, or debris from emergency cleanup operations. Materials burned shall not include garbage, dead animals, asphalt, petroleum products, paints, tires or other rubber products, plastics, paper (other than that necessary to start the fire), cardboard, treated wood, construction debris, metal, pathogenic wastes, hazardous wastes, or any other substance (other than natural vegetation) that when burned releases toxic emissions, dense smoke or strong odors. ()

d. Open burning shall be conducted under the following conditions unless otherwise authorized by the Department or local fire authority with appropriate jurisdiction: ()

i. The open burning shall be supervised by a person capable of extinguishing the fire at all times until it is extinguished; ()

ii. The open burning shall not occur within fifty (50) feet of any structure; ()

iii. The pile for open burning shall not be larger than one hundred and fifty (150) cubic yards; ()

iv. Only one (1) pile at a time shall be burned, and each pile shall be extinguished before igniting another; and ()

v. The owner and operator of the facility shall contact the Department and the local fire authority prior to conducting open burning to report its nature and location. ()

14. Storm Water Run-On/Run-Off Controls. To implement 40 CFR 257.3-3 and 257.3-4, the operations plan shall include sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to minimize the spread and impact of contaminants from the facility to surface or ground water, or beyond the boundary of the facility. ()

036. GROUNDWATER MONITORING REQUIREMENTS.

01. Ground Water Monitoring. To implement 40 CFR 257.3-4, the owner and operator of a facility required to monitor ground water shall comply with the following requirements: ()

- a. Install and maintain ground water monitoring wells at locations approved by the Department; ()
- b. Within thirty (30) days of completion of each well, submit a copy of the geologic log and record of well construction to the Department; and ()
- c. Monitor the ground water quarterly, unless otherwise directed by the Department. Constituents to be monitored shall include those listed in Appendices I and II of 40 CFR Part 258 unless otherwise authorized by the Department. ()

02. Continued Ground Water Monitoring. The owner and operator of any facility required to monitor ground water pursuant to this Section shall continue the approved monitoring schedule for five (5) years following facility closure, unless otherwise approved by the Department upon request of the owner and operator for a modified monitoring schedule. ()

037. CLOSURE REQUIREMENTS.

01. Closure Plan Application. The owner and operator of a Tier II or Tier III facility shall submit to the Department a Closure Plan Application containing that information listed in Subsection 031.06 no later than ninety (90) days after the date on which the facility receives the known final receipt of wastes or, if the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional wastes, no later than one (1) year after the most recent receipt of wastes. ()

02. Public Notice. For a facility open to the public the owner and operator shall provide public notice of the facility's closure by publishing a notice in the local newspaper and posting signs at the facility's entrance. This notice shall be published and the signs posted;

a. At least thirty (30) days and no more than ninety (90) days prior to the date of last receipt of waste for a facility that has reached disposal capacity; or ()

b. If the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional waste, a notice shall be published and signs posted at least thirty (30) days and no more than ninety (90) days prior to closure. ()

03. Facility Closure. The owner and operator shall close the facility within six (6) months of the Department's approval of the Closure Plan in accordance with the approved Closure Plan, unless otherwise approved by the Department. ()

04. Closure Standards. The owner and operator shall close the facility using the following standards: ()

a. Clean Site. Pursuant to 40 CFR 257.3-6, the owner and operator shall manage or remove all solid waste to prevent potential impact to human health or the environment; ()

b. Access control. Pursuant to 40 CFR 257.3-8(d), the owner and operator shall install a gate or other device to prevent public access after the last receipt of waste; and ()

c. Drainage and Erosion Control. To implement 40 CFR 257.3-3 and 257.3-4, the owner and operator shall: ()

i. Install appropriate measures to control erosion; and ()

ii. Install appropriate measures to control the run-on and runoff from a twenty-five (25) year, twenty-four (24) hour storm event and to provide for the diversion of other surface waters from the closed facility. ()

05. Closure Plan Certification. Within thirty (30) days of closure, the owner and operator shall notify

the department in writing that the facility was closed in accordance with the approved Closure Plan. If closure of the facility is different from the approved Closure Plan, the owner and operator shall submit for Department review and approval documents, such as “as-built” plans, showing the final conditions of the facility. ()

038. -- 049. (RESERVED).

050. ADDITIONAL REQUIREMENTS FOR PROCESSING FACILITIES.

The owner and operator of a processing facility shall comply with the additional requirements listed in Subsections 050.01 through 050.03. ()

01. Odor Management Plan. The owner and operator of a processing facility regardless of classification, shall implement a Department approved Odor Management Plan designed to minimize malodorous gases. An Odor Management Plan shall include: ()

- a. Specific operating criteria for oxygen, moisture and temperature levels appropriate for the wastes to be processed and processing technologies to be employed; ()
- b. Methods used to maintain the specific operating criteria; and ()
- c. A monitoring strategy that includes the frequency and parameters for monitoring the specific operating criteria. ()

02. Additional Requirements For PCS. Owners and operators of PCS processing facilities regardless of classification, shall comply with the following applicable requirements: ()

a. Design and Construction Requirements. The owner and operator of a PCS processing facility shall submit for Department review and approval the following information as part of the Subsection 031.03, Design Application: ()

- i. A hydrogeologic evaluation, including the potential for migration of contaminants to ground or surface water; ()
- ii. A detailed description of treatment methods to be used; ()
- iii. Design plans for a leachate collection and control system to prevent discharges of contaminants to surface and ground water from the leachate control system; ()
- iv. Design plans for an air emissions control system to prevent discharges of air contaminants; and ()
- v. Design plans for a liner designed to minimize contaminant releases to the ground water. The liner design shall account for the types of wastes handled and the potential for migration of liquid and gaseous contaminants to ground water. ()

b. An owner and operator of a PCS processing facility may submit a written request for a variance from the leachate control and liner requirements. The owner and operator must demonstrate that the variance is at least as protective of surface and ground water as the leachate collection system and liner. ()

c. Operating Requirements. The owner and operator of a PCS processing facility shall submit for Department review and approval the following information as part of the Subsection 031.04, Operating Application: ()

- i. A sampling plan that describes the methods and frequency that the owner and operator will use to sample and analyze the wastes when received, during processing, and on final testing of processed material; and. ()
- ii. A description of how the owner and operator will maintain and operate the liner, leachate collection

and control system, and air emission control system consistent with the approved design application. ()

03. Documentation Requirement. The owner and operator of a processing facility shall maintain documentation of compliance with this section, including an operational log of the methods used to maintain the operating criteria and sampling results. ()

051. -- 052. (RESERVED).

053. ADDITIONAL REQUIREMENTS FOR INCINERATORS AND TRANSFER STATIONS.

The owner and operator of a transfer station or an incinerator regardless of classification, shall comply with the following applicable requirements: ()

01. Design Requirements. The owner and operator of an incinerator or transfer station shall submit for Department review and approval the following information as part of the Subsection 031.03, Design Application: ()

a. A description of the tipping floor design. The tipping floor shall be constructed of impermeable and durable material and designed to contain, collect, and convey any liquids to a storage or leachate management system, and any transfer station that accepts only waste tires will not be required to construct a tipping floor as provided in Subsection 053.01.a. ()

b. A description of the storage or leachate management system design. ()

02. Operating Requirements. The owner and operator of an incinerator or transfer station shall submit for Department review and approval the following information as part of the Subsection 031.04, Operating Application: ()

a. A description of the maintenance and operation of the tipping floor to control odors, insects, and rodents; ()

b. A description of the cleaning procedures and waste residency times used to maintain sanitary conditions on the surface of the tipping floor; and ()

c. A description of the storage or leachate management system operation. ()

03. Waste Tire Collection Site Requirements. Individual tire piles shall not exceed five thousand (5000) square feet of continuous area, nor fifty thousand (50,000) cubic feet in volume or ten (10) feet in height. ()

054. (RESERVED).

055. ADDITIONAL REQUIREMENTS FOR NON-MUNICIPAL SOLID WASTE LANDFILLS.

The owner and operator of a non-municipal solid waste landfill facilities regardless of classification, shall comply with the applicable requirements listed in Subsections 055.01 and 055.02. ()

01. Applicable Requirements: ()

a. Siting Requirements: A facility shall not be located in wetlands, except as provided in 40 CFR 258.12, and shall comply with the provisions of 40 CFR 258.15. ()

b. Design and Construction Requirements: To implement 40 CFR 257.3-4 and 40 CFR 257.3-8(a), the owner and operator of a NMSWLF shall comply with the following design and construction requirements: ()

i. Leachate Collection and Control System. A leachate collection and control system shall be constructed to prevent discharges of contaminants to surface and ground water; ()

ii. Liner. A liner designed to minimize contaminant releases to the ground water shall be installed. The

liner design shall account for the types of wastes handled and the potential for migration of liquid and gaseous contaminants to ground water; ()

iii. Landfill Emission Control System. Appropriate toxic and flammable gas monitoring devices shall be installed where the location, geophysical condition, and waste characteristics indicate that there is a reasonable probability that the facility will generate toxic and flammable gas: exceeding twenty-five (25) percent of the lower explosive limit for gases in facility structures (excluding gas control or gas recovery system components); exceeding the lower explosive limit at the property boundary; or otherwise presenting a potential threat to public health or the environment; and ()

iv. An owner or operator may submit a written request for a variance from the leachate collection and control system, liner, or emission control system requirements. The Department may approve the variance upon demonstration by the owner or operator that the variance is at least as protective of human health and the environment as the leachate collection and control system, liner, or emission control system. ()

c. Operating Requirements: The owner and operator of a NMSWLF shall comply with the following operating requirements: ()

i. Compaction and placement of waste in locations consistent with the approved operations plan or Tier I notice; ()

ii. Provision for storage of waste during periods when the NMSWLF is inaccessible; ()

iii. Application of a six (6) inch compacted soil cover layer on exposed waste as necessary to prevent nuisance and vector conditions at periods consistent with the approved operations plan or Tier I notice. An owner and operator may request that the Department approve an alternate cover that addresses vectors, litter, fire, odor, and scavenging concerns; ()

iv. Placement of an interim cover layer of twelve (12) inches of compacted soil between lifts to provide erosion control and structural stability. An owner and operator may request that the Department approve an alternate interim cover that addresses erosion, and stability for subsequent lifts; ()

v. Maintenance and operation of a leachate collection and control system and air emission control system consistent with the approved design application; and ()

vi. Preservation of existing vegetation where attainable. ()

d. Closure Requirements. The owner and operator of a NMSWLF shall comply with the following closure requirements: ()

i. Final Cover. Within seven (7) days of the date of last receipt of waste, a cover layer shall be applied to prevent nuisances and vector conditions. Within one hundred and twenty (120) days of the date of last receipt of waste, a final cover layer of eighteen (18) inches of compacted soil with an approved in-place permeability designed to minimize infiltration, or its functional equivalent, and, a six (6) inch soil layer that minimizes erosion and sustains plant growth shall be constructed; ()

ii. Facility Stabilization. All disturbed portions of the facility shall be stabilized. Stabilization practices may include but are not limited to: establishment of vegetation, mulching, geotextiles, and sod stabilization; ()

iii. Slope Stability. Finished grade shall be at a minimum of two (2) percent and a maximum of thirty-three percent (33%) slope on the final surface of the completed fill area, after settlement; and ()

iv. Drainage Control. The completed landfill shall be graded to prevent surface water ponding and erosion, and to conform to the local topography. ()

e. Deed Notation: ()

i. After completion and certification of closure of a NMSWLF, the owner and operator shall record a notation on the property deed to provide notice to any potential purchaser that the property has been used as a solid waste processing or disposal facility and its future use may be restricted in accordance with a post-closure care plan. A copy of the notated deed shall be sent to the Department after recording with the county clerk. ()

ii. The owner may request permission from the Department to remove the notation from the deed if all wastes are removed from the facility. ()

iii. Federal agencies with responsibility for management of landfills on federal property shall make a notation in the federal property records for the affected property. If the subject property is ever sold or transferred by the federal government, a notation on the deed or patent shall be made. ()

f. Post-Closure Care Plan. Owners and operators shall submit to the Department for review and approval a Post-Closure Care Plan, shall obtain Department approval of the Plan, and shall conduct post-closure care in accordance with the Plan: ()

i. The Post-Closure Care Plan shall contain: ()

(1) The name and address of an agent authorized to accept communications or service during the post-closure period. The name may be changed during the post-closure period by providing the Department with twenty (20) days advance written notice of the change; ()

(2) Provisions to maintain the integrity and effectiveness of the final cover; ()

(3) Provisions to continue to maintain and operate the systems required in the operating plan, including: run-on/run-off control systems, leachate collection and control systems, groundwater monitoring systems, and gas monitoring systems; ()

(4) Provisions to maintain appropriate security of the closed facility; ()

(5) Provisions for routine facility inspections by the owner and operator to insure compliance with the Post-Closure Care Plan; and ()

(6) A description of the planned use(s) of the property during the post-closure care period. ()

ii. Post-closure care for the NMSWLF shall be conducted for a minimum of five (5) years, but not more than thirty (30) years, as necessary to protect human health and the environment. ()

iii. Post-Closure Standards and Inspection. Post-closure use or operation of the site shall not disturb any final cover, liner or other component of the containment system in a manner that will increase the potential to threaten human health or the environment. ()

iv. The approved Post-Closure Care Plan shall be maintained and available for review on request by the Department. ()

v. The requirements in Subsection 055.01.f. shall apply to owners and operators and their successors and assigns. ()

02. Application Content Requirements For NMSWLF Facilities. As specified in Section 011, Section 012, or Section 013, an owner and operator of a NMSWLF shall comply with the following additional facility specific application requirements: ()

a. Siting Application. The owner and operator shall provide documentation demonstrating compliance with the siting requirements specified in Subsection 055.01.a.; ()

b. Design Application. The owner and operator shall provide the following additional information for

- design approval: ()
- i. Design plans shall address the need for and include as required a leachate collection and control system, liner, and emission control systems in Subsection 055.01.b.; ()
 - ii. A facility map illustrating: ()
 - (1) Surface water and erosion control systems; ()
 - (2) Proposed fill area, including the location of waste disposal trenches or cells, noting the locations of trenches used for separated wastes such as animal carcasses, tree trunks, stumps, bulky wastes, car bodies, asbestos, and petroleum contaminated soils; ()
 - (3) Location of borrow areas; ()
 - (4) Design elevation grade of final cover; ()
 - (5) Soil and water table test boring holes, wells, or excavations; ()
 - (6) Proposed receiving, storage, and processing areas; ()
 - (7) Proposed trench layout and development; and ()
 - (8) Contour lines at five (5) foot intervals within the operating area and ten (10) foot intervals to the facility boundary. ()
 - c. Operating Application. The operating plan required in Section 012, Section 013, or the Tier I notice required in Section 011, shall identify detailed methods used for maintaining compliance with each applicable operating requirement of Subsection 055.01.c. including but not limited to the type, the method of compaction and the frequency of application of respective cover materials; and ()
 - d. Post-Closure Care Application. A post-closure care application shall contain a copy of the Post-Closure Care Plan. ()

056. -- 059. (RESERVED).

060. VIOLATIONS.

- 01. Failure To Comply.** Failure by any person to comply with the provisions of these rules or with any Department-approved Tier I Notice, or Tier II or III Application shall be deemed a violation of these rules. ()
- 02. Discharges.** No owner and operator, or other person, shall cause or allow any unauthorized discharge, release, leaking, leaching, spilling or escape of any contaminant from any facility regulated by these rules. ()
- 03. Falsification of Statements and Records.** It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of an approval. ()
- 04. Penalties.** Any person violating any provision of these rules or any approved conditions or order issued thereunder shall be liable for civil penalty in accordance with Title 39, Chapter 1, Idaho Code. ()

061. -- 993. (RESERVED).

994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.

An application for a commercial solid waste siting license required by the Idaho Solid Waste Facilities Act shall be accompanied by a siting license fee in an amount established by these rules. The license fee shall not exceed seven

thousand five hundred dollars (\$7,500) and shall be submitted with the siting license application. ()

01. Commercial Solid Waste Siting License Fee Criteria. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and these rules shall be based on the cost of the Department's review and the characteristics of the proposed commercial solid waste facility, including the projected site size, projected waste volume, and the hydrogeological and atmospheric characteristics surrounding the site. ()

02. Commercial Solid Waste Siting License Fee Scale. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and these rules shall be determined using the table below. The fee determined using the table below may then be adjusted by the Department if necessary to reflect the cost of the Department's review, taking into account the hydrogeological and atmospheric characteristics surrounding the site.

COMMERCIAL SOLID WASTE SITING LICENSE FEE SCALE			
PROJECTED SOLID WASTE VOLUME			
Tons per day (TPD)			
Site Size	Up to 20 TPD	20 to 100 TPD	More than 100 TPD
5 acres or less	\$3,500	\$4,500	\$5,500
5 to 50 acres	\$4,500	\$5,500	\$6,500
more than 50 acres	\$5,500	\$6,500	\$7,500

()

03. Notification of Adjustment Of Fee. Within thirty (30) days of receipt of the application and fee, the Department shall notify the applicant if the fee has been adjusted and the date by which any additional fee must be paid by the applicant. ()

04. Expansion or Enlargement Of A Commercial Solid Waste Facility. The expansion or enlargement of a commercial solid waste facility constitutes a new proposal for which a commercial solid waste siting license is required and for which a siting license fee must be paid. All commercial solid waste facilities not in operation on March 20, 1996 must submit a commercial solid waste license application and fee. ()

05. Commercial Solid Waste Siting License Fee Not Refundable. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and by these rules shall not be refundable and may not be applied toward any subsequent application should the commercial solid waste siting license application be canceled, withdrawn or denied. ()

995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.

In addition to the contents of a Siting License Application as required in the Idaho Solid Waste Facilities Act, these rules require the applicant to include in the application the following items: ()

01. Location. A map indicating the location of the proposed commercial solid waste facility; ()

02. Copies Of Application. Ten (10) copies of the completed application; and ()

03. Application Format. A copy of the application in a format prepared for photocopying. ()

996. -- 998. (RESERVED).

999. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality". ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS

DOCKET NO. 58-0106-0102

NOTICE OF PROPOSED RULEMAKING (REPEAL)

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105, 39-107 and 39-7408C, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed repeal and the proposed adoption of a new rule (Docket No. 58-0106-0101) will be held as a statewide, interactive video teleconference originating in Boise, Idaho on July 31, 2001, at 7:00 p.m. (6:00 p.m. PDT). A representative from DEQ will be at each site to facilitate the hearing. The allotted time for the hearing will be distributed evenly between the six sites. The interactive public hearing will enable the participants to listen to comments that are being made throughout the state, not just the comments that are made at their hearing site.

Hearing locations are:

J. R. Williams Bldg. (Hall of Mirrors)
East Conference Room
700 W. State
Boise, Idaho

Idaho State University
Eli M. Oboler Library Room B35
850 S. 9th
Pocatello, Idaho

North Idaho College
Molstead Library Room 270
1000 W. Garden Ave.
Coeur d'Alene, Idaho

College of Southern Idaho
Evergreen Bldg. Room C95
315 Falls Ave.
Twin Falls, Idaho

ISU Center for Higher Education
Room 314
1770 Science Center Dr.
Idaho Falls, Idaho

Lewis & Clark State College
Sam Glenn Bldg. Room 50
500 8th Ave.
Lewiston, Idaho

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

DESCRIPTIVE SUMMARY: Under Docket No. 58-0106-0101, DEQ has initiated proposed rulemaking for the adoption of a new rule addressing non-municipal solid waste. Coinciding with the publication of the proposed rule, DEQ is hereby proposing repeal of the current rule. The proposed actions have been scheduled so that both actions, once adopted by the Board of Environmental Quality and approved by the Legislature, will take effect simultaneously.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October or November 2001 for adoption of a pending rule. The repeal is expected to be final and effective upon the conclusion of the 2002 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: The proposed repeal was not negotiated. However, text of the proposed replacement rule was negotiated. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 97-5, May 7, 1997, page 47, under Docket No. 16-0106-9701.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Dean Ehlert at (208)373-0502 or dehlert@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ

will consider all written comments received by the undersigned on or before August 3, 2001.

DATED this 23rd day of May, 2001.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/ Fax No. (208)373-0481
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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapter 1, Title 39, Idaho Code and Chapter 21, Title 37, Idaho Code. In addition states which have primary enforcement responsibility for the Safe Drinking Water Act are required by 40 CFR 142.10(a) and 40 CFR 142.10(b) through (d) to adopt with two years of promulgation, national primary drinking water regulations that are no less stringent than the federal regulations in effect under 40 CFR Part 411.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 2001.

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

DESCRIPTIVE SUMMARY: This proposed rule incorporates by reference citations to 1996 Public Notification Rule, 40 CFR Part 141, Subpart Q, which includes revisions to the guidelines that require public drinking water systems to notify their customers when national primary regulations are violated thereby posing a risk to public health. In addition, this rulemaking includes nonsubstantive corrections (Sections 002 and 003.59) and clarifies that the noncommunity system referred to in Subsection 551.01.j. is a transient noncommunity system.

This proposed rule also incorporates by reference citations to the 1976 Radionuclides Rule, 40 CFR Part 141, which has established a maximum contaminant level (MCL) for uranium at 30 parts per billion and improved implementation by following the standard monitoring framework. This rule will provide improved health protection for customers of community water system through monitoring improvements for the combined radium-226/-228 standard, a new standard for uranium, and utilizing more defined sampling points. The new standard for uranium will reduce the risk of kidney toxicity and certain types of cancer. The new monitoring requirements will continue to protect public health while providing a schedule more consistent with other regulated contaminants as well as granting monitoring relief for systems with very low contaminant levels. In order for the state of Idaho to maintain primacy, these revisions must be implemented by December 7, 2003.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October or November 2001 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2002 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. The state must adopt rules according to 40 CFR 142.10(a) that are no less stringent than the federal regulations and the Idaho State Legislature requires DEQ to adopt rules that are no more stringent than the federal regulations. Therefore, unless the federal regulations specifically allow the state latitude in writing their own regulations, there is little, if any, room for negotiation. Federal regulations did not allow any such latitude for this rule.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the Public Notification Rule, Contact Tom Aucutt at (208)373-0502 or taucutt@deq.state.id.us.

For assistance on technical questions concerning the Radionuclides Rule, Contact Jerri Henry at (208)373-0502 or jhenry@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before July 25, 2001.

DATED this 16th day of May, 2001.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0101

002. INCORPORATION BY REFERENCE.

Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141, ~~142~~ and 143, ~~revised as of July 1, 2000~~, shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. Any reference in these rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual that pertains to the procedure, method, standard, or construction criterion as it appears in the manual. (3-30-01)(_____)

01. Availability Of Specific Referenced Material. Copies of specific documents adopted by reference throughout these rules are available in the following locations: (12-10-92)

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; and (7-1-97)

b. All documents herein incorporated by reference: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-1-97)

c. Recommended Standards for Water Works: a committee report of the Great Lakes -- Upper Mississippi River Board of Department of Public Health and Environmental Health Managers, published by Health Education Services, P.O. Box 7823, Albany, New York, 1997, Telephone (518) 439-7286. (3-30-01)

d. Manual of Individual Water Supply Systems (EPA-430/9-74-007), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (12-10-92)

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)

f. Rules of the Idaho Water Resources Board, IDAPA 37.03.09, "Well Construction Standards Rules," July 1993, available at the Idaho Department of Water Resources, 1301 North Orchard, P.O. Box 83720, Boise, Idaho

83720-0098, Telephone (208) 327-7900.

(7-1-97)

g. USEPA Guidance Manual, Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources, March 1991 Edition, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238. (12-10-92)

h. NSF 53 -- 1992, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313) 769-8010. (10-1-93)

i. NSF 58 -- 1992, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313) 769-8010. (10-1-93)

j. American Water Works Association (AWWA) Standards, Edition effective July 23, 1992, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (7-1-97)

k. ANSI/NSF 60 -- 1988, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313) 769-8010. (12-10-92)

l. ANSI/NSF 61 -- 1991, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313) 769-8010. (10-1-93)

02. Federal Regulations. 40 CFR 141.2, revised as of July 1, 2001, is herein incorporated by reference, except for the definition of the terms action level, disinfection, noncommunity water system, and person. (~~3-30-01~~)(____)

003. DEFINITIONS.

01. ABC. The abbreviation for "Association of Boards of Certification for Operating Personnel," an international organization representing water utility and pollution control certification boards. (4-5-00)

02. Action Level. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

03. Administrator. The Administrator of the United States Environmental Protection Agency. (4-5-00)

04. Annual Samples. Samples that are required once per calendar year. (12-10-92)

05. Available. Based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. (4-5-00)

06. Average Daily Demand. The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)

07. Backflow. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

08. Board. The Idaho State Board of Environmental Quality. (12-10-92)

09. Capacity. The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Certification and training of the operator(s) is required, as appropriate, for the system size and complexity. (4-5-00)

b. Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (4-5-00)

c. Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (4-5-00)

i. Short and long range planning; (4-5-00)

ii. Personnel management; (4-5-00)

iii. Fiduciary responsibility; (4-5-00)

iv. Emergency response; (4-5-00)

v. Customer responsiveness; (4-5-00)

vi. Source water protection; (4-5-00)

vii. Administrative functions such as billing and consumer awareness; and (4-5-00)

viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)

10. Certificate. Documentation of competency issued by the Director stating that the person (to be certified) has met requirements for a specific classification of the certification program. (4-5-00)

11. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)

12. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

13. Compositing Of Samples. The mixing of up to five (5) samples by the laboratory. (4-5-00)

- 14. Confirmation Sample.** A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)
- 15. Connection.** Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)
- 16. Consumer.** Any person served by a public water system. (12-10-92)
- 17. Consumer Confidence Report (CCR).** An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)
- 18. Contaminant.** Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)
- 19. Continuing Education Unit (CEU).** An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria. (4-5-00)
- 20. Cross Connection.** Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)
- 21. Department.** The Idaho Department of Environmental Quality. (12-10-92)
- 22. Director.** The Director of the Department of Environmental Quality or his designee. (12-10-92)
- 23. Disinfection.** Introduction of chlorine or other agent or process approved by the Department, in sufficient concentrations, followed by adequate contact time so as to kill or inactivate pathogenic and indicator organisms. (12-10-92)
- 24. Disinfection Profile.** A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172. (4-5-00)
- 25. Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. (4-5-00)
- 26. Drinking Water System.** All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)
- 27. DWIMS.** Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (~~10-1-93~~)(____)
- 28. Enhanced Coagulation.** The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. (4-5-00)
- 29. Enhanced Softening.** The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

30. Exemption. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

31. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

32. Filter Profile. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

33. GAC10. Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

34. Groundwater System. A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

35. Groundwater Under The Direct Influence Of Surface Water. Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or (for subpart H systems serving at least ten thousand (10,000) people only) *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. (4-5-00)

36. Haloacetic Acids (Five) (HAA5). The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

37. Health Hazards. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. (10-1-93)

38. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

39. Laboratory Certification Reciprocity. Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

40. Log. Logarithm to the base ten (10). (12-10-92)

41. Maximum Daily Consumption Rate. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

42. Maximum Hourly Demand. The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

43. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL.

MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

44. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

45. Method Detection Limit (MDL). The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

46. New System. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

47. Noncommunity Water System. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)

48. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)

49. Nuclear Facility. Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

50. Operator Certifying Entity. An organization that contracts with the Department to provide public drinking water operator certification services. (4-5-00)

51. Operating Experience. The number of years spent at a drinking water system in performance of duties. (4-5-00)

52. Operating Shift. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

53. Operator/Owner/Purveyor Of Water/Supplier Of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-5-00)

54. Operator Reciprocity. Means on a case by case basis the acceptance of certificates issued by other certification programs, which satisfy the state of Idaho requirements for operator certification. (4-5-00)

55. Peak Hourly Flow. The highest hourly flow during any day. (12-10-92)

56. Person. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

57. Pesticides. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

58. Public Notice. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

59. Public Drinking Water System.

a. In General. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public drinking water system is either a "community water system" or a "noncommunity water system". (4-5-00)

b. Connections. (4-5-00)

i. In General. For purposes of Subsection 003.459.a., a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if: (~~4-5-00~~)(____)

(1) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses); (4-5-00)

(2) The Director determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or (4-5-00)

(3) The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations. (4-5-00)

ii. Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public drinking water system if the system or the residential or similar users of the system comply with Subsections 003.459.b.i.(2) and 003.459.b.i.(3). (~~4-5-00~~)(____)

c. Transition Period. A supplier of water that would be a public drinking water system only as a result of modifications made to Subsection 003.459 by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public drinking water system for purposes of the Safe Drinking Water Act until the date that is two (2) years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. If a supplier of water does not serve fifteen (15) service connections (as defined in Subsections 003.459.a. and 003.459.b.) or twenty-five (25) people at any time after the conclusion of the two (2) year period, the supplier of water shall not be considered a public drinking water system. (~~4-5-00~~)(____)

60. Public Water System/Water System/System. Means "public drinking water system". (4-5-00)

61. Reciprocity. A system by which certificates issued by any other certification program are recognized as valid and equal to Idaho's Certification Program provision. (4-5-00)

62. Repeat Compliance Period. Any subsequent compliance period after the initial compliance period. (12-10-92)

63. Responsible Charge (RC). Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

64. SDWISS. Safe Drinking Water Information System-State Version. Replaced DWIMS April 2001.

()

- 645. Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)
- 656. Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)
- 667. Sanitary Survey.** An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)
- a. Source; (4-5-00)
 - b. Treatment; (4-5-00)
 - c. Distribution system; (4-5-00)
 - d. Finished water storage; (4-5-00)
 - e. Pumps, pump facilities, and controls; (4-5-00)
 - f. Monitoring and reporting and data verification; (4-5-00)
 - g. System management and operation; and (4-5-00)
 - h. Operator compliance with state requirements. (4-5-00)
- 678. Significant Deficiency.** Any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the State determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. (4-5-00)
- 689. Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)
- 6970. Surface Water System.** A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)
- 701. Specific Ultraviolet Absorption (SUVA).** SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)
- 712. Total Organic Carbon (TOC).** Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)
- 723. Transient Noncommunity Water System.** A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)
- 734. Treatment Facility.** Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)
- 745. Turbidity.** A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other

microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

756. Uncovered Finished Water Storage Facility. A tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection and is open to the atmosphere. (4-5-00)

767. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

778. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deterrent does not cause an unreasonable risk to public health. (12-10-92)

789. Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

790. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

801. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

812. Waiver. (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, "waiver" means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, "waiver" means the deferral of a fee assessment for a public drinking water system. (10-1-93)

823. Water System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with day to day operation and maintenance of a public drinking water system in order to safeguard the public health and environment. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

010. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.

All regulated public drinking water systems shall pay an annual drinking water system fee. The fee shall be assessed to regulated public drinking water systems as provided in this section. (10-1-93)

01. Effective Date. Annual fees shall be paid for each fee year beginning October 1, 1993, and continuing for each succeeding year. (10-1-93)

02. Fee Schedule. (10-1-93)

a. Community and Nontransient noncommunity public drinking water systems shall pay an annual fee

according to the following fee schedule:

Number of Connections	Fee
1 to 20	\$100.00
21 to 184	\$5.00 per connection, not to exceed a total of \$735 per system
185 to 3,663	\$4.00 per connection, not to exceed a total of \$10,988 per system
3,664 or more	\$3.00 per connection

(7-1-97)

- b. The annual fee for transient public drinking water systems is twenty-five dollars (\$25). (10-1-93)
- c. New public drinking water systems formed after October 1 will not pay a fee until the following October. (10-1-93)

03. Fee Assessment. (10-1-93)

a. An annual fee assessment will be generated for each community and nontransient noncommunity public drinking water system listed in the Department's Safe Drinking Water Information Management System (SDWIMSS). (10-1-93)()

b. Community and nontransient noncommunity public drinking water systems will be notified each year of the official number of connections listed in SDWIMSS. Systems will have at least one (1) month to notify the Department if the number of connections listed in SDWIMSS is not in agreement with the system's records. (10-1-93)()

c. The official number of connections listed in SDWIMSS following each yearly update, as required in Subsection 010.03.b., will be used to calculate the annual fee for community and nontransient noncommunity public drinking water systems for the next fee year of October 1 through September 30. (10-1-93)()

04. Billing. An annual fee shall be assessed and a statement will be mailed to all community, nontransient noncommunity, and transient public drinking water systems listed in SDWIMSS by the Department on or before September 1 of each year. (10-1-93)()

05. Payment. (10-1-93)

a. Payment of the annual fee shall be due on October 1, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. (10-1-93)

b. If a public water system consists of two hundred fifty (250) connections or more, the system may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. (10-1-93)

c. The Department will notify applicable systems, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. (10-1-93)

d. If a public water system has been approved to pay monthly installments then each installment shall be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the successive business day. (10-1-93)

e. If a public water system has been approved to pay quarterly installments then each installment shall be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the first successive business day.

(10-1-93)

06. Delinquent Unpaid Fees.

(10-1-93)

a. A public water system will be delinquent in payment if its annual fee assessment has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due.

(10-1-93)

07. Suspension Of Services And Disapproval Designation.

(7-1-97)

a. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of ninety (90) days, technical services provided by the Department may be suspended except for the following:

(7-1-97)

i. Issuance of monitoring waivers;

(7-1-97)

ii. Review and processing of engineering reports; and

(7-1-97)

iii. Review of plans and specifications for design and construction as set forth in Sections 550 and 551.

(7-1-97)

b. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may suspend all technical services provided by the Department including any of the following:

(7-1-97)

i. Review and processing of engineering reports;

(7-1-97)

ii. Review of plans and specifications for design and construction as set forth in Sections 550 and 551;

(7-1-97)

iii. Renewal of monitoring waivers; or

(7-1-97)

iv. Granting of new monitoring waivers.

(7-1-97)

c. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may disapprove the public water system pursuant to Subsection 007.06.

(7-1-97)

08. Reinstatement Of Suspended Services And Approval Status. The suspension of technical services and/or the disapproval of a public water system pursuant to Subsection 010.07 may be reinstated upon payment of delinquent annual fee assessments.

(7-1-97)

09. Enforcement Action. Nothing in Section 010 waives the Department's right to undertake an enforcement action at any time, including seeking penalties, as provided in Section 39-108, Idaho Code.

(7-1-97)

10. Responsibility To Comply. Subsection 010.07 shall in no way relieve any system from its obligation to comply with all applicable state and federal drinking water statutes, rules, regulations, or orders.

(7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.

- 01. Inorganic Contaminants.** (10-1-93)
- a. 40 CFR 141.11, revised as of July 1, 2001, is herein incorporated by reference. ~~(10-1-93)~~(____)
- b. 40 CFR 141.62 is herein incorporated by reference. (10-1-93)
- c. The maximum contaminant level for cyanide is two-tenths milligram per liter (0.2 mg/l). (12-10-92)
- 02. Organic Contaminants.** (10-1-93)
- a. 40 CFR 141.12, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)
- b. 40 CFR 141.61 is herein incorporated by reference. except that the best available technology (BAT) treatment listed in 40 CFR 141.61(b) shall be changed to reflect that packed tower aeration will not be listed for toxaphene but will be listed for toluene. (10-1-93)
- 03. Turbidity.** 40 CFR 141.13 is herein incorporated by reference. (10-1-93)
- 04. ~~Radium-226, Radium-228, And Gross Alpha Particle Radioactivity.~~** ~~40 CFR 141.15 Radionuclides.~~ 40 CFR 141.66, revised as of July 1, 2001, is herein incorporated by reference. ~~(10-1-93)~~(____)
- ~~**05. Beta Particle And Photon Radioactivity From Man-Made Radionuclides.**~~ 40 CFR 141.16 is herein incorporated by reference. (10-1-93)
- 06. Microbiological Contaminants.** 40 CFR 141.63, revised as of July 1, 2001, is herein incorporated by reference. ~~(10-1-93)~~(____)
- 07. Maximum Contaminant Levels For Disinfection Byproducts.** 40 CFR 141.64, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)
- 08. Maximum Residual Disinfectant Levels.** 40 CFR 141.65, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)
- 09. Effective Dates.** Effective date information provided in specified Sections of 40 CFR that are incorporated by reference are applicable. (12-10-92)

(BREAK IN CONTINUITY OF SECTIONS)

100. MONITORING AND ANALYTICAL REQUIREMENTS.

- 01. Microbiological Contaminant Sampling And Analytical Requirements.** (10-1-93)
- a. 40 CFR 141.21, revised as of July 1, 2001, is herein incorporated by reference. ~~(10-1-93)~~(____)
- b. The Department may reduce the total coliform monitoring frequency for community water systems serving twenty-five (25) to one thousand (1000) persons, as specified in 40 CFR 141.21(a)(2) and Subsection 100.01. The Department may allow community water systems serving twenty-five (25) to one thousand (1000) persons to reduce the total coliform monitoring frequency to once per quarter when; (12-10-92)
- i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

- ii. There has been no history of total coliform contamination in its current configuration; and (10-1-93)
- iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
- iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)
- v. The system uses only a groundwater source that is protected. (12-10-92)
- c. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving less than one thousand (1000) persons as specified in 40 CFR 141.21(a)(3)(i) and Subsection 100.01. The Department may allow noncommunity water systems serving less than one thousand (1000) persons to reduce the total coliform monitoring frequency to once per year when; (12-10-92)
 - i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
 - ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)
 - iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
 - iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)
 - v. The system uses only a groundwater source that is protected. (12-10-92)
- d. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving more than one thousand (1000) persons during any month the system serves one thousand (1000) persons or fewer as specified in 40 CFR 141.21(a)(3)(ii) and Subsection 100.01. The Department will allow noncommunity water systems serving more than one thousand (1000) persons to reduce the total coliform monitoring frequency for any month the system serves one thousand (1000) persons or fewer, down to a minimum of one (1) sample per year, provided; (10-1-93)
 - i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
 - ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)
 - iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
 - iv. A sanitary survey has been conducted within the past five (5) years which indicates that there are no deficiencies which could effect microbial quality; and (12-10-92)
 - v. The system uses only a groundwater source that is protected. (12-10-92)
- e. A system must collect repeat samples within twenty-four (24) hours of notification of positive results as specified in 40 CFR 141.21(b) and Subsection 100.01. The Department may allow a system to delay collection of repeat samples if the system; (12-10-92)
 - i. Identifies the cause of the contamination; (12-10-92)
 - ii. Is making progress towards correcting the problem; (12-10-92)

iii. Submits a written request to delay collecting repeat samples and a written statement admitting an acute MCL violation; (12-10-92)

iv. Follows public notification requirements specified under 40 CFR 141.32, revised as of July 1, 2001, for acute MCL violations including notice for consumers to boil their water; (~~12-10-92~~)()

v. Continues to collect the regularly scheduled number of routine samples; (12-10-92)

vi. Collects all repeat samples immediately following correction of the problem; and (12-10-92)

vii. Collects five (5) routine samples during the month following the end of the violation as required under 40 CFR 141.21 (b)(5), unless waived as allowed under that paragraph. (12-10-92)

02. Turbidity Sampling And Analytical Requirements. 40 CFR 141.22, revised as of July 1, 2001, is herein incorporated by reference. (~~10-1-93~~)()

03. Inorganic Chemical Sampling And Analytical Requirements. 40 CFR 141.23, revised as of July 1, 2001, is herein incorporated by reference. (~~10-1-93~~)()

04. Organic Chemicals Other Than Total Trihalometranes, Sampling And Analytical Requirements. 40 CFR 141.24, revised as of July 1, 2001, is herein incorporated by reference. (~~10-1-93~~)()

05. Analytical Methods for Radioactivity. 40 CFR 141.25, revised as of July 1, 2001, is herein incorporated by reference. (~~10-1-93~~)()

06. Monitoring Frequency And Compliance Requirements For Radioactivity In Community Water Systems. 40CFR 141.26, revised as of July 1, 2001, is herein incorporated by reference. (~~10-1-93~~)()

07. Waivers And Vulnerability Assessments. (10-1-93)

a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, 551.01.h. and 551.01.i. may be available to all systems for all contaminants except nitrate, nitrite, arsenic and trihalomethanes, and are based upon a vulnerability assessment, use assessment and/or the analytical results of previous sampling. (10-1-93)

b. There are two (2) general types of monitoring waivers: (12-10-92)

i. Waivers based exclusively upon previous analytical data (12-10-92)

ii. Waivers based on a use or vulnerability assessment. (12-10-92)

c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (12-10-92)

d. Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (12-10-92)

e. Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. (12-10-92)

f. If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (10-1-93)

08. Initial Monitoring Schedule. In addition to the requirements specified in 40 CFR 141.23, revised as of July 1, 2001, 40 CFR 141.24, revised as of July 1, 2001, and 40 CFR 141.40, revised as of July 1, 2001, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department:

~~(10-1-93)~~()

a. Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

b. Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

09. Alternate Analytical Techniques. 40 CFR 141.27 is herein incorporated by reference. (10-1-93)

10. Approved Laboratories. All analyses conducted pursuant to this chapter, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Department. The following analyses shall be conducted by the public water system in accordance with the procedures approved in Idaho Department of Health and Welfare Rules, IDAPA 16.02.13, Subsection 008.02, "Rules Governing Certification of Idaho Water Quality Laboratories". (10-1-93)

a. pH; (12-10-92)

b. Turbidity (Nephelometric method only); (12-10-92)

c. Daily analysis for fluoride; (12-10-92)

d. Temperature; and (12-10-92)

e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.c. (12-10-92)

11. Consecutive Water System. 40 CFR 141.29 is herein incorporated by reference. (10-1-93)

12. Total Trihalomethane Sampling, Analytical And Other Requirements. 40 CFR 141.30, revised as of July 1, ~~1999~~ 2001, is herein incorporated by reference. (~~4-5-00~~)()

(BREAK IN CONTINUITY OF SECTIONS)

150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.

- 01. Reporting Requirements.** 40 CFR 141.31, revised as of July 1, 2001, is herein incorporated by reference. ~~(10-1-93)~~()
- 02. Public Notification.** ()
- a.** 40 CFR 141.32, revised as of July 1, ~~1999~~ 2001, is herein incorporated by reference. ~~(4-5-00)~~()
- b.** 40 CFR Part 141, Subpart O, revised as of July 1, 2001, is herein incorporated by reference. ()
- 03. Record Maintenance.** 40 CFR 141.33 is herein incorporated by reference. (10-1-93)
- 04. Lead Public Notice Requirements.** 40 CFR 141.34 is herein incorporated by reference. (10-1-93)
- 05. Unregulated Contaminant Reporting And Public Notification.** 40 CFR 141.35 is herein incorporated by reference. (10-1-93)
- 06. Reporting And Record Keeping For The Interim Enhanced Surface Water Treatment Rule.** 40 CFR 141.175, revised as of July 1, ~~1999~~ 2001, is herein incorporated by reference. ~~(4-5-00)~~()
- 07. Reporting And Record Keeping Requirements For The Disinfectants And Disinfectant Byproducts Rule.** 40 CFR 141.134, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)
- 151. CONSUMER CONFIDENCE REPORTS.**
40 CFR Part 141, Subpart O, revised as of July 1, ~~1999~~ 2001, is herein incorporated by reference. ~~(4-5-00)~~()

(BREAK IN CONTINUITY OF SECTIONS)

250. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.

- 01. Organic Contaminants.** 40 CFR 141.50 is herein incorporated by reference. (10-1-93)
- 02. Inorganic Contaminants.** 40 CFR 141.51 is herein incorporated by reference. (10-1-93)
- 03. Microbiological Contaminants.** 40 CFR 141.52, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)
- 04. Maximum Contaminant Level Goals For Disinfection Byproducts.** 40 CFR 141.53, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)
- 05. Maximum Residual Disinfectant Level Goals For Disinfectants.** 40 CFR 141.54, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)
- 06. Radionuclides.** 40 CFR 141.55, revised as of July 1, 2001, is herein incorporated by reference. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. FILTRATION AND DISINFECTION.

01. General Requirements. 40 CFR 141.70, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

a. Each community and nontransient noncommunity system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c) and Sections 553 through 562 of these Rules. (4-5-00)

b. Each transient water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c). Such personnel must: (4-5-00)

i. Be certified as Drinking Water System Operators pursuant to the requirements of Sections 553 through 562; or (4-5-00)

ii. Be certified as qualified to operate the water system by the Department. The Department may certify an individual as qualified to operate the water system if: (12-10-92)

(1) The individual operated the system on or before December 31, 1992; and (12-10-92)

(2) The Department determines that the system has not been modified after December 31, 1992; or (4-5-00)

(3) The Department determines that the compliance history of the system is acceptable; and (12-10-92)

(4) The individual passes any field evaluation of operating and record keeping procedures required by the Department; and (4-5-00)

(5) Upon thirty (30) days notice, personnel operating the system shall attend periodic training sessions as required by the Department. (12-10-92)

02. Criteria For Avoiding Filtration. 40 CFR 141.71, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

03. Disinfection. 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or groundwater source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an actual contact time of at least thirty (30) minutes at maximum hourly demand before delivery to the first customer. (12-10-92)

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum *Giardia lamblia* and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which provides filtration treatment must provide disinfection treatment such that filtration plus disinfection provide ninety-nine and nine tenths percent (99.9%) inactivation and/or removal of *Giardia lamblia* cysts and ninety-nine and ninety-nine one hundredths percent (99.99%) inactivation and/or removal of viruses as specified in 40 CFR 141.72 and Section 300. (12-10-92)

i. Each system which provides filtration treatment shall submit engineering evaluations and/or other documentation as required by the Department to demonstrate ongoing compliance with Subsection 300.03.c.(7-1-97)

ii. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal and/or inactivation credit allowed for filtration is as follows:

Maximum Log Removal		
Filtration Type	Giardia	Viruses
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
Alternate technology	2.0	0

(12-10-92)

- iii. Filtration removal credit shall be granted for filtration treatment provided the system is; (12-10-92)
- (1) Operated in accordance with the Operations Plan specified in Subsection 552.06.a.; and (12-10-92)
 - (2) The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (12-10-92)
 - (3) Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and (12-10-92)
 - (4) Slow sand filters are operated at a rate not to exceed one-tenth (0.1) gallons per minute per square foot; and (12-10-92)
 - (5) Diatomaceous earth filters are operated at a rate not to exceed one and one-half (1.5) gallons per minute per square foot. (12-10-92)

04. Filtration. 40 CFR 141.73, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

05. Analytical and Monitoring Requirements. 40 CFR 141.74, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

a. Each public water system which provides filtration treatment shall monitor as follows: (12-10-92)

i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)

ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)

- (1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and (12-10-92)
- (2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)

(3) The disinfectant contact time, "T," must be determined each day during peak hourly flow. Disinfectant contact time, "T," in pipelines used for *Giardia lamblia* and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hourly flow rate through that pipe. Disinfectant contact time, "T," for all other system components used for *Giardia lamblia* and virus inactivation shall be determined by tracer studies or equivalent methods. (12-10-92)

(4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hourly flow, or at other times approved by the Department. (12-10-92)

iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.03 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (10-1-93)

iv. The total inactivation ratio shall be calculated as follows: (12-10-92)

(1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)

(a) One inactivation ratio (CT_{calc}/CT_{99.9}) is determined at/or before the first customer during peak hourly flow; or (12-10-92)

(b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hourly flow. The following method must be used to calculate the total inactivation ratio: (12-10-92)

(i) Step 1: Determine (CT_{calc}/CT_{99.9}) for each sequence. (12-10-92)

(ii) Step 2: Add the (CT_{calc}/CT_{99.9}) values for all sequences. The result is the total inactivation ratio. (12-10-92)

(2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The sum of the (CT_{calc}/CT_{99.9}) values from all sequences is the total inactivation ratio. (CT_{calc}/CT_{99.9}) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). (12-10-92)

v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). (12-10-92)

vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)

b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved as provided for in 40 CFR 141.74(a)(5) and Subsection 300.05. Automated methods for ozone measurement will be allowed by the Department provided they are listed as "Recommended" in the USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources, Appendix D, as set forth in Subsection 002.01.g., and provided they are calibrated on a schedule approved by the Department using the Indigo Method. (12-10-92)

c. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Departments; (12-10-92)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	Samples/day
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system. (12-10-92)

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department: (12-10-92)

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (12-10-92)

(2) The water source is well protected; (12-10-92)

(3) The total coliform MCL is not exceeded; and (12-10-92)

(4) No significant health risk is present. (12-10-92)

d. The Department may allow systems with surface water sources or groundwater sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturers recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (10-1-93)

e. The Department may allow systems using both a surface water source(s), or groundwater source(s) under the direct influence of surface water, and one (1) or more groundwater sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an acceptable alternate monitoring plan to the Department in advance of the monitoring requirement. (10-1-93)

f. The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (12-10-92)

06. Reporting And Recordkeeping. 40 CFR 141.75, revised as of July 1, 2001, is herein incorporated by reference. (~~10-1-93~~)(____)

a. As provided in 40 CFR 141.75(a), revised as of July 1, 2001, and Section 300, the Department may

establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a), revised as of July 1, 2001, and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: ~~(12-10-92)~~(____)

i. The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

- (1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)
- (2) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)
- (3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

ii. The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

- (1) Turbidity monitoring information; and (12-10-92)
- (2) Disinfectant residual concentrations entering the distribution system. (12-10-92)

iii. Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

b. In addition to the reporting requirements in 40 CFR 141.75(b), revised as of July 1, 2001, pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of Giardia lamblia and virus inactivation and/or removal achieved each day by filtration and disinfection. ~~(12-10-92)~~(____)

301. ENHANCED FILTRATION AND DISINFECTION.

This Section incorporates, 40 CFR Part 141, Subpart P, of the National Primary Drinking Water Regulations, known as the Interim Enhanced Surface Water Treatment Rule. (4-5-00)

01. General Requirements. 40 CFR 141.170, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

02. Criteria For Avoiding Filtration. 40 CFR 141.171, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

03. Disinfection Profiling And Benchmarking. 40 CFR 141.172, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

04. Filtration. 40 CFR 141.173, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

05. Filtration Sampling Requirements. 40 CFR 141.174, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

06. Reporting And Record Keeping. 40 CFR 141.175, revised as of July, 1, ~~1999~~ 2001, is herein incorporated by reference. ~~(4-5-00)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

320. DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS.

This Section incorporates 40 CFR Part 141, Subpart L, of the National Primary Drinking Water Regulations, known as the Disinfectants and Disinfection Byproducts Rule. (4-5-00)

01. General Requirements. 40 CFR 141.130, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

02. Analytical Requirements. 40 CFR 141.131, revised as of July 1, 1999, is herein incorporated by reference. DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide. (4-5-00)

03. Monitoring Requirements. 40 CFR 141.132, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

04. Compliance Requirements. 40 CFR 141.133, revised as of July 1, ~~1999~~ 2001, is herein incorporated by reference. (~~4-5-00~~)(____)

05. Treatment Techniques For Control Of Disinfection Byproduct (DBP) Precursors. 40 CFR 141.135, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

551. CONSTRUCTION REQUIREMENTS FOR PUBLIC WATER SYSTEMS.

01. Engineering Report. For all new water systems or modifications to existing water systems, an engineering report shall be submitted for the Department's review and approval prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. This report shall provide the following information: (12-10-92)

- a. A general description and location of the project; (12-10-92)
- b. The estimated design population of the project; (12-10-92)
- c. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including maximum hourly, maximum daily, and average daily demands; (12-10-92)
- d. Storage requirements; (12-10-92)
- e. Pressure ranges for normal and peak flow conditions; (12-10-92)
- f. A hydraulic analysis of the distribution system if requested by the Department; (12-10-92)
- g. Adequacy, quality and availability of sources of water; (12-10-92)
- h. For a community system, results of analysis for total coliform, turbidity inorganic chemical contaminants, organic chemicals, and radionuclide contaminants listed in Subsections 050.01, 050.02, 050.05, 100.01, and 100.02, unless analysis is waived pursuant to Subsection 100.07. (4-5-00)
- i. For a nontransient noncommunity system, results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 100.01, 100.03, and 100.04, unless analysis is waived pursuant to Subsection 100.07. (12-10-92)

j. For a transient noncommunity system, results of a total coliform, nitrite, and nitrate analysis listed in Subsections 100.01 and 100.03. (12-10-92)(_____)

k. For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02. (12-10-92)

l. For all new groundwater sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of the surface water. (12-10-92)

m. Potential sources of contamination to proposed sources of water; (12-10-92)

n. Mechanisms for protection of the system from flooding; (12-10-92)

o. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: (12-10-92)

i. Hydrological and historical low stream flow data; (12-10-92)

ii. A copy of the water right from the Idaho Department of Water Resources; (12-10-92)

iii. Anticipated turbidity ranges, high and low; and (12-10-92)

iv. Treatment selection process and alternative evaluations. (12-10-92)

p. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for a proposed groundwater source: (12-10-92)

i. A site plan including potential sources of contamination within five hundred (500) feet of a well or spring; (12-10-92)

ii. Dimensions of the well lot; and (12-10-92)

iii. Underground geological data and existing well logs. (12-10-92)

02. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (10-1-93)

03. Connection To An Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that they will be able to provide services to the proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. (12-10-92)

04. Review Of Plans And Specifications. (12-1-92)

a. Prior to construction of new public water supply systems or modifications of existing public water supply systems, plans and specifications must be submitted to the Department for review, and approved. The minimum review requirements are as follow: (10-1-93)

i. Plans and specifications shall be submitted by an Idaho registered professional engineer and bear the imprint of the engineer's seal; (12-10-92)

- ii. Plans shall provide topographical data; (12-10-92)
 - iii. Plans shall show location of sources or potential sources of contamination; (12-10-92)
 - iv. Plans shall require all new equipment, piping, and appurtenances to meet American Water Works Association standards, as set forth in Subsection 002.01.j. Used materials shall be approved by the Department prior to installation, and shall have been used previously only in the delivery of potable water; and (7-1-97)
 - v. Plans shall specify that the project is to be disinfected prior to use in accordance with American Water Works Association standards, as set forth in Subsection 002.01.j. (7-1-97)
- b. During construction or modification, no deviation can be made from the approved plans without the Department's prior written approval; and (12-10-92)
 - c. Within thirty (30) days after the completion of construction, as constructed plans and specifications are to be submitted to the Department by an Idaho registered professional engineer. If the construction did not deviate from the approved plans and specifications, a registered professional engineer may certify in writing that the constructed plans and specifications are the same as the originally submitted plans and specifications. (12-10-92)
- 05. Exclusion.** A District Health Department may exclude noncommunity water systems from the Department's plan and specification review if the District has reviewed the project and will inspect it during construction. (12-10-92)
- 06. Construction.** No construction shall commence until all of the necessary approvals have been received from the Department. (12-10-92)
- 07. Source.** Before a public water system uses a new source of water to provide water to consumers, the source shall be approved by the Department. (12-10-92)

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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, Idaho 83701-0790

Docket No. **02-0403-0002**, Rules Governing Animal Industry. Deletes Section 050 which is being replaced by a new chapter IDAPA 02.04.17. Comment By: 7/25/01.

Docket No. **02-0417-0101**, Rules Governing Dead Animal Movement and Disposal. Provides authority to regulate dead animal movement and disposal; prohibits the abandonment of dead animals and requires them to be disposed of within 72 hours after knowledge of the animal's death; lists accepted methods of disposal; provides authority to determine the method of disposal in emergency situations; and provides for extenuating circumstances. Comment By: 7/25/01.

IDAPA 07 - DIVISION OF BUILDING SAFETY 277 N. 6th, Boise, ID 83720

Docket No. **07-0205-0101**, Rules Governing Plumbing Safety Licensing. Requires an applicant for the journeyman exam to pass the exam within a 6 month period or applicant must obtain additional education. Comment By: 7/25/01.

Docket No. **07-0206-0101**, Rules Governing Uniform Plumbing Code. Replaces 1997 version of the Uniform Plumbing Code, as amended, with the new 2000 version, as amended. Comment By: 7/25/01.

Docket No. **07-0601-0101**, Rules Governing Uniform School Building Safety. Prescribes the Idaho Uniform School Building Safety Code and provides for enforcement and administration of the Idaho Uniform School Building Safety Act by the Administrator of the Division of Building Safety. Comment By: 7/25/01.

IDAPA 11 - IDAHO STATE POLICE P.O. Box 700, Meridian, ID 83680-0700

Docket No. **11-1101-0101**, Rules of the Idaho Peace Officer Training and Safety Council. Defines "crime of deceit" and "conviction"; includes language to encompass the training and certification of Juvenile Detention Officers; clarifies that the minimum standards for employment apply to detention officers as well as peace officers; sets out which misdemeanor crimes can be waived by POST Council; clarifies which military discharges are grounds for applicant's rejection; clarifies reference to traffic records and how purchased college credits can be used toward certification; sets out background investigation procedures; updates the physical and medical standards; and allows canine certificates to remain valid for 15 months rather than 1 year. Comment By: 7/25/01.

IDAPA 15 - OFFICE OF THE GOVERNOR IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

PO Box 83720, Boise, ID 83720-0012

Docket No. **15-0230-0101**, Business Enterprise Program. Updates program by clarifying the definitions and rights and responsibilities of the Program and its participants. Comment By: 7/25/01.

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036**

Docket No. **16-0309-0104**, Rules Governing the Medical Assistance Program. Clarifies that blood lead level testing is to be part of the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) screen in conformance with federal law and regulations. Comment By: 7/25/01.

Docket No. **16-0614-0101**, Rules Governing the Low Income Home Energy Assistance Program. Removes language allowing a second payment for crisis intervention; income eligibility requirements and OMB Poverty guidelines will be amended from 133% to 150% of poverty; changes IRA lump sum payments to IRA and other retirement plan lump sum payments; adds additional lump sum exclusions; clarifies reference to resident status and eligibility; clarifies documentation needed when a designee signs an application; and dates the minimum benefit and percentages to year 2001 amounts. Comment By: 7/25/01.

**IDAPA 31 - PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074**

Docket No. **31-4101-0101**, The Telephone Customer Relations Rules. Adopts the FCC slamming rules which prohibit a telecommunications carrier from submitting or executing an unauthorized change in a telephone customer's selection of a provider for local or long-distance telephone service. Comment By: 7/25/01.

Docket No. **31-5101-0101**, Operator Services and Pay Telephone Rules. Changes conform to federal laws and regulations of the FCC and ADA requirements and non-substantive changes clarify the rules. Comment By: 7/25/01.

**IDAPA 34 - OFFICE OF THE SECRETARY OF STATE
PO Box 83720, Boise, ID 83720-0080**

Docket No. **34-0506-0101**, Rules Governing Lien Filings Under the UCC. Implements the filing procedures mandated by the enactment of the Revised Article Nine of the Uniform Commercial Code-Secured Transactions; lists reasons for which lien filings can be rejected; describes the search logic used for searching the Lien database; and gives cross-references to lien filings under other laws dealing with seed, farm labor, federal taxes and various state and county liens. Comment By: 7/25/01.

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION
PO Box 83720, Boise, ID 83720-0003**

Docket No. **38-0501-0101**, Rules of the Division of Purchasing. Repeal of chapter. Comment By: 7/25/01.

Docket No. **38-0501-0102**, Rules of the Division of Purchasing. Rewrite of chapter implements statutory changes to purchasing statutes effective July 1, 2001. Comment By: 7/25/01.

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129**

Docket No. **39-0381-0101**, Rules Governing Issuance of Temporary Permits in Lieu of Full Registration. Changes conform to statutory changes which modify the duration and fees charged for temporary permits and provides a new type of permit to authorize temporary operation of vehicles in excess of their registered maximum gross weight. Comment By: 7/25/01.

**IDAPA 48 - DEPARTMENT OF COMMERCE
PO Box 83720, Boise, ID 83720-0093**

Docket No. **48-0104-0101**, Idaho Gem Community Implementation Grant Program. Establishes requirements for the newly appropriated \$400,000 for a Gem Community Implementation Grant Program and provides qualified Gem Communities with program priorities and a process for applying and implementing these grants. Comment By: 7/25/01.

Docket No. **48-0105-0101**, Rural Community Block Grant (RCBG). Establishes requirements for the newly

appropriated \$3 million for a Rural Community Block Grant Program and provides qualified rural communities with program priorities and a process for applying and implementing these grants. Comment By: 7/25/01.

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N. Hilton, Boise, Idaho 83706-1255**

Docket No. **58-0101-0103**, Rules for the Control of Air Pollution in Idaho. Clarifies that all owners or operators of hospital/medical/ infectious waste incinerators subject to Rule Section 861 must comply with the provisions of Section 39-128, Idaho Code; and updates citations to the federal regulations incorporated by reference to July 1, 2001. Comment By: 8/10/01.

Docket No. **58-0106-0101**, Solid Waste Management Rules. Rewrite of chapter provides statewide consistency for non-municipal solid waste management, ensures proper management of non-municipal solid waste, and provides specific siting and operational requirements; provides an application submittal process for owners and operators and provides DEQ with an application review and approval process. Comment By: 8/3/01.

Docket No. **58-0106-0101**, Solid Waste Management Rules. Repeal of chapter. Comment By: 8/3/01.

Docket No. **58-0108-0101**, Idaho Rules for Public Drinking Water Systems. Incorporates by reference citations to 1996 Public Notification Rule, 40 CFR Part 141, Subpart Q; and makes corrections and clarifies that the non-community system referred to is a transient noncommunity system. Comment By 7/25/01.

PUBLIC HEARINGS – Public Hearings Have Been Scheduled For The Following Dockets:

Department of Agriculture

Docket No. **02-0403-0002**, Rules Governing Animal Industry.

Docket No. **02-0417-0101**, Rules Governing Dead Animal Movement and Disposal.

Idaho Commission for the Blind

Docket No. **15-0230-0101**, Business Enterprise Program.

Department of Environmental Quality

Docket No. **58-0101-0103**, Rules for the Control of Air Pollution in Idaho – Comment By: 8/10/01.

Docket No. **58-0106-0101 and 58-0106-0102**, Solid Waste Management Rules - Comment By: 8/3/01.

PUBLIC COMMENT PERIOD - The Public Comment Period For The Following Docket Has Been Extended:

Department of Lands

Docket No. **20-0314-0101**, Grazing Leases and Cropland Leases - Comment deadline: 7/16/01.

Please refer to the Idaho Administrative Bulletin, **July 4, 2001, Volume 01-7** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
and final rules, public hearing notices
and vacated rulemaking notices.**

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