

IDAHO ADMINISTRATIVE BULLETIN

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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
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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
01-10	October, 2001	**August 22, 2001	October 3, 2001	October 24, 2001
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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2002

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 55	VOCATIONAL AND TECHNICAL EDUCATION, Division of	VOLUME 9
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IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-0104
NOTICE OF PROPOSED RULEMAKING

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 rule-making: Under a substance over form analysis, states have identified fictitious business entities that have no economic substance and exist primarily for the purpose of avoiding employment taxes. The rule will provide a "substance over form" analysis for purposes of proper classification of wages, payments, workers and entities.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being added to clarify what constitutes a business entity for employment security tax purposes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Whitworth, 208/334-6385.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

Jean Hull
U.I. Administrator
Idaho Department of Labor
317 W. Main Street
Boise, ID 83735
208/334-6271
Fax: 208/334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0104

062. SUBSTANCE VS. FORM.

In recognizing covered employers, covered employment and in classifying wages, the Department shall examine both the substance and the form of the arrangement, contract, transaction or event, but more consideration shall be given to the substance of the arrangement, contract, transaction or event than to the form. If it is determined that true economic substance is lacking or the operations, accounting practices and records do not reflect the purported form or legal status, the Department shall, regardless of the form, determine proper coverage or classification. ()

0623. -- 080. (RESERVED).

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
DOCKET NO. 09-0135-0105
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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: There are currently no rules governing Professional Employer Organizations (PEO) for purposes of the Employment Security Act. The proposed rule would clarify how a PEO must report workers, whose EIN to use in such reports, and what procedures a PEO must use in order to transfer or pool client employer's experience rates.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being added to clarify how PEO's will be treated under the Employment Security Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Whitworth, 208/334-6385.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

Jean Hull
U.I. Administrator
Idaho Department of Labor
317 W. Main Street
Boise, ID 83735
208/334-6271
Fax: 208/334-6301

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0105

~~133.--165.~~ (RESERVED).

134. PROFESSIONAL EMPLOYER ORGANIZATIONS.

A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. ()

01. Methods Of Reporting. To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: ()

a. Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or ()

b. Report the workers included in the professional employer arrangement under the account number of the professional employer without transferring the experience rate of the client to the professional employer; or ()

c. Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Sec. 72-1349B, Idaho Code. ()

02. Joint Transfer Of Experience Rate. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within ninety (90) days from the date of the agreement entered into between the professional employer organization and the client. Ref. Sec. 72-1351(4), Idaho Code. ()

03. Partial Transfers Of Experience Rate Prohibited. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Sec. 72-1349B, Idaho Code. ()

04. Mandatory Transfer Of Experience Rate. If the professional employer organization elects to report the workers assigned to the client under the experience rate of the professional employer, and the client employer has a deficit experience rate, the experience rate transfer shall be mandatory. Ref. Sec. 72-1351, and 72-1349B, Idaho Code. ()

05. Partial Reporting Of Workers. If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Sec. 72-1349B, Idaho Code. ()

06. Combined Wages Or Services For Purposes Of Coverage. If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. ()

135. -- 165. (RESERVED).

IDAPA 09 - IDAHO DEPARTMENT OF LABOR
09.01.60 - COMPLAINT PROCEDURES UNDER THE WORKFORCE INVESTMENT ACT
DOCKET NO. 09-0160-0101
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 rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code, and 20 CFR Section 667.600 and 29 CFR Part 37.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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:

IDAPA 09.01.60 is being added to provide procedures for filing and processing program and discrimination complaints made by participants in Workforce Investment Act programs and by other interested parties.

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

The rule is being added to comply with the requirements of the federal Workforce Investment Act of 1998.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is in response to requirements of the federal Workforce Investment Act of 1998.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cheryl Brush, 208/332-3570 ext. 3312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

Cheryl Brush
Bureau Chief, Workforce Systems
Idaho Department of Labor
317 W. Main Street
Boise, ID 83735
208/332-3570 ext. 3312
Fax: 208/332-7417

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0160-0101

IDAPA 09
TITLE 01
Chapter 60

09.01.60 - COMPLAINT PROCEDURES UNDER THE WORKFORCE INVESTMENT ACT

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of 20 CFR Section 667.600, 29 CFR Part 37 and Section 72-1333(2), Idaho Code. (7-1-00)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.01.60, "Complaint Procedures Under the Workforce Investment Act". (7-1-00)T

02. Scope. These rules govern the procedures for processing and adjudicating discrimination and program complaints by or against any program or activity funded or authorized under Title I of the federal Workforce Investment Act. (7-1-00)T

a. **Discrimination Complaints.** The Workforce Investment Act prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and discrimination against beneficiaries on the basis of either citizenship or status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I financially assisted program or activity; and incorporates the provisions of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin; Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities; The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs. A complaint alleging a violation of any of these provisions is a discrimination complaint which shall be processed and adjudicated according to the discrimination complaint procedures provided for in these rules. Further, no entity receiving financial assistance under WIA may discharge, intimidate, retaliate against, threaten, coerce, or discriminate against any person because such person has filed a complaint, opposed a prohibited practice, furnished information, assisted, or participated in any manner in an investigation or hearing. These actions are also considered discrimination and are enforced under this rule's discrimination complaint procedures. (7-1-00)T

b. **Program Complaints.** Nondiscriminatory, non-criminal complaints involving the proper application of the Workforce Investment Act and its regulations and policies are program complaints, which shall be processed and adjudicated according to the program complaint procedures provided for in these rules. (7-1-00)T

002. WRITTEN INTERPRETATIONS.

The Department has no written interpretations of these rules. (7-1-00)T

003. ADMINISTRATIVE APPEALS.

Appeals shall be governed by the provisions of this chapter. (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. OFFICE - OFFICE HOURS - MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Idaho Department of Labor is in Boise, Idaho. The office is located at, and its mailing address is, 317 W. Main Street, Boise, Idaho 83735. Office hours are from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The telephone number of the Department is (208) 332-3570 and the TTY number through Idaho Relay Service is 1-800-377-3529. (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).

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in this chapter. (7-1-00)T

01. Department. Idaho Department of Labor. (7-1-00)T

02. Local Administrative Entity. The administrative entity that administers the workforce investment system within a designated local area. (7-1-00)T

03. One-Stop Operator. One (1) or more entities designated or certified under the provisions of WIA to operate a One-Stop Center. (7-1-00)T

04. Service Provider. Any operator or provider of aid, benefits, services, or training to any WIA Title I funded program or activity that receives financial assistance either from or through any WIA recipient, or for any participant through that participant's Individual Training Account; or any entity that is selected or certified as an eligible provider of training services to participants. (7-1-00)T

05. WIA Recipient. Any entity to which financial assistance under WIA Title I is extended, either directly from the Department or through the Governor or another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiaries of the WIA Title I-funded program or activity. It includes, but is not limited to state-level agencies that administer or are financed in whole or in part with WIA Title I funds; the Department; state and local WIA boards; local WIA grant recipients; One-Stop operators; service providers, including eligible training providers; and on-the-job training employers. In addition, One-Stop partners are treated as WIA recipients, but only to the extent that they participate in the One-Stop delivery system. (7-1-00)T

011. ABBREVIATIONS.

Unless the context clearly requires otherwise, these abbreviations shall have the following meanings when used in this chapter. (7-1-00)T

01. ADR. Alternate Dispute Resolution. (7-1-00)T

02. CRC. Civil Rights Center of the U.S. Department of Labor. (7-1-00)T

03. EO. Equal Opportunity. (7-1-00)T

04. WIA. Workforce Investment Act. (7-1-00)T

012. DISCRIMINATION COMPLAINTS.

Complaints alleging discrimination shall be in writing and may be filed by the complainant or the complainant's designated representative with the Department, Local Administrative Entity, Service Provider, or One-Stop Operator. Written Complaints taken by the Department, Local Administrative Entity, Service Provider, or One-Stop Operator shall be promptly forwarded to the State EO Officer. Written complaints may also be filed directly with the Director, CRC, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210. (7-1-00)T

01. Contents. A written complaint shall include: (7-1-00)T

a. The complainant's name and address; (7-1-00)T

b. The identity of the individual or entity that the complainant alleges is responsible for the discrimination; (7-1-00)T

c. A description of the complainant's allegations in enough detail to allow an initial determination of jurisdiction, timeliness and the apparent merit of the complaint; and (7-1-00)T

d. The complainant's signature or the signature of the complainant's authorized representative. (7-1-00)T

02. Complaint Log. All complaints shall be logged. The log shall include the name and address of the complainant, the basis for the complaint, a description of the complaint, the disposition and date of disposition of the complaint, and any other pertinent information. (7-1-00)T

03. Confidential Information. Information that could lead to the identification of the person filing the complaint shall be kept confidential unless disclosure is required by law or is necessary for conducting an investigation or engaging in enforcement activities. (7-1-00)T

04. Jurisdiction. In order to have jurisdiction to process and adjudicate a discrimination complaint the respondent against whom the complaint was filed must be a WIA recipient, the complaint must allege a basis for discrimination that is prohibited by WIA, and the complaint must be filed within one hundred eighty (180) days of the alleged discrimination. (7-1-00)T

05. Notice Of Lack Of Jurisdiction. If a determination is made that there is no jurisdiction to process the complaint, a Notice of Lack of Jurisdiction must be sent to the complainant that includes the reason for the determination and notice that the complainant has the right to file a complaint directly with CRC within thirty (30) days from receipt of the Notice of Lack of Jurisdiction. (7-1-00)T

06. Joint Jurisdiction. Where the complaint alleges discrimination by a WIA recipient or service provider on a basis that is prohibited by both WIA and by a civil rights law independently enforced by that WIA recipient or service provider, the complaint must be referred to that WIA recipient or service provider for processing under their procedures. For example, WIA prohibits discrimination on the basis of national origin. If a discrimination complaint on the basis of national origin is made against a WIA recipient or service provider and they are also prohibited under their own regulations from discriminating on the basis of national origin, then the complaint shall be referred to that WIA recipient or service provider for processing according to their regulations. Notice of the referral must be sent to the complainant. (7-1-00)T

07. Sole Jurisdiction. Where the complaint alleges discrimination by a WIA recipient or service provider on a basis that is prohibited by WIA and is not covered by a civil rights law independently enforced by that WIA recipient or service provider (e.g. religion, political affiliation or belief, citizenship or participation in WIA Title I), the complaint shall be processed by that WIA recipient or service provider under these procedures. (7-1-00)T

08. Formal Resolution. The State EO Officer shall send written notice to the complainant stating that the complaint has been received. (7-1-00)T

a. The notice must list the issues raised in the complaint and state for each issue whether it has been accepted for investigation or rejected and the reason for its rejection. (7-1-00)T

b. The notice must advise that the complainant has the right to be represented by an attorney or another person of the complainant's choice. The Notice must also give the complainant the right to choose between an ADR process or a hearing. (7-1-00)T

09. The ADR Process. If the party filing the complaint requests to use the ADR process for resolving the complaint, the State EO Officer shall request a mediator and monitor the processing of the complaint. (7-1-00)T

a. The mediator shall schedule mediation by written notice, mailed to all interested parties at least seven (7) days prior to the first mediation session. The notice shall include the date, time, and place of the mediation. (7-1-00)T

b. The mediation process must be concluded within forty-five (45) days from the date the complaint was filed. The complaint is considered resolved when all parties to the complaint enter into a written agreement

resolving the issues raised in the complaint. (7-1-00)T

c. The written agreement must give notice that if the terms of the agreement are breached, the non-breaching party may file a complaint with CRC within thirty (30) days of the date the non-breaching party learns of the breach. (7-1-00)T

d. If the parties do not reach an agreement, the State EO Officer shall forward the complaint to a hearing officer for a hearing. (7-1-00)T

10. The Hearing Process. If the party filing the complaint requests a hearing to resolve the complaint, or if the ADR process fails to result in an agreement, the State EO Officer shall forward the complaint to the hearing officer and monitor the processing of the complaint. (7-1-00)T

a. The hearing officer shall schedule a formal hearing by written notice, mailed to all interested parties at least seven (7) days prior to the hearing. The notice shall include the date, time, and place of the hearing. (7-1-00)T

b. The hearing must be conducted within sixty (60) days from the date the complaint was filed. (7-1-00)T

c. Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. Parties may be represented by an attorney or other designated representative, and may request that records and documents be produced. (7-1-00)T

d. All testimony shall be taken under oath or affirmation. (7-1-00)T

e. The hearing will be recorded. (7-1-00)T

f. The hearing officer's recommended resolution shall include a summary of factual evidence given during the hearing and the conclusions upon which the recommendation is based. (7-1-00)T

g. The hearing officer's recommended resolution must be completed and sent to the State EO Officer within seventy-five (75) days from the date the discrimination complaint was filed. (7-1-00)T

11. Notice Of Final Action. The Department shall review the recommendation of the hearing officer and shall issue a Notice of Final Action within ninety (90) days from the date the discrimination complaint was filed. The Notice of Final Action shall contain the following: (7-1-00)T

a. Department's decision on each issue and the reasons for the decision; (7-1-00)T

b. A description of the way the parties resolved the issue; and (7-1-00)T

c. Notice that the complainant has the right to file an appeal with CRC within thirty (30) days from the date the Notice of Final Action is issued if dissatisfied with the Department's final action on the complaint. (7-1-00)T

013. PROGRAM COMPLAINTS AGAINST LOCAL WIA PROGRAMS AND POLICIES.

Participants, One-Stop partners, service providers, and other interested parties may file complaints alleging nondiscriminatory, non-criminal violations of the WIA agreements, policies or activities of a Local Administrative Entity or local service provider. Local program complaints shall be in writing and shall be filed with the local service provider or local administrative entity against whom the complaint is made within one hundred eighty (180) days from the date of the event or condition that is alleged to be a violation of WIA. A complaint may be amended prior to a scheduled hearing or withdrawn by the complainant at any time. Information about the identity of the person filing the complaint or to the identity of any person who furnishes information relating to, or assisting in, an investigation, shall be kept confidential from non-parties to the complaint process unless disclosure is required by law. No entity receiving financial assistance under WIA may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any person because such person has filed a complaint, opposed a prohibited practice, furnished information,

assisted, or participated in any manner in an investigation or hearing. (7-1-00)T

01. Initial Review. Written complaints shall be taken by the local service provider or local administrative entity from the complainant or the complainant's designated representative. All complaints shall be logged. If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIA, the complaint shall be referred to the appropriate organization for resolution. Notice of the referral shall be sent to the complainant. If the complaint is retained, a complaint file should be established that contains: (7-1-00)T

- a. All application and enrollment forms, if appropriate; (7-1-00)T
- b. The written complaint and complaint form; (7-1-00)T
- c. A chronological log of events; (7-1-00)T
- d. All relevant correspondence; and (7-1-00)T
- e. A record of any resolution attempted. (7-1-00)T

02. Informal Resolution. An attempt should be made to informally resolve the complaint to the satisfaction of all parties. This informal resolution process must be completed within ten (10) days from the date the complaint was filed. If all parties are satisfied, the complaint is considered resolved and the terms and conditions of the resolution must be documented in the complaint file. (7-1-00)T

03. Formal Resolution. When no informal resolution is possible, the local service provider shall forward the complaint and a copy of the file to the local administrative entity who will review the complaint file, conduct a further investigation if necessary, and issue a determination within twenty (20) days from the date the complaint was filed. If the determination is not contested as provided for in Subsection 013.04, the complaint will be considered resolved and the complaint file shall be closed and documented accordingly. (7-1-00)T

04. Request For Hearing. Any party dissatisfied with a local administrative entity's determination may request a hearing within ten (10) days of the date of the determination. The request shall be in writing and must be timely filed with the local administrative entity. The local administrative entity shall forward the program complaint to a hearing officer for resolution. The local administrative entity will monitor the processing of the complaint. (7-1-00)T

05. Hearing. The hearing officer shall schedule a formal hearing by written notice, mailed to all interested parties at least seven (7) days prior to the hearing. The notice shall include the date, time, and place of the hearing. The hearing must be conducted within forty-five (45) days from the date the complaint was filed. Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. Parties may be represented by an attorney or another designated representative, and may request that records and documents be produced. All testimony shall be taken under oath or affirmation. The hearing will be recorded. The hearing officer's recommended resolution shall include a summary of factual evidence given during the hearing and the conclusions upon which the recommendation is based. (7-1-00)T

06. Final Decision. The local administrative entity shall review the recommendation of the hearing officer and shall issue a final decision within sixty (60) days from the date the complaint was filed. (7-1-00)T

07. Request For Review. Any party dissatisfied with the local administrative entity's final decision, or any party who has not received a decision or a final resolution within sixty (60) days from the date the complaint was filed, may file a Request for Review. A request for review must be filed with the Department within ninety (90) days from the date the complaint was originally filed. (7-1-00)T

014. PROGRAM COMPLAINTS AGAINST STATEWIDE WIA PROGRAMS AND POLICIES. Participants, One-Stop partners, service providers and other interested parties may file complaints alleging nondiscriminatory, non-criminal violations of statewide WIA agreements, policies or activities. Statewide program complaints shall be in writing and shall be filed with the statewide service provider or the Department within one hundred eighty (180) days from the date of the event or condition that is alleged to be a violation of WIA. A

complaint may be amended prior to a scheduled hearing or withdrawn at any time. Information about the identity of the person filing the complaint or to the identity of any person who furnishes information relating to, or assisting in, an investigation, shall be kept confidential from non-parties to the complaint process unless disclosure is required by law. No entity receiving financial assistance under the Act may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any person because such person has filed a complaint, opposed a prohibited practice, furnished information, assisted, or participated in any manner in an investigation or hearing. (7-1-00)T

01. Initial Review. Written complaints shall be taken from the complainant or the complainant's designated representative. All complaints shall be logged. If the complaint alleges a violation of local WIA programs, policies or agreements, the complaint shall be referred to the local administrative entity for processing under the complaint procedures for program complaints against local WIA programs. If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIA, the complaint shall be referred to the appropriate organization for resolution. Notice of the referral shall be sent to the complainant. If the complaint is retained, a complaint file should be established that contains: (7-1-00)T

- a. All application and enrollment forms, if appropriate; (7-1-00)T
- b. The written complaint and complaint form; (7-1-00)T
- c. A chronological log of events; (7-1-00)T
- d. All relevant correspondence; and (7-1-00)T
- e. A record of any resolution attempted. (7-1-00)T

02. Informal Resolution. An attempt should be made to informally resolve the complaint to the satisfaction of all parties. This informal resolution process must be completed within ten (10) days from the date the complaint was filed. If all parties are satisfied, the complaint is considered resolved and the terms and conditions of the resolution must be documented in the complaint file. (7-1-00)T

03. Formal Resolution. When no informal resolution is possible, the statewide service provider shall forward the complaint and a copy of the file to the Department who shall review the complaint file, conduct a further investigation if necessary, and issue a determination within twenty (20) days from the date the complaint was filed. If the determination is not contested as provided for in Subsection 014.04, the complaint shall be considered resolved and the complaint file will be closed and documented accordingly. (7-1-00)T

04. Request For Hearing. Any party dissatisfied with the Department's determination may request a hearing within ten (10) days of the date of the determination. The request shall be in writing and must be timely filed with the Department. The Department shall forward the program complaint to a hearing officer for resolution. The Department will monitor the processing of the complaint. (7-1-00)T

05. Hearing. The hearing officer shall schedule a formal hearing by written notice, mailed to all interested parties at least seven (7) days prior to the hearing. The notice shall include the date, time, and place of the hearing. The hearing must be conducted within forty-five (45) days from the date the complaint was filed. Parties may present witnesses and documentary evidence, and question others who present evidence and witnesses. Parties may be represented by an attorney or another designated representative, and may request that records and documents be produced. All testimony shall be taken under oath or affirmation. The hearing shall be recorded. The hearing officer's recommended resolution shall include a summary of factual evidence given during the hearing and the conclusions upon which the recommendation is based. (7-1-00)T

06. Final Decision. The Department shall review the recommendation of the hearing officer and shall issue a final decision within sixty (60) days from the date the complaint was filed. (7-1-00)T

015. -- 999. (RESERVED).

IDAPA 11 - IDAHO STATE POLICE
11.02.01 - RULES GOVERNING THE IDAHO STATE BRAND BOARD
DOCKET NO. 11-0201-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING (FEE RULE)

EFFECTIVE DATE: The temporary rule is effective November 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 has proposed rulemaking. The action is authorized pursuant to Title 25, Chapter 11, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be held as follows: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2001.

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 at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the proposed rule:

The proposed rule is to correct a scrivener's error of omission of the initial recording fee of \$50.

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 collection of use fees is necessary for the continued operation of the Idaho State Brand Board.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Pursuant to Section 25-1160(5), Idaho Code, authorizes the State Brand Inspector to collect fees. The fees to be changed in this rulemaking are: The correction of a scrivener's error of omission of the \$50 initial recording fee.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Larry Hayhurst, Idaho State Brand Board.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 12th day of September, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0201-0101

034. SCHEDULE OF FEES FOR THE IDAHO STATE BRAND BOARD.

01. Fees. Fees authorized by the State Brand Board and to be collected by the State Brand Inspector are as follows:

SCHEDULE OF FEES		
Recording of a brand	<u>\$50 initial recording fee plus a \$10 per year prorated staggered renewal fee every year thereafter</u>	
Transfer of a recorded brand	\$25.00	
Renewal of a recorded brand (Every five years)	\$50.00	
Duplicate brand registration certificate	\$ 1.50	
Ownership and transportation certificate	\$25.00	
Duplicate ownership and transportation certificate	\$ 5.00	
Annual inspection equine or bovine	\$ 5.00	
	CATTLE	HORSES
Brand inspection (per head)	\$.75	\$ 1.50
Idaho livestock to pasture (per head)	\$.38	\$.75
Minimum auction fee	\$50.00	\$50.00
Minimum field brand inspection fee	\$10.00	\$10.00
Courtesy brand inspection	\$.75	\$ 1.50

Fees To Be Collected By The State Brand Inspector For Other State Agencies:	
Idaho Beef Council (per head)	\$1.00
Idaho Horse Board (per head)	\$3.00
Idaho Department of Agriculture:	
Animal health (per head)	\$.22
Predator control (per head)	\$.04

~~(3-30-01)~~(11-1-00)T

02. Due And Payable. Pursuant to Section 25-1160(5), Idaho Code, all brand inspection fees, and all other fees required to be collected by the Brand Inspector are due and payable at the time of inspection, except that livestock owners may make arrangements with a deputy brand inspector to pay for all accumulated brand inspection fees within each seven (7) day period. Failure to comply with this rule will cancel the previously approved schedule and shall make all fees immediately due and payable. Feedlots, currently approved by the Idaho Department of Agriculture, and slaughter plants are exempt from the minimum brand inspection fee. Other minimum brand inspection fees may be waived at the discretion of the State Brand Inspector or District Brand Supervisor. (3-30-01)

IDAPA 11 - IDAHO STATE POLICE
11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL
DOCKET NO. 11-0501-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is effective November 1, 2001, and remains effective until rescinded or superseded by replacement rule or the approval of the final rule by the legislature or such other date specified in the concurrent resolution, or upon the conclusion of the 2001 legislative session, whichever is sooner.

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 has proposed rulemaking. The action is authorized pursuant to Title 67, Chapter 30, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2001.

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 at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in non-technical language of the substance of the proposed rule:

The proposed rule is intended to clarify how the fees should apply to Section 23-908(4), Idaho Code. This rulemaking proposes to delete the reference to subparagraph (4) of Section 23-908, Idaho Code. The fee should apply to the entire Section 23-908, Idaho Code, not just subparagraph (4) of that Section.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: It is reasonably necessary to protect the public health, safety, or welfare.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Lonnie Gray, Alcohol Beverage Control.

Anyone may submit written comments regarding this proposed rulemaking. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered by October 24, 2001.

DATED this 22nd day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0501-0101

010. DEFINITIONS.

01. Licensee. Any person who has received a license from the Director under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. (7-1-93)

02. Licensed Premises. Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license shall constitute the licensed premises. (7-1-93)

03. New Licenses. For purposes of Section 23-908(4), Idaho Code, a "new license" is one that has become available as an additional license within a city's limits under the quota system after July 1, 1980. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months shall be satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week. (1-1-94)

04. Restaurant. The term Restaurant, as defined by Section 23-942(c), Idaho Code, is further defined as an establishment maintained, advertised and held out to the public, where individually priced meals are prepared and regularly served to the public, primarily for on-premise consumption. The establishment must also have a dining room or rooms, and the number, and type of employees normally used in the preparing, cooking and serving of meals. The establishment must be able to demonstrate to the satisfaction of the Director, through recordkeeping, that no more than fifty percent (50%) of the gross revenues from the sale of food and beverages is derived from the sale of alcoholic beverages. (4-5-00)

05. Stock Transfer. For the purposes of Section 23-908(4), Idaho Code, the sale or exchange of stock in a closely held corporation holding a license shall be deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, shall not be deemed a transfer.

~~(4-5-00)~~(11-1-01)T

IDAPA 11 - IDAHO STATE POLICE
11.10.01 - RULES GOVERNING ILETS - IDAHO LAW ENFORCEMENT
TELETYPEWRITER SYSTEM

DOCKET NO. 11-1001-0101

NOTICE OF PROPOSED AND TEMPORARY RULEMAKING

EFFECTIVE DATE: The temporary rule is effective October 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 has proposed rulemaking. The action is authorized pursuant to Title 67, Chapter 30, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2001.

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 at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in non technical language of the substance of the proposed rule: This rule proposed by the ILETS Board further defines access and user fees, setting out specific fees and payment requirements. The collection of use fees is necessary for the continued operation of the criminal justice information system.

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

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

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

This fee or charge is being imposed pursuant to Section 19-5202, Idaho Code. The network has migrated from a system based on access via dumb terminals to one based in PCs and system to system interfaces. This upgrade necessitates a revision of the fee structure that supports the operation and maintenance of the ILETS network. The old fee structure based on terminals and printers will not generate sufficient funding to cover system costs.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Robert Taylor, Bureau of Criminal Identification.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked or delivered by October 24, 2001.

DATED this 7th day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1001-0101

018. USER ACCESS FEES.

01. ~~Fee Schedule. The access fees approved by the board and to be collected by the department are as follows:~~ **Payment of Fees Required.** Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the network must pay access and usage fees as provided in Section 018.

~~(3-30-01)(10-1-01)T~~

a. ~~The fee for a communication interface is two hundred dollars (\$200) for each month of service.~~ ~~(3-30-01)~~

b. ~~The fee for an ILETS terminal is seventy five dollars (\$75) for each month of service.~~ ~~(3-30-01)~~

c. ~~The fee for an ILETS printer is seventy five dollars (\$75) for each month of service.~~ ~~(3-30-01)~~

02. ~~Billing And Payment. The department shall mail statements quarterly to all user agencies, and payment of the fee is 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 payment is due on the first successive business day.~~ **ILETS Network User Access Fees.** The access fees approved by the board and to be collected quarterly in advance by the department are as follows:

~~(3-30-01)(10-1-01)T~~

a. ~~An agency at the county or municipal level shall pay an annual fee of four thousand dollars (\$4,000) for each telecommunication line drop to the agency.~~ ~~(10-1-01)T~~

b. ~~An agency at the state, federal, or tribal level shall pay an annual fee of seven thousand dollars (\$7,000) for each telecommunication line drop to the agency.~~ ~~(10-1-01)T~~

03. ~~Delinquent Unpaid Fees. A user agency will be delinquent in payment if its quarterly fee assessment has not been received by the department by the last day of the fee period.~~ **Usage Fee.** Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the ILETS network must pay quarterly a usage fee based on that agency's percentage of total annual messages sent and received by user agencies through the ILETS message switcher. The total percentage for an agency shall include the message traffic generated by any other agency authorized to access ILETS through that agency's direct terminal or system access.

~~(3-30-01)(10-1-01)T~~

a. The usage fee shall be paid according to the following schedule:

<u>Percentage of Total ILETS Message Traffic</u>	<u>Annual Usage Fee</u>
<u>0 - .25 %</u>	<u>\$500</u>
<u>.26 - .50 %</u>	<u>\$1,000</u>
<u>.51 - .75 %</u>	<u>\$2,000</u>
<u>.76 - 1.0 %</u>	<u>\$4,000</u>
<u>1.01 - 1.50 %</u>	<u>\$6,000</u>
<u>1.51 - 2.0 %</u>	<u>\$9,000</u>
<u>2.01 - 5.0 %</u>	<u>\$13,500</u>
<u>> 5.01 %</u>	<u>\$20,250</u>

(10-1-01)T

b. The department shall conduct an audit of ILETS message switcher traffic for even-numbered years to determine an agency's annual usage fee, which will be effective for two (2) years with the quarterly statement for the fee period beginning October 1 of odd-numbered years. (10-1-01)T

c. If an agency discontinues direct terminal or system access to ILETS and acquires authorized access through another agency, the usage fee for the agency maintaining direct access shall be adjusted to reflect the combined historical usage. (10-1-01)T

d. A new agency approved for direct ILETS access that does not have historical usage shall be assessed by the department an interim usage fee pending the next audit of ILETS message traffic. The department shall set an interim fee based on the agency's similarities to existing agencies with direct terminal or system access. An agency may appeal to the board the interim usage fee set by the department. (10-1-01)T

e. As operator of ILETS, the department, in lieu of payment of fees, shall provide direct and in-kind support of network operations. The board shall review biennially the proportion of that support to the overall operating cost of the system. (10-1-01)T

04. ~~Sanctions For Delinquency.~~ Any user agency delinquent in payment of assessed fees shall be subject to sanctions under Section 028. **Billing And Payment. The department shall mail billing statements quarterly to all agencies with direct terminal or system access to ILETS. Payment of the fees is 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 payment is due on the first successive business day. (3-30-01)(10-1-01)T**

05. **Sanctions For Delinquency. Any user agency delinquent in payment of assessed fees shall be subject to sanctions under Section 028.** (10-1-01)T

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 RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2000. This pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

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

050.04.b.v. - Expanded to clarify that if a plea or conviction is set aside or withdrawn or a case or charge dismissed due to lenity or for the purpose of furthering rehabilitation, it will still be considered a conviction; 050.04.e. - Expanded to clarify that a felony conviction later reduced to a misdemeanor due to lenity or furtherance of rehabilitation will still be considered a felony. Language was also added to allow waivers for felony convictions if the crime has since been statutorily reduced to a misdemeanor or decriminalized; 056.02.b. - The term "mannerisms" was deleted and the language "that are relevant to the law enforcement mission" added after the word "attitudes"; 063.02. - "as per the U.S. and Idaho Constitutions" was deleted and replaced with "pursuant to state or federal law"; Section 078 was renumbered as 079, clarifying language added, language modified to require an officer terminated for cause who hasn't fulfilled his two-year agreement to reimburse the state of Idaho for his training expenses, and language added setting out that an officer terminated through no fault of his own is not required to reimburse the state of Idaho for his training expenses; 094. - clarifying language added to make it easier to understand.

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

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the July 4, 2001 Idaho Administrative Bulletin, Volume 01-7, pages 32 through 44.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Michael N. Becar at (208) 884-7250.

DATED this 6th day of August, 2001.

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

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

SECTION 050

050. MINIMUM STANDARDS FOR EMPLOYMENT.

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

SUBSECTION 050.04.b.v.

04. Character/Criminal Record/Military Record Requirements. (7-1-00)T

b. The term "conviction" shall include: (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, and regardless of whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal of the case or charge, or expungement of the record is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt, or conviction.~~ (7-1-00)T

SUBSECTION 050.04.e.

e. An applicant 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 rule, a felony conviction shall continue to be considered a felony conviction regardless of whether the conviction is later reduced to a misdemeanor conviction under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the reduction is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the felony conviction. No waivers shall be granted by the POST Council, except where, since the time of the conviction, the crime for which the defendant was convicted has, by statute, been reduced to a misdemeanor or decriminalized in the jurisdiction where the conviction occurred. In such cases, 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

f. A "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from the military service shall disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN) may be grounds for rejection. (7-1-00)T

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 056.02.b.

056. BACKGROUND INVESTIGATION.

02. Procedures. (7-1-00)T

b. The appointing agency shall conduct a personal interview with the applicant to ascertain personal attributes such as personal appearance, ~~mannerisms~~, demeanor, attitudes that are relevant to the law enforcement mission, judgment, maturity, resourcefulness, and ability to communicate. Searching questions shall be asked about:

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

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 063.02

063. SPECIAL PROVISIONS.

02. No Discrimination. No agency shall discriminate as to employment against any persons on the basis of race, creed, color, or sex, ~~as per the U.S. and Idaho Constitutions~~ pursuant to state or federal law.

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

(BREAK IN CONTINUITY OF SECTIONS)

078. (RESERVED).

SECTION 079 IS BEING REPRINTED IN ITS ENTIRETY.

0789. 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 010.12 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 Basic Training Academy.

~~(7-1-00)F(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 010.12 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 Basic Training 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 leaves full-time employment in the law enforcement profession and has not worked four thousand one hundred sixty (4,160) or more hours during the two (2) years following graduation from the POST Basic Training Academy ~~will~~ shall 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 Basic Training Academy.

~~(7-1-00)F(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 0789.02 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)F(7-1-00)T~~

b. If the officer ~~was~~ resigns or is terminated for cause by the ~~employing~~ appointing agency, he 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.~~

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

c. If the officer ~~resigns from his agency in substitution of being dismissed from said~~ is terminated through no fault of his own by the appointing agency ~~for cause~~, he shall not owe the Council the amount set forth in the agreement. The agency ~~must~~ shall provide the Council a letter stating that ~~if~~ the officer ~~would not have resigned,~~

~~he would have been~~ was terminated ~~for cause~~ through no fault of his own.

~~(7-1-00)F(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 07~~89~~.02, shall be required to pay back to the Council; the full amount of money set forth in the agreement. ~~(3-20-97)(7-1-00)T~~

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)(7-1-00)T~~

~~07980~~. -- 089. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 094.02.c.

094. EDUCATION AND TRAINING.

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)

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~~ POST-approved police training. ~~(7-1-00)F(7-1-00)T~~

IDAPA 11 - IDAHO STATE POLICE
11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL
DOCKET NO. 11-1101-0102
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: These temporary rules are effective June 28, 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 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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:

Updates the minimum standards for training to include the now mandated basic detention and basic juvenile detention academies, deletes outdated language, updates reciprocity language, clarifies language in reference to college education, and updates curriculum requirements.

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 October 24, 2001.

DATED this 7th day of August, 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. 11-1101-0102

070. MINIMUM STANDARDS FOR BASIC TRAINING.

071. ~~BASIC COURSE TRAINING ACADEMY.~~

Each and every peace, detention, and juvenile detention officer ~~must shall~~ successfully complete the respective POST Basic Training Academy ~~Course~~, including the field training portion, within twelve (12) months from the date of their employment appointment as a regularly employed full-time officer. This time period includes probationary time.

~~(7-1-93)~~(6-28-01)T

01. **Attendance.** Attendance shall be required of each trainee at all classes in the Basic Training Academy. A trainee who is absent for more than one (1) day of the academy session shall make up such course content.

(7-1-93)

02. **Basic Training Completion.** A trainee ~~must shall~~ successfully complete the Basic Training ~~Course~~ Academy within six (6) months of the date they enroll in such course. In a case of delay of more than six (6) months, the entire course ~~must shall~~ be repeated.

~~(7-1-93)~~(6-28-01)T

03. **Field Training.** The field training portion ~~must shall~~ be completed to be eligible for certification.

~~(7-1-93)~~(6-28-01)T

~~072. EXTENSION OF TIME LIMIT FOR COURSE COMPLETION.~~

~~The Council may grant an extension of a time limit for completion of the Basic Training Course or any other course required in these rules upon presentation of evidence by a department that an officer was unable to complete the required course within the time limit prescribed due to illness, injury, military service, or special duty assignment required and made in the public interest of the concerned jurisdiction.~~

~~(7-1-93)~~

~~073. ADVANCED AND SPECIALIZED COURSES.~~

~~01. Optional. Optional advanced courses include, but are not limited to:~~

~~(7-1-93)~~

~~a. Supervisory Course.~~

~~(7-1-93)~~

~~i. For officers promoted, appointed, or transferred to a supervisory position within a department.~~

~~(7-1-93)~~

~~ii. Open for expansion.~~

~~(7-1-93)~~

~~b. Middle Management Course.~~

~~(7-1-93)~~

~~i. For officers promoted, appointed, or transferred to a middle management position within a department.~~

~~(7-1-93)~~

~~e. Executive Development Course.~~

~~(7-1-93)~~

~~i. For department heads and assistant department heads.~~

~~(7-1-93)~~

~~ii. Open for expansion.~~

~~(7-1-93)~~

~~d. Advanced Officers Course.~~

~~(7-1-93)~~

~~i. Intended as a refresher for officers below the first level supervisory position.~~

~~(7-1-93)~~

~~ii. Open for expansion.~~

~~(7-1-93)~~

~~02. Credit Hours. The amount of certified credit hours granted for advanced and specialized schools shall be decided by the Council after the "Application for Certification of School" has been received.~~

~~(7-1-99)~~

0742. WAIVER FOR EQUIVALENT TRAINING - RECIPROCITY.

01. Waiver. The Council may waive the completion of any ~~course~~ basic training academy required by the Council upon presentation of documentary evidence by an department agency that an officer has satisfactorily completed equivalent training, subject to any supplementary training prescribed by the Council under Section 074.
(7-1-93)(6-28-01)T

a. Training received in states with laws governing or regulating police training ~~must~~ shall, if subject to such review, have been approved or certified in the state in which the training was received. (7-1-93)(6-28-01)T

b. ~~The Council may elect to prescribe as a condition of certification supplementary or remedial training necessary to equate previous training with current standards of Idaho laws.~~
(7-1-93)

02. Reciprocity Agreements. The Council is authorized to enter into standing reciprocity, compacts, or agreements with those states which by law regulate and supervise the quality of ~~peace~~ law enforcement officer training and which require a minimum of ~~three hundred (300)~~ number of hours of training in the basic ~~or recruit~~ training course academy equal to or exceeding Idaho's standards.
(7-1-93)(6-28-01)T

0753. COLLEGE EDUCATION ~~CREDITS.~~

01. ~~College Unacceptable In Lieu Of Basic Training Academy.~~ Credit for pre-service college education ~~will~~ shall not be accepted in lieu of ~~the a~~ a Basic Training Academy ~~course described in this chapter.~~
(6-28-01)T

02. ~~Acceptable In Lieu Of Basic Training Academy.~~ Vocational education ~~at~~ training programs that have been previously ~~approved~~ certified by the Council may be accepted as equivalent training in lieu of ~~the a~~ a POST Basic Training Academy ~~course~~ provided the ~~vo-tech students~~ officer successfully graduates from the ~~course~~ program, passes the POST certification examination, submits a completed POST Vo-Tech Certification Packet, is appointed to a certifiable position within three (3) years from graduating from the program, and ~~complete forty (40)~~ hours of supervised field training in the employing department complies with the requirements of Section 095.
(7-1-93)(6-28-01)T

02. ~~Academy.~~ ~~Successful completion of the Idaho Law Enforcement Academy (prior basic recruit training sessions by the FBI) may be accepted as equivalency training in lieu of the Basic Training Academy by the Council.~~
(7-1-93)

074. SUPPLEMENTARY TRAINING.

03. ~~Other.~~ The Council may prescribe as a condition of ~~substitution of either vocational education training or Idaho Law Enforcement Academy,~~ certification supplementary or remedial training necessary to equate ~~such~~ previous training with current Idaho standards.
(7-1-93)(6-28-01)T

0765. THE BASIC PATROL ACADEMY TRAINING CURRICULUM.

01. ~~Amount~~ Training Hours. The amount of training for which certification may be granted in the Basic ~~Training Course~~ Patrol Academy shall be a total of four hundred sixty ~~two~~ four (4624) hours, with four hundred twenty ~~two~~ four (4224) hours received at the training academy and forty (40) hours received in field training in the officer's ~~department~~ appointing agency or another ~~department~~ agency if necessary prior to or subsequent to attendance at the Basic ~~Training~~ Patrol Academy.
(7-1-99)(6-28-01)T

02. Requirements. (7-1-93)

a. Successful completion of four hundred twenty ~~two~~ four (4224) hours of instruction in the following minimum prescribed subject areas at the Basic ~~Training~~ Patrol Academy ~~is~~ shall be required:

Summary	Hours
Human Relations	43
Law	543
Investigations	996
Police Officer and Patrol Procedures	1547
Health and Fitness	52
Administration/Examinations	23
Sub-Total	4224
Field Training Manual	40
Total	4624

(7-1-99)(6-28-01)T

~~ii~~**b.** It is emphasized that the established basic patrol academy training is only a minimum and that additional instruction ~~far~~ beyond the basic course academy is necessary if the proper training of an peace officer, as required by the profession, is to be accomplished. (7-1-93)(6-28-01)T

~~bc.~~ Successful completion of forty (40) hours of supervised field training in the employing department appointing agency, or another department agency if necessary, ~~is~~ shall be required. (7-1-99)(6-28-01)T

~~e.~~ Retention on a permanent basis, of Council forms notifying of course completion and completion of supervised field training is required. (7-1-93)

03. Procedure. (7-1-93)

a. Trainees ~~should~~ shall be enrolled in the Basic Training Patrol Academy in sufficient time to permit completion of the course and the supervised field training during the twelve (12) month period following employment their appointment as a peace officer. (7-1-93)(6-28-01)T

b. The Council shall issue a certificate of completion of graduation from the Basic Training Course Patrol Academy to each peace officer trainee who successfully completes the Basic Training Patrol Academy Course as certified by the Council. (7-1-93)(6-28-01)T

0776. FIELD TRAINING.

Field Training ~~should~~ shall be conducted in accordance with the procedures as outlined in the Field Training Manual under Procedures for Police Recruits. (7-1-93)(6-28-01)T

077. THE BASIC DETENTION ACADEMY TRAINING CURRICULUM.

01. Training Hours. The amount of training for which certification may be granted in the Basic Detention Academy shall be a total of two hundred sixty (260) hours, with two hundred twenty (220) hours received at the training academy and forty (40) hours received in jail training in the officer's appointing agency or another agency if necessary prior to or subsequent to attendance at the Basic Detention Academy. (6-28-01)T

02. Requirements. (6-28-01)T

a. Successful completion of two hundred twenty (220) hours of instruction in the following minimum prescribed subject areas at the Basic Detention Academy shall be required:

<u>Summary</u>	<u>Hours</u>
Jail Standards Procedures	11
Detention Legal Issues	34
Practical Skills	68
Jail Medical Issues	14
Human Relations	17
Detention Techniques	21
Incident Procedures	18
Emergency Procedures	13
Physical Wellness	13
Administration/Examinations	11
Sub-Total	220
Jail Training Manual	40
Total	260

(6-28-01)T

b. It is emphasized that the established basic detention academy training is only a minimum and that additional instruction beyond the basic academy is necessary if the proper training of a detention officer, as required by the profession, is to be accomplished. (6-28-01)T

c. Successful completion of forty (40) hours of supervised jail training in the appointing agency, or another agency if necessary, shall be required. (6-28-01)T

03. Procedure. (6-28-01)T

a. Trainees shall be enrolled in the Basic Detention Academy in sufficient time to permit completion of the course and the supervised jail training during the twelve (12) month period following their appointment as a detention officer. (6-28-01)T

b. The Council shall issue a certificate of graduation from the Basic Detention Academy to each trainee who successfully completes the Basic Detention Academy. (6-28-01)T

078. ~~(RESERVED)~~ JAIL TRAINING.
Jail Training shall be conducted in accordance with the procedures as outlined in the Jail Training Manual. (6-28-01)T

IDAPA 12 - DEPARTMENT OF FINANCE
12.01.03 - RULES PURSUANT TO THE IDAHO COLLECTION AGENCY LAW
DOCKET NO. 12-0103-0101
NOTICE OF PROPOSED RULEMAKING (REPEAL)

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 26-2248, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 rulemaking is to repeal all Idaho collection agency rules (IDAPA 12.01.03) for reason that the rules are outdated and are superceded by statute.

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 it is anticipated that this rulemaking (repeal of IDAPA 12.01.03) will have no impact on Idaho groups or citizens.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mary Hughes, Consumer Finance Bureau Chief, Idaho Department of Finance (208) 332-8000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

Mary Hughes
Bureau Chief - Consumer Finance
Idaho Department of Finance
700 West State St. – 2nd Floor
Boise, Idaho 83720
(208) 332-8000 (phone)
(208) 332 8098 (fax)

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY

IDAPA 12 - DEPARTMENT OF FINANCE
12.01.08 - RULES PURSUANT TO THE IDAHO SECURITIES ACT
DOCKET NO. 12-0108-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2002.

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 30-1448, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 rulemaking implements the new Investment Adviser Registration Depository (IARD) system for Idaho investment advisers and their agents.

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

This temporary rule is necessary to the public health, safety, or welfare, and confers benefit.

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

This rule imposes a one-time fee of \$150 per registrant to cover costs associated with IARD. This fee is authorized by Section 30-1407, Idaho Code.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is based on the IARD Implementation Model Rules and has already been the subject of widespread review.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Marilyn Chastain, Securities Bureau Chief, at 332-8070.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 24th day of August, 2001.

Marilyn Chastain
Securities Bureau Chief
Idaho Department of Finance/Securities Bureau
700 West State Street
PO Box 83720
Boise, ID 83720-0031
Phone: 332-8070
Fax: 332-8099

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0108-0101

022.—~~029.~~ *(RESERVED)* IMPLEMENTATION OF IARD (Rule 22).

01. Designation. Pursuant to Section 30-1407, Idaho Code, the Director designates the web-based Investment Adviser Registration Depository (IARD) operated by the National Association of Securities Dealers to receive and store filings and collect related fees from investment advisers and investment adviser representatives on behalf of the Director. (1-1-02)T

02. Use Of IARD. Unless otherwise provided, all investment adviser and investment adviser representative applications, amendments, reports, notices, related filings and fees required to be filed with the Director pursuant to the rules promulgated under this Act, shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings: (1-1-02)T

a. **Electronic Signature.** When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (1-1-02)T

b. **When Filed.** Solely for purposes of a filing made through IARD, a document is considered filed with the Director when all fees are received and the filing is accepted by IARD on behalf of the state. (1-1-02)T

03. Electronic Filing. Notwithstanding Subsection 022.02 of these rules, the electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees and thirty (30) days notice is provided by the Director. Any documents or fees required to be filed with the Director that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the Director. (1-1-02)T

04. Hardship Exemptions. This Section provides two (2) "hardship exemptions" from the requirements to make electronic filings as required by the rules. (1-1-02)T

a. **Temporary Hardship Exemption.** (1-1-02)T

i. Investment advisers registered or required to be registered under the Act who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD may request a temporary hardship exemption from the requirements to file electronically. (1-1-02)T

ii. To request a temporary hardship exemption, the investment adviser must file Form ADV-H which can be found at 17- CFR 279.3 in paper format with the Director where the investment adviser's principal place of business is located, no later than one (1) business day after the filing (that is the subject of the Form ADV-H) was due; and submit the filing that is the subject of the Form ADV-H in electronic format to IARD no later than seven (7) business days after the filing was due. (1-1-02)T

iii. **Effective Date -- Upon Filing.** The temporary hardship exemption will be deemed effective upon receipt by the Director of the complete Form ADV-H. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the Director. (1-1-02)T

b. **Continuing Hardship Exemption.** (1-1-02)T

i. **Criteria for Exemption.** A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome. (1-1-02)T

ii. To apply for a continuing hardship exemption, the investment adviser must file Form ADV-H which can be found at 17- CFR 279.3 in paper format with the Director at least twenty (20) business days before a filing is due; and, if a filing is due to more than one (1) securities regulator, the Form ADV-H must be filed with the Director where the investment adviser's principal place of business is located. The Director who receives the application will grant or deny the application within ten (10) business days after the filing of Form ADV-H. (1-1-02)T

iii. Effective Date -- Upon Approval. The exemption is effective upon approval by the Director. The time period of the exemption may be no longer than one (1) year after the date on which the Form ADV-H is filed. If the Director approves the application, the investment adviser must, no later than five (5) business days after the exemption approval date, submit filings to IARD in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted. (1-1-02)T

c. Recognition of Exemption. The decision to grant or deny a request for a hardship exemption will be made by the Director where the investment adviser's principal place of business is located, which decision will be followed by the securities regulator in the other state(s) where the investment adviser is registered. (1-1-02)T

023. APPLICATION FOR INVESTMENT ADVISER REGISTRATION (Rule 23).

01. Initial Application. The application for initial registration as an investment adviser, pursuant to Section 30-1407, Idaho Code, shall be made by completing Form ADV which can be found at 17 C.F.R. 279.1 in accordance with the form instructions and by filing the form with IARD. The application for initial registration shall also include the following: (1-1-02)T

a. Proof of compliance by the investment adviser with the examination requirements of Subsection 040.02 of these rules; (1-1-02)T

b. Such information required to be submitted pursuant to Sections 30-1407 and 30-1408, Idaho Code; (1-1-02)T

c. The fee required by Section 30-1437, Idaho Code; and; (1-1-02)T

d. Any other information the Director may reasonably require. (1-1-02)T

02. Annual Renewal. The application for annual renewal registration as an investment adviser shall be filed with IARD. The application for annual renewal registration shall include the fee required by Section 30-1411, Idaho Code. (1-1-02)T

03. Updates And Amendments. (1-1-02)T

a. An investment adviser must file with IARD, in accordance with the instructions in Form ADV, any amendments to the investment adviser's Form ADV; (1-1-02)T

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment; and (1-1-02)T

c. Within ninety (90) days of the end of the investment adviser's fiscal year, an investment adviser must file with IARD an updated Form ADV. (1-1-02)T

04. Completion Of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-1407 or 30-1411, Idaho Code, until the required fee and all required submissions have been received by the Director. (1-1-02)T

024. APPLICATION FOR INVESTMENT ADVISER REPRESENTATIVE REGISTRATION (Rule 24).

01. Initial Application. The application for initial registration as an investment adviser representative pursuant to Section 30-1407, Idaho Code, shall be made by completing Form U-4 in accordance with the form instructions and by filing Form U-4 with IARD. The application for initial registration also shall include the

following: (1-1-02)T

a. Proof of compliance by the investment adviser representative with the examination requirements of Rule 040 of these rules; and (1-1-02)T

b. The fee required by Section 30-1437, Idaho Code. (1-1-02)T

02. Annual Renewal. The application for annual renewal registration as an investment adviser representative shall be filed with IARD. The application for annual renewal registration shall include the fee required by Section 30-1411, Idaho Code. (1-1-02)T

03. Updates And Amendments. (1-1-02)T

a. The investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur. (1-1-02)T

b. An investment adviser representative and the investment adviser must file promptly with IARD any amendments to the representative's Form U-4; and (1-1-02)T

c. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (1-1-02)T

04. Completion Of Filing. An application for initial or renewal registration is not considered filed for purposes of Sections 30-1407 or 30-1411, Idaho Code, until the required fee and all required submissions have been received by the Director. (1-1-02)T

025. NOTICE FILING REQUIREMENTS FOR FEDERAL COVERED ADVISERS (Rule 25).

01. Notice Filing. The notice filing for a federal covered adviser pursuant to Section 30-1406, Idaho Code, shall be filed with IARD on an executed Form ADV which can be found at 17 C.F.R. 279.1. A notice filing of a federal covered adviser shall be deemed filed when the fee required by Section 30-1406, Idaho Code, and the Form ADV are filed with and accepted by IARD on behalf of the state. (1-1-02)T

02. Portions Of Form ADV Not Yet Accepted By IARD. Until IARD provides for the filing of Part 2 of Form ADV, the Director will deem filed Part 2 of Form ADV if a federal covered adviser provides, within five (5) days of a request, Part 2 of Form ADV to the Director. Because the Director deems Part 2 of the Form ADV to be filed, a federal covered adviser is not required to submit Part 2 of Form ADV to the Director unless requested. (1-1-02)T

03. Renewal. The annual renewal of the notice filing for a federal covered adviser pursuant to Section 30-1411, Idaho Code, shall be filed with IARD. The renewal of the notice filing for a federal covered adviser shall be deemed filed when the fee required by Section 30-1411, Idaho Code, is filed with and accepted by IARD on behalf of the state. (1-1-02)T

04. Updates And Amendments. A federal covered adviser must file with IARD, in accordance with the instructions in the Form ADV, any amendments to the federal covered adviser's Form ADV. (1-1-02)T

026. TRANSITION SCHEDULE FOR CONVERSION TO IARD (Rule 26).

01. Electronic Filing of Form ADV. (1-1-02)T

a. By January 1, 2002, each investment adviser registered or required to be registered under the Act must resubmit its Form ADV electronically (if it has not previously done so) with IARD unless it has been granted a hardship exemption under Subsection 022.04 of these rules; (1-1-02)T

b. If the amendment to Form ADV is made after January 1, 2002, or at an earlier date if an investment adviser has filed its Form ADV (or any amendments to Form ADV) electronically with IARD, the registrant must file

amendments to Form ADV required by this section electronically with IARD, unless it has been granted a hardship exemption under Subsection 022.04 of these rules. (1-1-02)T

02. Electronic Filing of Form U-4. By January 1, 2002, for each investment adviser representative registered or required to be registered under the Act, Form U-4 must be resubmitted electronically (if it has not previously been done) with IARD, unless the investment adviser (filing on behalf of the investment adviser representative) has been granted a hardship exemption under Subsection 022.04 of these rules. (1-1-02)T

027. WITHDRAWAL OF INVESTMENT ADVISER AND INVESTMENT ADVISER REPRESENTATIVE REGISTRATION (Rule 27).

01. Application Withdrawal. Withdrawal from registration as an investment adviser or investment adviser representative becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the Director may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty (30) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Director by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Director may nevertheless institute a revocation or suspension proceeding under Section 30-1413, Idaho Code, within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration is effective. (1-1-02)T

02. Investment Adviser. The application for withdrawal of registration as an investment adviser shall be completed by following the instructions on Form ADV-W which can be found at 17 C.F.R. 279.2 and filed upon Form ADV-W with IARD. (1-1-02)T

03. Investment Adviser Representative. The application for withdrawal of registration as an investment adviser representative shall be completed by following the instructions on Form U-5 and filed upon Form U-5 with IARD. (1-1-02)T

028. -- 029. (RESERVED).

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is effective June 15, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 the required finding and concise statement of the supporting reasons for proposed rulemaking:

Consider additional Landowner Appreciation Permits, and amend sale date for leftover controlled hunt permits (because the specified date falls on Sunday). Implement House Bill 43 providing for an Idaho Nursing Home Facility Resident Fishing Permit. Authorize sale of leftover nonresident tags, adjust outfitter allocation tag numbers, and adjust Landowner Appreciation Permit numbers.

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 in order to confer a benefit.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0104-0101

400. LANDOWNER APPRECIATION PERMITS.

01. Eligible Applicants. Eligible applicants must be registered with the Department and are limited to landowners. (4-5-00)

02. Hunt Units. Landowner Appreciation Permits shall be issued only for those controlled hunt units designated by the Director as eligible for such permits. (3-30-01)

03. Reasonable Access. In 2000~~1~~, landowners, authorized corporate, or partnership representatives are not required to provide access or retain written records as a condition to qualifying for Landowner Appreciation Permits. (~~3-30-01~~)(03-19-01)T

04. Qualifying Property. Only property that is used by and provides significant habitat values for deer, elk or antelope qualifies for the Landowner Appreciation Permit program. Landowners will receive Landowner Appreciation Permits only for the species and sex that use the property. (4-5-00)

05. Applications For Landowner Appreciation Permits. Applications for landowner appreciation permits shall be on a form prescribed by the Department. Applicants must be registered with the Department and shall sign the application. (4-5-00)

a. The application shall include the applicant's hunting or combination license number. (5-15-95)

b. Applications will be accepted on or after June 15 of each year. Applications received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than July 15 of each year will be entered in the random drawing for permits. This random draw will be weighted to allow for one (1) chance for each six hundred forty (640) acres of eligible property to each applicant. The weighted chance will apply only for each six hundred forty (640) acres of the eligible property within the hunt area with Landowner Appreciation Permits. Applications for left-over-permits will be accepted on or after August 15 of each year on a first-come-first-served basis. Only written applications will be accepted and must be accompanied by a six dollar and fifty cent (\$6.50) application fee. (~~3-30-01~~)(03-19-01)T

06. Property And Applicant Registration. (5-15-95)

a. Prior to any eligible applicant applying for a Landowner Appreciation Permit, the qualifying property and eligible applicant must be registered with the Department. Registering landowners must notify the Department of any changes in property or applicant eligibility. (4-5-00)

b. Registration of property and eligible applicant must be on a form prescribed by the Department. The landowner must submit the registration form and a copy of the deed(s), and the most recent tax assessment(s), describing the eligible property showing the name(s) of the owner(s), and a map of eligible property to the Department regional office. Department personnel will certify the registration and land description and return a copy to the landowner. (4-5-00)

c. If the Person registering is an authorized corporate or partnership representative, he shall submit with his registration written verification from the board of directors, partnership, or an officer of the corporation, other than himself, verifying that he is authorized to register the property and eligible applicants. (4-5-00)

07. Issuance Of Permits. (7-1-93)

a. Effective in 1999, once the Department has determined the number of controlled hunt permits to be issued in any controlled hunt unit, an additional ten percent (10%) of the number of controlled hunt permits MAY be issued as Landowner Appreciation Permits. In subsequent years up to twenty-five percent (25%) of the number of controlled hunt permits MAY be issued only if the hunt is over subscribed by eligible Landowner Appreciation Permit applicants. (4-5-00)

b. Where the number of landowner appreciation applicants exceeds the number of landowner

appreciation permits available in a unit, successful applicants will be determined by drawing. (4-5-00)

c. No more than two (2) Landowner Appreciation Permits may be issued to any eligible landowner. (4-5-00)

d. Only one (1) landowner appreciation permit may be issued for eligible property consisting of between six hundred forty (640) and four thousand nine hundred ninety-nine (4,999) acres within the hunt area designated by the Director with Landowner Appreciation Permits. However, one (1) additional permit may be issued to a landowner or designated agent(s) for eligible property in excess of five thousand (5,000) acres within the hunt area designated by the Director with Landowner Appreciation Permits. No landowner or designated agent(s) is eligible to receive more than one (1) permit for one (1) species in a calendar year. ~~(4-5-00)~~(03-19-01)T

e. If more than one (1) application is received for eligible property consisting of from six hundred forty (640) to four thousand nine hundred ninety-nine (4,999) acres, all applications will be disqualified. If more than two (2) applications are received for eligible property consisting of five thousand (5,000) acres or more, all applications will be disqualified. (7-1-98)

f. A successful landowner, corporate or partnership representative drawing a landowner appreciation permit may, without additional fees, designate to whom the permit will be issued. (4-5-00)

08. Application Of Controlled Hunt Restrictions. (7-1-93)

a. The restriction that applying for a moose, bighorn sheep, or mountain goat controlled hunt makes the applicant ineligible to apply for any other controlled hunt shall not apply to persons who are otherwise eligible to apply for a landowner preference permit. (7-1-93)

b. Landowner appreciation permits issued to non-residents shall not be considered as part of the non-resident quota. (4-5-00)

c. Landowner preference permits are exempt from the one (1) year waiting periods applicable for certain deer, elk and antelope permits. (3-30-01)

09. Special Restrictions. Any person hunting with a Landowner appreciation permit shall hunt only within the boundaries described in the hunt area designated by the Director. Only valid, current-year deer, elk, or antelope tags may be used in conjunction with a landowner appreciation permit. No person shall kill more than one (1) deer, elk or antelope during a calendar year EXCEPT: (3-30-01)

a. In designated controlled depredation hunts, one (1) additional deer, elk or antelope may be taken by persons holding permit/tags for those hunts; or (7-1-93)

b. In extra tag hunts, one (1) additional deer, elk or antelope may be taken by persons holding tags for those hunts. (7-1-98)

c. In no event shall any person take more than two (2) deer, elk or antelope during a calendar year or more than one (1) deer, elk or antelope per day. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

506. DEER AND ELK OUTFITTER ALLOCATED TAG.

01. Allocated Tags. The following number of deer and elk tags shall annually be allocated for sale to persons who have entered into a signed agreement to utilize the services of an outfitter who is licensed in that zone under Title 36, Chapter 21, Idaho Code. ~~(3-30-01)~~

~~02. For The 2000 Elk Hunting Season~~

<u>FOR THE 2001 ELK HUNTING SEASON</u>				
Zone	Units	Dates, Inclusive	Total Tags	Outfitter Allocation
Lolo B Tags	10, 12	Oct 10 - Nov 3	1600	236
Selway B Tags	16A, 17, 19, 20	Sep 15 – Sep 30 Nov 1 – Nov 18	1255	356
Middle Fork A Tags	20A, 26, 27	Oct 1 – Oct 31	1551	209
Middle Fork B Tags	20A, 26, 27	Sep 15 – Sep 30 Nov 1 – Nov 18	1636	444
<u>Boise River B Tags</u>	<u>39</u>	<u>Oct 15 - Oct 24</u>	<u>3,300</u>	<u>18</u>

~~(3-30-01)~~(3-19-01)T

032. Distribution Of Allocated Tags. Allocated tags shall be sold by the Department, as designated by IDAPA 25.01.01, “Rules of Idaho Outfitters and Guides Licensing Board,” Section 057, to hunters with signed agreements with licensed outfitters in those zones with a cap on the number of tags sold. In zones where resident and nonresident deer and/or elk tags are issued by lottery, allocated tags will be issued by lottery. Application for the purchase of allocated tags shall be made by the outfitter for the hunter on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the hunter has a signed agreement to hunt with the outfitter making application. (7-1-99)

043. Designated Buyers. Purchasers of allocation tags who return their unused tag and a notarized affidavit stating that the tag buyer has not hunted may designate another person to purchase a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag. (7-1-99)

054. Unsold Tags. Any allocation tags not sold by August 1 of each year shall be sold by the Department on a first come, first serve basis. The Department may use a waiting list methodology to issue unsold tags. Applications shall be made only to the headquarters office of the Idaho Department of Fish and Game in Boise, Idaho. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

600. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. Tag Quotas. The following number of deer tags and elk tags shall be set aside annually and reserved for sale to nonresidents: (3-20-97)

- a. Twelve thousand eight hundred (12,800) regular or Clearwater deer tags; (7-1-99)
- b. Eleven thousand (11,000) A or B elk tags for all zones except the Panhandle zone; (7-1-99)
- c. One thousand eight hundred fifteen (1,815) Panhandle zone elk tags; and (7-1-99)
- d. One thousand two hundred (1,200) S.E. Idaho area Deer tags. (7-1-98)

02. Exceptions. Sales of nonresident deer and elk tags to the following persons shall not be counted in

the quota: (7-1-93)

a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)

b. Designated Buyers: Nonresident tag buyers who return their unused nonresident deer or elk tag and a notarized affidavit stating that the tag buyer has not hunted may designate another nonresident to purchase an additional tag. If the original buyer does not make a designation and has retained an outfitter or guide, the outfitter or guide may make the designation. The designated buyer must pay the regular fee for the replacement tag. If no designation is made by either the original buyer or the outfitter or guide, the Department may sell the replacement tag on a first-come, first-serve basis. (7-1-93)

c. Successful nonresident controlled hunt applicants who have not purchased a tag as of the date of the controlled hunt drawing. (7-1-93)

03. Refunds. The fee for any nonresident license (as defined in I.C. 36-202(z)) shall not be refunded for any reason except as follows. (7-1-98)

a. Hunting license and general season deer and elk tag refunds due to death, illness/injury or military deployment of licensee. Non-resident general season deer or elk tag fees and prerequisite hunting license fee may be refunded for death of licensee; illness or injury of licensee which totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict. Refund must be substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or other similar substantiating documents. The hunting license fee will not be refunded if it was used to apply for any controlled hunt or to purchase a turkey, mountain lion, or bear tag. The amount refunded will be the amount of the applicable deer or elk tag and hunting license less all issuance fees and a fifty dollar (\$50) processing fee. The refund request must be postmarked on or before December 31 of the calendar year in which the license and tags were valid. (7-1-98)

b. General season deer and elk tag refunds for other than death, illness/injury, or military deployment of licensee. Non-resident general season deer or elk tag fees may be refunded for any reason other than death of the licensee; illness or injury of licensee which totally disables the licensee for the entire length of all applicable seasons; or military deployment of licensee due to an armed conflict. The request for the refund must be postmarked in the year in which the tag is valid. The hunting license fee will not be refunded. The refund will be based on the following sliding scale as a percent of the deer or elk tag fee.

Postmarked	Percent of Fee Refunded
Before April 1	75%
in April through June	50%
in July and August	25%
September through December	0%

(7-1-98)

c. Department Error. The department determines that a department employee made an error in the issuance of the license. (7-1-98)

d. Submission Requirements. All refund requests must be in writing and be accompanied with the original copy of the license or tag. (7-1-98)

e. Effective. These changes will be effective with the 1997 licenses and tags. (7-1-98)

04. Sale Of Unsold Nonresident Deer And Elk Tags To Residents. Any unsold nonresident deer or

elk tags may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price, beginning September 1. All privileges and restrictions associated with the use of the nonresident deer or elk tag will apply equally to residents who purchase a nonresident deer or elk tag. ~~(3-30-01)~~(3-19-01)T

601. ELK ZONE TAG QUOTAS.

Zone	Units	Total Tags	General Resident Tags	General Nonresident Tags	Outfitter Allocation
Lolo B Tags	10,12	1600	1008	356	236
Selway B Tags	16A, 17, 19, 20	1255	565	334	356
Middle Fork A Tags	20A, 26, 27	1551	1168	174	209
Middle Fork B Tags	20A, 26, 27	1636	925	267	444
<u>Boise River B Tags</u>	<u>39</u>	<u>3,300</u>	<u>3,013</u>	<u>269</u>	<u>18</u>

~~(3-30-01)~~(3-19-01)T

(BREAK IN CONTINUITY OF SECTIONS)

700. SPECIAL BIGHORN SHEEP PERMIT/TAG.

01. Eligibility. In order to be eligible to bid on the special bighorn sheep tag, a person must: ~~(3-19-01)T~~

a. ~~Be~~ eligible to purchase an Idaho hunting or combination license; and ~~(3-30-01)~~(3-19-01)T

b. Not have killed both a California and a Rocky Mountain bighorn sheep. (3-19-01)T

02. Validity Of Tag. The Special Bighorn Sheep Permit/Tag shall be valid ~~in any open controlled hunt.~~ for use only as follows: ~~(3-30-01)~~(3-19-01)T

a. If the successful bidder has killed a California bighorn sheep south of Interstate Highway 84 since 1974, the tag shall be valid ONLY for the taking of Rocky Mountain bighorn sheep north of Interstate 84, EXCEPT that the Special Bighorn Permit/Tag shall be valid in Unit 11 only during odd-numbered years and during even-numbered years when the Bighorn Sheep Lottery Permit/Tag holder chooses not to hunt in Unit 11. (3-19-01)T

b. If the successful bidder has killed a Rocky Mountain bighorn sheep north of Interstate Highway 84 since 1974, the tag shall be valid ONLY for the taking of California bighorn sheep south of Interstate 84. (3-19-01)T

c. If the successful bidder has NOT killed either subspecies of bighorn sheep in Idaho, the tag shall be valid during any controlled hunt open for either California or Rocky Mountain bighorn sheep. (3-19-01)T

03. License And Permit. A hunting license and permit will be provided to the successful bidder from the net proceeds of the auction. (7-1-93)

04. Application Of Big Game Rules. All rules governing the Taking of Big Game Animals, IDAPA 13.01.08, shall apply to the eligible and successful bidders other than as specified herein. (7-1-93)

a. No successful bidder shall be eligible to apply for a bighorn sheep controlled hunt permit tag the

same year the bidder is issued a Special Bighorn Sheep Permit/Tag. (3-30-01)

b. A person receiving a Special Bighorn Sheep Permit/Tag, but who is unsuccessful in taking a bighorn sheep, shall be eligible to bid the following year for another Special Bighorn Sheep Permit/Tag. ~~(3-30-01)~~(3-19-01)T

c. A person successful in taking a bighorn sheep with a special bighorn sheep tag shall be eligible to bid the following year for the other subspecies of bighorn sheep. (3-19-01)T

(BREAK IN CONTINUITY OF SECTIONS)

800. BIGHORN SHEEP LOTTERY PERMIT/TAG.

01. Eligibility. (7-1-93)

a. In order to win and be issued the Bighorn Sheep Lottery Permit/Tag, a person must be eligible to purchase an Idaho hunting or combination license EXCEPT that the Lottery Permit/Tag shall be valid in Unit 11 only during even-numbered years and during odd-numbered years when the Special Bighorn Sheep Permit/Tag holder chooses not to hunt in Unit 11. ~~(3-30-01)~~(3-19-01)T

b. If any person wins the Bighorn Sheep Lottery Permit/Tag and has already been drawn for a bighorn sheep controlled hunt permit for the same year, the controlled hunt permit shall be returned to the Department and voided and the permit/tag fees refunded. The lottery tag will be valid to hunt bighorn sheep that year. (7-1-93)

02. Validity Of Tag. The Bighorn Sheep Lottery Permit/Tag shall be valid in any open controlled hunt for use only as follows: ~~(3-30-01)~~(3-19-01)T

a. If the lottery tag winner has killed a California bighorn sheep south of Interstate Highway 84 since 1974, the tag shall be valid ONLY for the taking of Rocky Mountain bighorn sheep north of Interstate 84 EXCEPT that the Lottery Permit/Tag shall be valid in Unit 11 only during even-numbered years and during odd-numbered years when the Special Bighorn Sheep Permit/Tag holder chooses not to hunt in Unit 11. (3-19-01)T

b. If the lottery tag winner has killed a Rocky Mountain bighorn sheep north of Interstate Highway 84 since 1974, the tag shall be valid ONLY for the taking of California bighorn sheep south of Interstate 84. (3-19-01)T

c. If the successful bidder has NOT killed either subspecies of bighorn sheep in Idaho, the tag shall be valid during any controlled hunt open during the year of issue, for either California or Rocky Mountain bighorn sheep. (3-19-01)T

03. Permit. A permit and tag will be provided to the lottery tag winner from the net proceeds of the lottery. (7-1-93)

04. Application Of Big Game Rules. All Rules Governing the Taking of Big Game Animals shall apply to the eligible ticket purchasers and lottery tag winner, other than as specified herein. (7-1-93)

a. If any person that wins the Bighorn Sheep Lottery Permit/Tag and has already drawn for a bighorn sheep controlled hunt permit for the same year, the controlled hunt permit shall be returned to the Department and voided and the permit/tag fees refunded. The lottery tag will be valid to hunt bighorn sheep that year. No lottery tag winner shall have killed both a California and a Rocky Mountain bighorn sheep. ~~(3-30-01)~~(3-19-01)T

b. A person receiving a bighorn sheep lottery tag shall be eligible to purchase lottery tickets the following year for another bighorn sheep lottery tag. (3-30-01)

c. ~~A person receiving a Bighorn Sheep Lottery Tag/Permit and who meets all the eligibility~~

~~requirements may apply the following year for a bighorn sheep controlled hunt permit. A person successful in taking a bighorn sheep with a bighorn sheep lottery tag shall be eligible to purchase lottery tickets the following year for the other subspecies of bighorn sheep.~~ (3-30-01)(3-19-01)T

d. Any person who wins a Bighorn Sheep Lottery Permit/Tag, and who is otherwise eligible to apply for a deer, elk or antelope controlled hunt permit, shall be allowed to apply for a permit for those species during the same year the Bighorn Sheep Lottery Permit/Tag is valid. (3-30-01)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO
DOCKET NO. 13-0108-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: These temporary and proposed rules are effective March 19, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 the required finding and concise statement of the supporting reasons for proposed rulemaking:

Increase mountain lion quotas to allow more hunting. Authorize primitive weapon hunts and define primitive weapon.

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 in order to confer a benefit.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25, Boise, ID 83707
208-334-3715 / FAX: 208-334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0108-0101

250. TAGS AND PERMITS.

No person shall hunt big game animals without having in possession the appropriate hunting license, tags, stamps and permits. (7-1-93)

- 01. Use Of Tags.** (7-1-93)
- a. Permit/Tags issued for moose, bighorn sheep, mountain goat and antelope may be used only in the controlled hunt for which the permittee was drawn. (7-1-93)
 - b. A tag issued for mountain lion after the mountain lion season opens may NOT be used until the second day following its purchase. (3-20-97)
 - c. A tag issued for black bear after the black bear season opens may NOT be used until the second day following its purchase. (3-20-97)
 - d. Tags issued for antelope archery hunts may be used only in general archery hunts. (7-1-93)
 - e. Extra tags issued for deer, elk or antelope may be used only in the hunt area for which the tags are issued. (7-1-93)
 - f. Any person who purchases a tag to hunt black bear, or archery antelope, who is unsuccessful in killing an animal, and who is subsequently drawn for a controlled hunt permit, including an antelope landowner preference permit, must return the unused tag to a Department office not later than August 10 to exchange the tag for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-20-97)
 - g. Tags issued for black bear and mountain lion may be used statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. (4-5-00)
 - h. Regular tags issued for deer and elk may be used ONLY as follows: (7-1-93)
 - i. Regular Deer:

TYPE OF TAG	SEASONS
Resident (Type 311)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
Resident (Type 330)	Extra Any antlerless deer tag season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
Senior Resident (Type 330)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
S.E. Idaho Area Units 75, 76, 77, and 78 Nonresident	To Hunt Deer in Units 75, 76, 77, and 78 you must have your deer tag validated for use in these units. These tags are limited to one thousand two-hundred (1200) nonresident tags and will be issued first come - first served. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20
Nonresident (Type 411)	Any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn, or may be used to tag a black bear or mountain lion during the Regular deer season when the black bear or mountain lion season is open.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.

TYPE OF TAG	SEASONS
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

(3-30-01)

ii. Clearwater Deer.

TYPE OF TAG	SEASONS
Resident Clearwater	To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Resident Extra Clearwater	To hunt an extra any-antlerless deer tag season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Senior Resident Clearwater	To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Nonresident Clearwater	To hunt deer in any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region and may be used to tag a black bear or mountain lion during the Clearwater deer season when the black bear or mountain lion season is open. Regular Deer tags are not valid in these units.

(3-30-01)

iii. Elk A Tag: Validate only for A Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any elk archery, muzzleloader or general season in A Tag elk seasons in specific zones.
Senior Resident	Any elk archery, muzzleloader, or general season in A Tag seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in A Tag elk seasons in specific zones, or controlled hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the and Tag permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

(7-1-99)

- iv. Elk B Tag: Validate only for B Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Senior Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Nonresident	Any elk controlled hunt for which the permittee was drawn or any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Permit and Extra Tag	Only the designated controlled and extra tag hunt for which the permittee was drawn.

(7-1-99)

- v. Super Tag.

TYPE OF TAG	SEASONS
<u>Combination Controlled Hunt Permit and "Super" Tag</u>	<u>Valid for either antelope, deer or elk and allows the hunter to hunt in any open and/or controlled hunt for the selected species.</u>

(3-19-01)T

02. Return Of Tags By Unsuccessful Permittees. Permittees who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (5-15-95)

03. Archery And Muzzleloader Permits. Any person hunting in an archery only or muzzleloader only season must have the appropriate permit (archery or muzzleloader) for the relevant season validated on their license. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

260. PERMITS FOR CONTROLLED HUNTS.

01. Use Of Controlled Hunt Permits. No person may hunt in any controlled hunt without having a valid controlled hunt permit in possession. (7-1-93)

- a. A controlled hunt area with an "X" suffix is an extra tag hunt. (10-26-94)

- b. In the event a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The

person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

c. Any person who receives a controlled hunt permit and tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer. (3-20-97)

d. Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (7-1-93)

e. Any person who receives a controlled hunt permit for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk. (7-1-93)

f. Any person who receives a combination controlled hunt permit/tag for antelope is prohibited from hunting in any archery antelope hunt. The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)

g. Any person who receives a spring controlled hunt permit for black bear is prohibited from hunting in any other spring bear hunt - April 15 to June 30. (7-1-99)

h. Any person who receives a fall controlled hunt permit for black bear is prohibited from hunting in any other fall bear hunts--September 15 to October 31. (10-26-94)

02. Nonresident Permit Limitations. In controlled hunts with ten (10) or fewer permits, not more than one (1) nonresident permit will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits, not more than ten percent (10%) of the permits will be issued to nonresidents. (7-1-98)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) or Two-day (2) Deer License (Type 132) may not apply for any controlled hunt. (10-26-94)

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn permit for two (2) years. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat permit for two (2) years. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of permits nor Landowner Preference Permits. EXCEPT all successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags to hunt in any open general and/or controlled antelope, deer or elk hunt in the following hunting season. (~~7-1-99~~)(3-19-01)T

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, or a designated depredation or extra tag hunt for deer, elk or antelope. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in first-come, first-served deer, elk and antelope controlled hunt permit sales. (10-26-94)

d. Any person who has killed a California bighorn ram, Rocky Mountain bighorn ram or a moose on any controlled hunt may not apply for a permit for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram permit for any hunt north of Interstate Highway 84. Any person who has killed a Rocky

Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram permit for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-5-00)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt permit for five (5) years. The harvest of a bighorn ewe does not make the permittee ineligible to apply for a permit to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (7-1-93)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat permit. (7-1-93)

h. Any person who has killed a moose in Idaho may not apply for a moose permit. (4-5-00)

i. Any person holding a Nonresident Hunting License (Type 202) or a duplicate thereof may not apply for a moose permit. (7-1-93)

j. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)

k. Any person may apply for both a controlled hunt permit/tag and a controlled hunt permit/extra tag. (7-1-93)

l. Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs". (7-1-99)

04. Applications. Individual applications or group applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. (10-26-94)

a. Moose, bighorn sheep, and mountain goat - April 30. (7-1-93)

b. Deer, elk, antelope and fall black bear - May 31. (3-20-97)

c. Spring black bear - February 16. (3-20-97)

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt permit/extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (10-26-94)

b. Only one (1) controlled hunt permit/extra tag will be issued for each person on any application submitted. (10-26-94)

c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt permit/tag hunts

or controlled hunt permit/extra tag hunts. (10-26-94)

d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is five dollars (\$5) per person per hunt, for deer, elk, antelope, moose, bighorn sheep, mountain goat, black bear, and lion, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, antelope, black bear, or mountain lion. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a permit tag in the mail. (7-1-98)

e. Any controlled hunt permits, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold forty five (45) days following the close of each respective controlled hunt drawing by any Point-of-Sale vendor on a first-come, first-served basis UNLESS such day is a Sunday, in which case the permits will go on sale the next legal business day. A controlled hunt permit and tag will be issued to successful applicants. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. ~~(3-30-01)~~(3-09-01)T

f. A "group application" for deer, elk, and antelope is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (10-26-94)

g. A "group application" for moose, bighorn sheep, mountain goat, and black bear is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (10-26-94)

h. If a group application exceeds the number of permits available in a hunt that group application will not be selected for that hunt. (7-1-98)

i. Landowner permission hunt permits will be sold first-come, first-served basis at the Nampa, McCall and Headquarters offices of the Idaho Department of Fish and Game after July 15. (7-1-98)

06. Refunds Of Controlled Hunt Fees. (7-1-93)

a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

d. Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

07. Controlled Hunt Drawing. Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

- 01. Big Game Animals Of Either Sex.** Big game animals of either sex may be taken as noted below: (7-1-93)
- a. Mountain Goat. Either sex may be taken EXCEPT nannies accompanied by kids. (7-1-93)
 - b. Black Bear. Either sex may be taken EXCEPT female black bears accompanied by young. (7-1-93)
 - c. Mountain Lion. Either sex may be taken EXCEPT spotted young or females accompanied by young. (7-1-93)
- 02. Seasons Restricted To Antlered Or Male Animals Only.** (7-1-93)
- a. Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season which is open for antlered deer only. (7-1-93)
 - b. Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow point, and at least one (1) antler longer than three (3) inches may be taken in any season which is open for two-point deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)
 - c. ~~Four~~ Three-point deer. Only deer having at least one (1) antler with ~~four~~ three (~~4~~3) or more points not counting the brow point or tine may be taken in any season which is open for ~~four~~ three-point or larger deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (~~7-1-99~~)(3-19-01)T
 - d. Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. (7-1-99)
 - e. Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)
 - f. Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. (3-19-01)T
 - fg. Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. (7-1-93)
 - gh. Bighorn Sheep. Only bighorn sheep rams having three-fourths (3/4) curl or greater horns or exceeding four (4) years of age may be taken in any hunt open for rams only. Determination of a three-fourths (3/4) curl shall be made from a broad side view of the head. A ram shall be considered three-fourths (3/4) curl if an imaginary straight line extending downward from the front of the base of the horn through the center of the eye socket intersects any portion of the horn. (7-1-93)
- 03. Seasons Restricted To Antlerless Or Female Animals Only.** (7-1-93)
- a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season which is open for antlerless deer only. (7-1-93)
 - b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season which is open for antlerless elk only. (7-1-93)

c. Antelope. Only antelope without a black “cheek patch” or horns less than three (3) inches long may be taken during doe and fawn only antelope seasons. (7-1-93)

d. Bighorn sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. (7-1-93)

e. Moose. Only moose without antlers or with antlers less than six (6) inches long may be taken in any season which is open for antlerless moose only. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

410. UNLAWFUL METHODS OF TAKE.

No person shall take big game animals as outlined in this section. (7-1-93)

01. Firearms. (7-1-93)

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

b. With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

d. With a fully automatic firearm. (10-26-94)

e. With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope. (3-30-01)

02. Bows, Crossbows, Arrows, Bolts, Chemicals Or Explosives. (3-20-97)

a. With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. (7-1-93)

b. With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)

c. With any chemicals or explosives attached to the arrow or bolt. (7-1-93)

d. With arrows or bolts having expanding broadheads. (7-1-93)

e. With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)

f. With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. (3-30-01)

g. With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)

h. With any compound bow with more than sixty-five percent (65%) let-off. (7-1-93)

i. With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than four

- hundred (400) grains. (3-20-97)
- j. With an arrow less than twelve (12) inches from the broadhead to the nock inclusive. (3-30-01)
 - k. With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)
 - l. During an ARCHERY ONLY season, with any firearm, crossbow (except disabled archers), or other implement other than a longbow, compound bow, or recurve bow, or: (3-20-97)
 - i. With any device attached that holds a bow at partial or full draw. (7-1-93)
 - ii. With any bow or crossbow equipped with magnifying sights. (3-20-97)
 - m. During a TRADITIONAL ARCHERY ONLY season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (3-19-01)T
 - i. With an arrow not constructed of wood or fletched with non-natural material. (3-19-01)T
 - ii. With any bow equipped with sights. (3-19-01)T
 - ~~n.~~ With any crossbow pistol. (3-20-97)
- 03. Muzzleloaders.** (7-1-93)
- a. With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, antelope, or mountain lion, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-93)
 - b. With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)
 - c. During a MUZZLELOADER ONLY season, with any firearm, muzzleloading pistol or other implement other than a muzzleloading rifle or musket which:
 - i. Is at least forty-five (.45) caliber for deer, antelope or mountain lion or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (7-1-93)
 - ii. Is capable of being loaded only from the muzzle. (7-1-93)
 - iii. Is equipped only with open or peep sights. (7-1-93)
 - iv. Is loaded only with black powder or, Pyrodex or other synthetic black powder. (3-20-97)
 - v. Is equipped with no more than two (2) barrels. (7-1-93)
 - vi. Is loaded only with a projectile of at least four hundred twenty-eight (.428) caliber. (3-20-97)
 - vii. Is equipped only with flint or percussion cap. (3-20-97)
 - d. During a TRADITIONAL MUZZLELOADER ONLY season, with any firearm other than a muzzleloader rifle or musket with an exposed hammer that pivots: (3-19-01)T
 - i. Is loaded only with loose black powder or Pyrodex. (3-19-01)T
 - ii. Is loaded only with a patched round ball projectile. (3-19-01)T
- 04. Short-Range Weapon.** During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)

- a. With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)
- b. With any muzzleloader that is at least forty-five (0.45) caliber for deer, antelope, or mountain lion or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-99)
- c. With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)
- 05. Other.** (7-1-93)
- a. With electronic calls EXCEPT for the hunting of mountain lions in Units 41, 42 and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. (~~7-1-93~~)(3-19-01)T
- b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, "Rules Governing the Use of Bait for Taking Big Game Animals". (3-30-01)
- c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)
- d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment. (7-1-93)
- e. In Traditional Archery and Muzzleloader Hunts, the use of motorized vehicles shall be limited to public highways and improved highways which are open to public use. (3-19-01)T

(BREAK IN CONTINUITY OF SECTIONS)

421. MANDATORY DEER AND ELK REPORT REQUIREMENTS.

01. Mandatory Report Form. After an antelope, deer and/or elk is killed the hunter must accurately complete a Mandatory Report as provided by the Director. (3-19-01)T

02. Mandatory Report. Any hunter that obtains an antelope, deer and/or elk tag and kills an antelope, deer and/or elk must submit a completed Mandatory Report to the Department or authorized agent, WITHIN TEN (10) DAYS OF KILL any hunter that obtains an antelope, deer and/or elk tag and does not successfully kill an antelope, deer and/or elk must submit a completed Mandatory Report Form to the Department or authorized agent WITHIN TEN (10) DAYS OF THE CLOSING DATE OF THE APPROPRIATE SEASON. (3-19-01)T

03. Failure To Report. Failure to submit the required antelope, deer and/or elk Mandatory Report by January 31 of the following year as required in Subsection 421.02 will render the hunter ineligible to obtain any subsequent year's license until a Mandatory Report is filed with the Department or authorized agent. (3-19-01)T

04. Drawing For "Super" Tag. All successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags. Each hunter drawn for a "Super" controlled antelope/deer/elk hunt must notify the Department by May 1 of which species they have selected to hunt. The "Super" controlled hunt tag is valid for the selected species and allows the hunter to hunt in any open general and/or controlled hunt for the selected species in the following season. (3-19-01)T

~~424~~ -- 499. (RESERVED).

500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

01. Restricted Areas For Big Game. Hunting, killing, or molesting of any big game animal is prohibited in the following areas: (7-1-93)

a. Craters of the Moon National Monument in Blaine and Butte Counties; the boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. (~~7-1-93~~)(3-19-01)T

b. All state parks, EXCEPT Farragut State Park that has a November/December deer archery season; (7-1-93)

c. All state land within City of Rocks National Reserve in Unit 55; (7-1-93)

d. Idaho National Engineering and Environmental Laboratory (INEEL) site in Bingham, Bonneville, Butte, Clark, and Jefferson Counties, EXCEPT as modified in General A Tag hunt in the Big Desert Zone, elk controlled hunt areas 51-1, 51-2, 51-3, and 51-4 and antelope controlled hunt areas 51-2, 63-1 and 63-2. (4-5-00)

e. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

f. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 to Warm Springs Avenue and then along Warm Springs Avenue and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits; (7-1-99)

g. Yellowstone National Park in Fremont County; (7-1-93)

h. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which hunting closures have been declared by legislative or Commission action; (7-1-93)

i. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges; and, (7-1-93)

j. All Snake River islands between the Glenns Ferry bridge and the Sailor Creek bridge in Elmore County. (7-1-93)

k. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area of fifty (50) feet in elevation above the high water level of the Snake River. The upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river. (3-20-97)

02. Mountain Lions. Mountain lion may not be hunted or pursued within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. (7-1-93)

03. Black Bear. Black bear may not be hunted or pursued within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

ONLY THOSE HUNT UNITS THAT HAVE CHANGES ARE BEING PUBLISHED.

600. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS.

SUBSECTION 600.59

59. Unit 46. Those portions of ELMORE, OWYHEE, and TWIN FALLS COUNTIES within the following boundary: beginning at the State Highway 51 bridge on the Snake River, then upstream (INCLUDING ALL ISLANDS) to the Gridley Bridge across the Snake River near Hagerman, then southeast on U.S. 30 to U.S. 93, then south on U.S. 93 to Rogerson, then southwest on the Rogerson-Three Creek-Jarbidge Road to the Jarbidge River, then downstream to the West Fork of the Bruneau River, then downstream to the Bruneau River, then downstream to State Highway 51, then north on State Highway 51 to the Snake River, the point of beginning. THREE ISLAND STATE PARK AND ALL SNAKE RIVER ISLANDS BETWEEN THE GLENN'S FERRY BRIDGE AND THE SAILOR CREEK SLICK BRIDGE-CLOSED. (7-1-93)(3-19-01)T

SUBSECTION 600.63

63. Unit 50. Those portions of BLAINE, BUTTE, and CUSTER COUNTIES within the Big Lost River drainage north of U.S. 20-26 and State Highway 33, and the area east of Lava Lake and Copper Creek and north of U.S. 20-26. CRATERS OF THE MOON NATIONAL MONUMENT-CLOSED. The boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. (7-1-93)(3-19-01)T

SUBSECTION 600.66

66. Unit 52A. Those portions of BLAINE, BUTTE, LINCOLN, and MINIDOKA COUNTIES within the following boundary: beginning at Shoshone, then north and east on U.S. 93 to Arco, then south on the Arco-Minidoka Road to Minidoka, then northwest on State Highway 24 to Shoshone, the point of beginning. CRATERS OF THE MOON NATIONAL MONUMENT-CLOSED. The boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. (7-1-93)(3-19-01)T

(BREAK IN CONTINUITY OF SECTIONS)

605. ELK ZONE DESCRIPTIONS.

- 01. Panhandle Zone.** All of Units 1, 2, 3, 4, 4A, 5, 6, 7, and 9. (7-1-99)
- 02. Palouse Zone.** All of Units 8, 8A, and 11A. (7-1-99)
- 03. Dworshak Zone.** All of Unit 10A. (7-1-99)

- | | | |
|-----|---|--------------------------------|
| 04. | Hells Canyon Zone. All of Units 11, 13, and 18. | (7-1-99) |
| 05. | Lolo Zone. All of Units 10 and 12. | (7-1-99) |
| 06. | Elk City Zone. All of Units 14, 15, and 16. | (7-1-99) |
| 07. | Selway Zone. All of Units 16A, 17, 19, and 20. | (7-1-99) |
| 08. | Middle Fork Zone. All of Units 20A, 26, and 36B. | (7-1-99) |
| 09. | Salmon Zone. All of Units 21, 21A, 27, and 28. | (4-5-00) |
| 10. | Weiser River Zone. All of Units 22, 32, and 32A. | (4-5-00) |
| 11. | McCall Zone. All of Units 19A, 23, 24, and 25. | (7-1-99) |
| 12. | Lemhi Zone. All of Units 29, 37, 37A, and 51. | (7-1-99) |
| 13. | Beaverhead Zone. All of Units 30, 30A, 58, 59, and 59A. | (7-1-99) |
| 14. | Brownlee Zone. All of Unit 31. | (7-1-99) |
| 15. | Sawtooth Zone. All of Units 33, 34, 35, and 36. | (7-1-99) |
| 16. | Pioneer Zone. All of Units 36A, 49, and 50. | (7-1-99) |
| 17. | Owyhee-South Hill Zone. All of Units 38, 40, 41, 42, 46, 47, 54, 55, and 57. | (4-5-00) |
| 18. | Boise River Zone. All of Unit 39. | (7-1-99) |
| 19. | Smokey Mountains Zone. All of Units 43, 44, and 48. | (7-1-99) (3-19-01)T |
| 20. | Bennett Hills Zone. All of Units 45 and 52. | (7-1-99) |
| 21. | Big Desert Zone. All of Units 52A, 53, 63, 63A, 68, and 68A. | (7-1-99) |
| 22. | Island Park Zone. All of Units 60, 60A, 61, and 62A. | (7-1-99) |
| 23. | Teton Zone. All of Units 62 and 65. | (7-1-99) |
| 24. | Palisades Zone. All of Units 64 and 67. | (7-1-99) |
| 25. | Tex Creek Zone. All of Units 66 and 69. | (7-1-99) |
| 26. | Bannock Zone. All of Units 56, 70, 71, 72, 73, 73A, and 74. | (7-1-99) |
| 27. | Bear River Zone. All of Units 75, 77, and 78. | (7-1-99) |
| 28. | Diamond Creek Zone. All of Units 66A and 76. | (7-1-99) |
| 29. | Snake River Zone. All of Units 53, 63, 63A, and 68A. | (3-19-01)T |

(BREAK IN CONTINUITY OF SECTIONS)

700. CONTROLLED HUNT AREA DESCRIPTIONS - DEER.

- 01. Hunt Area 1.** All of Unit 1 excluding the Kootenai River drainage. (4-5-00)
- 02. Hunt Area 10AX.** That portion of Unit 10A west of the Clearwater National Forest boundary, south of Forest Service Road 250, west of State Highway 11 north of Pierce and south of the Grangemont county road. (7-1-98)
- 03. Hunt Area 11.** All of Unit 11. (10-26-94)
- 04. Hunt Areas 11A and 11AX-1.** All of Unit 11A. (~~3-30-01~~)(3-19-01)T
- 05. Hunt Area 11AX-2.** That portion of Unit 11A south of State Highway 162 and east of State Highway 7. (3-19-01)T
- ~~056.~~ **Hunt Area 13.** All of Unit 13. (7-1-99)
- ~~067.~~ **Hunt Area 14.** All of Unit 14. (7-1-99)
- ~~078.~~ **Unit Area 18.** All of Unit 18. (7-1-99)
- ~~089.~~ **Hunt Area 16X.** That portion of Unit 16 south of the Selway River, and west of the O'Hara Creek Road (Forest Service Road 651), and that portion of Unit 15 north of the following boundary: Beginning at the junction of the South Fork Clearwater River with Forest Service Road 244, then east along Forest Service Road 244 to Forest Service Road 1106, then east along Forest Service Road 1106 to its junction with Forest Service Road 284. (3-30-01)
- ~~0910.~~ **Hunt Area 19A.** All of Units 19A, ~~20A, 22, 23, 24, 25, 26, 31, 32, 32A, 33, 34, 35, 38 and 39.~~ (~~3-30-01~~)(3-19-01)T
- ~~101.~~ **Hunt Area 20A.** All of Unit 20A. (4-5-00)
- ~~142.~~ **Hunt Area 21.** All of Units 21, 21A, 28, 29, 30, 37, and 37A. (3-30-01)
- ~~123.~~ **Hunt Area 22.** All of Unit 22. (3-30-01)
- ~~134.~~ **Hunt Area 23.** All of Unit 23. (10-26-94)
- ~~145.~~ **Hunt Area 25.** All of Unit 25. (7-1-93)
- ~~156.~~ **Hunt Area 26.** All of unit 26. (4-5-00)
- ~~167.~~ **Hunt Area 27.** All of Unit 27. (4-5-00)
- ~~178.~~ **Hunt Area 29.** All of Units 29, 37, and 37A. (7-1-99)
- ~~189.~~ **Hunt Area 31.** All of Unit 31. (3-30-01)
- ~~1920.~~ **Hunt Area 32.** All of Unit 32. (3-30-01)
- ~~201.~~ **Hunt Area 32A.** All of Unit 32A. (3-30-01)
- ~~212.~~ **Hunt Areas ~~33-1 and 39-2.~~** All of Units 33 and 35, and that portion of Unit 34 south and west of the Landmark Stanley Road. (~~3-30-01~~)(3-19-01)T
- ~~223.~~ **Hunt Area 39-1.** All of Unit 39. (~~3-30-01~~)(3-19-01)T

- 234. Hunt Area 39-2.** All of Unit 39 EXCEPT that portion of Unit 39 south and east of the Black's Creek Road and the South Fork of the Boise River. (3-30-01)
- 245. Hunt Area 39-3.** That portion of Unit 39 within the following boundary: Beginning at a point four hundred (400) yards north of State Highway 21 at the Ada County Line, south and west on a line four hundred (400) yards north of State Highway 21 to Warm Springs Avenue, and west on a line four hundred (400) yards north of Warm Springs Avenue to the Highlands-Table Rock powerline, north and west on the Highlands-Table Rock powerline to State Highway 55, north on Highway 55 to the Ada County Line, and southeast on the Ada County Line to the point of beginning. (4-5-00)
- 256. Hunt Areas 40-1 and 40-3.** All of Unit 40. (3-30-01)
- 267. Hunt Area 40-2.** All of Units 40, 41, and 42. (4-5-00)
- 278. Hunt Area 41.** All of Unit 41. (3-30-01)
- 289. Hunt Areas 42-1 and 42-2.** All of Unit 42. (3-30-01)
- 2930. Hunt Area 43-1.** All of Unit 43. (3-30-01)
- 30. ~~Hunt Area 43-2.~~** ~~All of Units 43, 48, 46, 47, 49, 52A, 54, 55, 56, and 57.~~ (~~3-30-01~~)
- 31. Hunt Area 44-1.** All of Unit 44. (3-30-01)
- 32. Hunt Area 44-2.** All of Units 44, 45, and 52 EXCEPT that portion of Unit 45 within the following boundary: Beginning at Bliss, then north on the Bliss-Hill City Road to the two-pole powerline at White Arrow Ponds (9.5 miles north of Bliss), then west along the two-pole powerline to U.S. Highway 20 (milepost 102.3), then southwest on U.S. Highway 20 to Mountain Home, then south on State Highway 51 to the Snake River, then upstream on the Snake River to the Malad River, then upstream on the Malad River to U.S. Highway 30, then northwest on U.S. Highway 30 to Bliss, the point of beginning. (~~3-30-01~~)(3-19-01)T
- 33. Hunt Area 45-1.** All of Unit 45, EXCEPT that portion of Unit 45 within the following boundary: Beginning at Bliss, then north on the Bliss-Hill City Road to the two-pole powerline at White Arrow Ponds (nine point five (9.5) miles north of Bliss), then west along the two-pole powerline to U.S. 20 (milepost 102.3), then southwest on U.S. 20 to Mountain Home, then south on U.S. 51 to the Snake River, then upstream on the Snake River to the Malad River, then up the Malad River to U.S. 30, then northwest on U.S. 30 to Bliss, the point of beginning. (~~3-30-01~~)(3-19-01)T
- 34. Hunt Area 45-2.** All of Unit 45, EXCEPT that portion of Unit 45 within the following boundary: Beginning at Bliss, then north on the Bliss-Hill City Road to the two-pole powerline at White Arrow Ponds (nine point five (9.5) miles north of Bliss), then west along the two-pole powerline to U.S. Highway 20 (milepost 102.3), then southwest on U.S. Highway 20 to Mountain Home, then south on State Highway 51 to the Snake River, then upstream on the Snake River to the Malad River, then up the Malad River to U.S. Highway 30, then northwest on U.S. Highway 30 to Bliss, the point of beginning. (3-19-01)T
- 35. Hunt Area 45-3.** That portion of Unit 45 within the following boundary: Beginning at Bliss, then north on the Bliss-Hill City Road to the two-pole powerline at White Arrow Ponds (9.5 miles north of Bliss), then west along the two-pole powerline to U.S. Highway 20 (milepost 102.3), then southwest on U.S. Highway 20 to Mountain Home, then south on State Highway 51 to the Snake River, then upstream on the Snake River to the Malad River, then upstream on the Malad River to U.S. Highway 30, then northwest on U.S. Highway 30 to Bliss, the point of beginning. (3-19-01)T
- 36. Hunt Area 46.** All of Units 46, 47, 54, 55, and 57. (3-19-01)T
- 347. Hunt Area 47-1.** All of Unit 47. (7-1-98)
- 358. Hunt Area 47-2.** All of Units 46 and 47. (10-26-94)

- ~~369.~~ **Hunt Area 48.** All of Unit 48. (10-26-94)
- ~~3740.~~ **Hunt Area 49.** All of Unit 49. (10-26-94)
- ~~3841.~~ **Hunt Area 50X.** All of Units 50, 51, 58, 59, 59A, 60, 60A, 61, 62, 62A, 63, 63A, 64, 65, 66, 67,
and 69. (4-5-00)
- ~~3942.~~ **Hunt Area 50-1.** That portion of Unit 50 west of U.S. Highway 93. (3-30-01)
- ~~403.~~ **Hunt Area 50-2.** All of Unit 50. (7-1-98)
- ~~414.~~ **Hunt Area 51.** All of Unit 51 and that portion of Unit 50 east of U.S. Highway 93. (3-30-01)
- ~~425.~~ **Hunt Area 52.** All of Unit 52. (3-30-01)
- ~~436.~~ **Hunt Area 52A.** All of Unit 52A. (7-1-93)
- ~~447.~~ **Hunt Area 54.** All of Unit 54. (3-30-01)
- ~~458.~~ **Hunt Area 55.** All of Unit 55. Most of City of Rocks National Reserve is open to hunting.
Information about hunting within the Reserve is available to permittees at Department offices and at the National
Park Service office in Almo. (3-30-01)
- ~~469.~~ **Hunt Area 56.** All of Unit 56. (10-26-94)
- ~~4750.~~ **Hunt Area 57.** All of Unit 57. (3-30-01)
- ~~4851.~~ **Hunt Area 58.** All of Units ~~58, 59, and 59A.~~ (~~10-26-94~~)(3-19-01)T
- ~~4952.~~ **Hunt Area 59.** All of Units 59 and 59A. (3-30-01)
- ~~503.~~ **Hunt Area 60.** All of Unit 60, 61, and 62A. (7-1-98)
- ~~514.~~ **Hunt Area 60A.** That portion of Unit 60A south of the Dubois-Kilgore Road and west of the
Parker-Salem Road (Red Road) and beyond one (1) mile north and west of the North (Henry's) Fork of the Snake
River. (3-30-01)
- ~~525.~~ **Hunt Area 61.** All of Unit 61. (3-20-97)
- ~~536.~~ **Hunt Area 62.** All of Units ~~62 and 65.~~ (~~7-1-98~~)(3-19-01)T
- ~~547.~~ **Hunt Area 63.** All of Unit 63. (7-1-99)
- ~~558.~~ **Hunt Area 63A.** All of 63A. (7-1-99)
- ~~569.~~ **Hunt Area 64.** All of Unit 64 and that portion of Unit 67 north and east of State Highway 26.
(7-1-99)
- ~~5760.~~ **Hunt Area 65X.** All of Unit 65. (7-1-98)
- ~~5861.~~ **Hunt Area 66.** All of Unit 66. (3-30-01)
- ~~5962.~~ **Hunt Area 68A.** All of Unit 68A. (3-20-97)
- ~~603.~~ **Hunt Area 69-1.** That portion of Unit 69 north and east of the Grays Lake-Long Valley-Bone-Iona
Road. (7-1-98)

- ~~644.~~ **Hunt Area 69-2.** All of Unit 69. (7-1-98)
- ~~625.~~ **Hunt Area 72.** All of Unit 72. (3-20-97)
- ~~636.~~ **Hunt Area 75.** All of Unit 75, 77, and 78. EXCEPT ~~that portion~~ the private land in Unit 75 east and north of the Bear River is CLOSED. (~~4-5-00~~)(3-19-01)T
- 701. CONTROLLED HUNT AREA DESCRIPTIONS - ELK.**
- 01. Hunt Area 4.** All of Units 4 and 7. (3-20-97)
- 02. Hunt Area 8-1.** That portion of Units 8 and 8A north of the following line: Beginning at the western boundary of Unit 8 at its junction with State Highway 8, then east on Highway 8 to State Highway 9, then northwest on Highway 9 to State Highway 6, then north on Highway 6 to the Unit 8A boundary. (3-30-01)
- 03. Hunt Area 8-2.** That portion of Units 8 and 8A south of the following line: Beginning at the western boundary of Unit 8 at its junction with State Highway 8, then east on Highway 8 to Forest Service Road 1963 at Helmer, then south and east on Forest Service Road 1963 to Long Meadow Creek, then southeast along Long Meadow Creek to Dworshak Reservoir, then ~~south east~~ east along the ~~western~~ shoreline of Dworshak Reservoir to the Unit 8A boundary at ~~Dworshak Dam~~ Dent Bridge. (~~3-30-01~~)(3-19-01)T
- 04. Hunt Area 10A-1.** That portion of Unit 10A west of the Clearwater National Forest boundary, south of Forest Service Road 250, south of State Highway 11 from Pierce to Weippe, and Jim Ford Creek from Weippe to its junction with the Clearwater River. (3-30-01)
- 05. Hunt Area 11.** All of Unit 11. (3-30-01)
- 06. Hunt Area 11A.** All of Unit 11A. (7-1-99)
- 07. Hunt Area 13.** All of Unit 13. (3-30-01)
- 08. Hunt Area 14.** That portion of Unit 14 north of the following line: Beginning on the Unit 14 west boundary on the Slate Creek Road (Forest Service Road 354), then east on the Slate Creek Road to Forest Service Road 221, then north on Forest Service Road 221 to the Unit 14 east boundary. (3-30-01)
- 09. Hunt Area 18.** All of Unit 18. (3-30-01)
- 10. Hunt Area 19A.** All of Unit 19A. (3-30-01)
- 11. Hunt Area 21.** All of Unit 21. (4-5-00)
- 12. Hunt Area 22-1.** That portion of Unit 22 described as follows: Beginning at the junction of U.S. 95 and the West Fork Weiser River Road (Forest Service Road 127), then north on Forest Service Road 127 to Grouse Creek Road (Forest Service Road 123), then northwest on Forest Service Road 123 to the watershed divide between Lick Creek and Lost Creek drainages, then north on the divide between Lick Creek and Lost Creek drainages to Lick Creek Lookout, then west on Unit 22 boundary to the Snake River, then south on the Snake River to State Highway 71, then southeast on State Highway 71 to Cambridge, then north on U.S. 95 to the point of beginning. (3-30-01)
- 13. Hunt Area 22-2.** That portion of Unit 22 as follows: Beginning at the junction of U.S. 95 and the West Fork Weiser River Road (Forest Service Road 127), then north on Forest Service Road 127 to Grouse Creek Road (Forest Service Road 123), then northwest on Forest Service Road 123 to the watershed divide between Lick Creek and Lost Creek drainages, then north on the divide between Lick Creek and Lost Creek drainages to Lick Creek Lookout, then east along Unit 22 boundary to U.S. 95 to the point of beginning. (5-15-95)
- 14. Hunt Area 22-3.** All of Unit 22. (3-30-01)

15. **Hunt Area 23-1.** All of Unit 23. (10-26-94)
16. **Hunt Area 23-2.** That portion of Unit 23 within the Little Salmon River drainage, upstream from but excluding the Round Valley Creek drainage on the west side of the Little Salmon River; and upstream from but excluding the Hazard Creek drainage on the east side of the Little Salmon River, EXCEPT the Little Goose Creek drainage and the Goose Creek drainage above Little Goose Creek are CLOSED. (3-30-01)
17. **Hunt Area 23-3.** That portion of Unit 23 west of U.S. 95 and north of, and excluding, the Boulder Creek drainage. (3-30-01)
18. **Hunt Area 23-4.** That portion of Unit 23 which drains into the main Salmon River upstream from its confluence with the Little Salmon River to the French Creek-Burgdorf Road. (3-30-01)
19. **Hunt Area 24-1.** That portion of Unit 24 within the following boundary: Beginning at the junction of State Highway 55 and the Warm Lake Road, then east along Warm Lake Road to the Unit 24/25 boundary, then north along the Unit 24/25/19A boundary to the intersection of the Unit 24/19A/23 boundaries, then south along the Unit 24/23/32A boundary to Forest Service Road 186 at No Business Saddle, then southeast on Forest Service Road 186 to West Mountain Road, then south on West Mountain Road to Tamarack Falls Road, then east on Tamarack Falls Road to Norwood Road, then north on Norwood Road to West Roseberry Road, then east on West Roseberry Road to State Highway 55, then south on State Highway 55 to the point of beginning. EXCEPT Short Range Weapons ONLY in that portion within the following boundary: Beginning in McCall at the junction of State Highway 55 and Boydston Street, then south on Boydston Street to West Valley Road, then west and south along West Valley Road and West Mountain Road to Tamarack Falls Road, then east on West Roseberry Road to State Highway 55, then south on State Highway 55 to Farm-to-Market Road, then north on Farm-to-Market Road to Elo Road, then west on Elo Road to State Highway 55, then north on State Highway 55 to the point of beginning. (3-30-01)
20. **Hunt Area 24-2.** That portion of Unit 24 within the following boundary: Beginning north of Cascade at the junction of State Highway 55 and Warm Lake Road, then north on Highway 55 to West Roseberry Road, then west on West Roseberry Road to Norwood Road, then south on Norwood Road to Tamarack Falls Road, then west on Tamarack Road to West Mountain Road, then north on West Mountain Road to Forest Service Road 186, then northwest on Forest Service Road 186 to No Business Saddle, then south along the Unit 24/32A unit boundary to the intersection of the Unit 24/32A/33 boundaries at Smith's Ferry, then north along the Unit 24/33/25 boundary to Warm Lake Road, then west on Warm Lake Road to the point of beginning. EXCEPT Short Range Weapons Only within the following boundary: Beginning in Donnelly at the junction of State of State Highway 55 and West Roseberry Road, then west on West Roseberry Road to West Mountain Road, then south on West Mountain Road to Cabarton Road, then north on Cabarton Road to State Highway 55, then north on State Highway 55 to the point of beginning. (3-30-01)
21. **Hunt Area 24-3.** All of Unit 24. (4-5-00)
22. **Hunt Area 25.** All of Unit 25. (3-30-01)
23. **Hunt Area 28-1.** All of Unit 28. (~~4-5-00~~)(3-19-99)T
24. **Hunt Area 28-2.** All of Units 28 and 36B. (3-19-01)T
245. **Hunt Area 29-1.** All of Unit 29. (7-1-99)
256. **Hunt Area 29-2.** All of Units 29 and 37A. (7-1-99)
267. **Hunt Area 30-1.** All of Units 30, 30A, 58, 59, and 59A. (7-1-99)
278. **Hunt Area 30-2.** All of Unit 30 and that portion of Unit 21A within the Carmen Creek drainage. (3-30-01)
289. **Hunt Area 30A.** All of Unit 30A. (3-30-01)

- ~~2930.~~ **Hunt Area 31.** All of Unit 31. (3-30-01)
- 301. Hunt Area 32-1.** That portion of Unit 32 south and east of the following boundary: Beginning at the mouth of Big Willow Creek, north and east on Big Willow Creek to the point where Four Mile Road crosses Big Willow Creek, then north on Four Mile Road to the Riley Butte Road, then east on the Riley Butte Road to the North Crane Road, then north on the North Crane Road to the Emmett/Council Road, then north on the Emmett/Council Road to U.S. Highway 95. ~~(3-30-01)~~(3-19-01)T
- ~~31. Hunt Area 32-2.~~ *That portion of Unit 32 north and west of the following boundary: Beginning at the mouth of Big Willow Creek, north and east on Big Willow Creek to the point where Four Mile Road crosses Big Willow Creek, then north on Four Mile Road to the Riley Butte Road, then east on the Riley Butte Road to the North Crane Road, then north on the North Crane Road to the Emmett/Council Road, then north on the Emmett/Council Road to U.S. Highway 95.* ~~(4-5-00)~~
- 32. Hunt Area 32A.** All of Unit 32A. (3-30-01)
- 33. Hunt Area 33-1.** That portion of Unit 33 outside of the exterior boundary of the Boise National Forest. (3-30-01)
- 34. Hunt Area 33-2.** All of Units 33 and 35 and that portion of Unit 34 south and west of the Landmark-Stanley Road. (3-30-01)
- 35. Hunt Area 36.** All of Unit 36. (3-30-01)
- 36. Hunt Area 36A-1.** That portion of Unit 36A west of the East Fork of the Salmon River and that portion east of the East Fork of the Salmon River upstream from and including the West Pass Creek drainage. (3-30-01)
- 37. Hunt Area 36A-2.** That portion of Unit 36A east of the East Fork of the Salmon River downstream from but EXCLUDING the West Pass Creek drainage; and that portion of Unit 50 north of Trail Creek Road and west of U.S. 93, and that portion of Unit 50 north of the Doublespring Pass Road east of U.S. 93. (3-30-01)
- 38. Hunt Area 36B.** All of Unit 36B. (4-5-00)
- 39. Hunt Area 37.** All of Unit 37. (3-30-01)
- 40. Hunt Areas 37A-1 and 37A-2.** All of Unit 37A. (3-30-01)
- 41. Hunt Area 39-1.** That portion of Unit 39 south and east of the Blacks Creek Road and the South Fork of the Boise River. (7-1-98)
- 42. Hunt Area 39-2.** That portion of Unit 39 south and east of State Highway 21. (7-1-98)
- 43. Hunt Area 39-3.** That portion of Unit 39 north and west of State Highway 21. (7-1-98)
- 44. Hunt Area 39-4.** That portion of Unit 39 north and west of the following boundary: Beginning in Boise, north on the Bogus Basin Road to Bogus Basin, then north on Forest Service Road 374 (Boise Ridge Road) to the Unit 39 boundary at Hawley Mountain and that portion of Unit 32 south of State Highway 52 in Boise and Gem Counties. (3-30-01)
- 45. Hunt Area 40.** All of Units 40, 41, and 42. (3-30-01)
- 46. Hunt Area 43.** All of Unit 43. (3-30-01)
- 47. Hunt Area 44.** All of Unit 44. (3-30-01)
- 48. Hunt Area 45.** All of Units 45 and 52. (3-30-01)

- 49. Hunt Area 48-1.** All of Unit 48. (3-30-01)
- 50. Hunt Area 48-2.** That portion of Unit 48 north Trail Creek and the Ketchum-Warm Springs Creek-Dollarhide Summit Road. (3-30-01)
- 51. Hunt Area 48-3.** That portion of Unit 48 south of the Ketchum-Warm Springs Creek-Dollarhide Summit Road. (3-30-01)
- 52. Hunt Area 49.** All of Unit 49 and that portion of Unit 50 in the Copper Creek and Cottonwood Creek drainages west of the Craters of the Moon National Monument. The boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. ~~(3-30-01)~~(3-19-01)T
- 53. Hunt Area 50-1.** That portion of Unit 50 south of the Doublespring Pass Road east of U.S. 93, and that portion south of the Trail Creek Road west of U.S. 93 but EXCLUDING the Copper Creek and Cottonwood Creek drainages west of the Craters of the Moon National Monument. The boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. ~~(3-30-01)~~(3-19-01)T
- 54. Hunt Area 50-2.** That portion of Unit 50 west of U.S. 93 but EXCLUDING the North Fork and East Fork of the Big Lost River drainages, and the Copper Creek and Cottonwood Creek drainages west of the Craters of the Moon National Monument. The boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. ~~(3-30-01)~~(3-19-01)T
- 55. Hunt Area 50-3.** That portion of Unit 50 east of U.S. Highway 93. (3-19-01)T
- 556. Hunt Area 51-1.** All of Unit 51 including that portion of this hunt within one-half (1/2) mile inside the north and west boundary of the Idaho National Engineering and Environmental Laboratory (INEEL) adjacent to agricultural lands. (3-30-01)
- 567. Hunt Area 51-2.** That portion of Unit 51 south of ~~Deer Wet Creek and Cedar Run Creek~~ Creek Road and Bell Mountain Creek, and that portion of Unit 58 south of and including Kyle Canyon drainages north and west of State Highway 22, including all the Idaho Engineering and Environmental Laboratory (INEEL) lands in Units 51 and 58 within the described boundary. ~~(3-30-01)~~(3-19-01)T
- 578. Hunt Area 51-3.** That portion of Unit 51 south of ~~Deer Wet Creek and Cedar Run Creek~~ Creek Road and Bell Mountain Creek, and within one (1) mile of private fields on which cultivated crops are currently growing, and that portion of Unit 58 south of and including the Kyle Canyon drainage north and west of State Highway 22, including all the Idaho National Engineering and Environmental Laboratory (INEEL) lands in Units 51 and 58 within the described boundary. ~~(3-30-01)~~(3-19-01)T
- 589. Hunt Area 52A.** All of Units 52A and 68. ~~(3-30-01)~~(3-19-01)T

- ~~5960.~~ **Hunt Area 56-1.** All of Units 56, 70, 71, 72, 73, 73A and 74. (3-30-01)
- ~~601.~~ **Hunt Area 56-2.** All of Unit 56. (3-30-01)
- ~~612.~~ **Hunt Area 58-1.** All of Unit 58, 59, and 59A. (7-1-99)
- ~~623.~~ **Hunt Area 58-2.** All of Unit 58. (7-1-99)
- ~~634.~~ **Hunt Area 59.** All of Units 59 and 59A. (7-1-99)
- ~~645.~~ **Hunt Area 60-1.** All of Units 60, 61, and 62A, EXCEPT the Harriman State Park Wildlife Refuge is CLOSED. (7-1-99)
- ~~656.~~ **Hunt Area 60-2.** All of Unit 60, EXCEPT the Harriman State Park Wildlife Refuge is CLOSED. (3-30-01)
- ~~667.~~ **Hunt Area 60A.** That portion of Unit 60A south of the Dubois-Kilgore Road and west of the Parker-Salem Road (Red Road). (3-30-01)
- ~~678.~~ **Hunt Area 61.** All of Unit 61. (3-30-01)
- ~~689.~~ **Hunt Area 62.** That portion of Unit 62 east of the following described boundary: beginning at the junction of State Highway 33 and State Highway 32, then north on State Highway 32 to Lamont, then north on 4700 East approximately five miles to 1100 North, then west on 1100 North approximately two (2) miles to 4500 East, then north on 4500 East to Robinson Creek and that portion of Unit 65 east State Highway 33. (3-30-01)
- ~~6970.~~ **Hunt Area 62A-1.** That portion of Unit 62A west of the Henrys Fork of the Snake River and that portion of Unit 60 south of the Microwave Tower Road and east of the powerline to its intersection with Ashton Reservoir. (7-1-99)
- ~~701.~~ **Hunt Area 62A-2.** That portion of Unit 62A east of the Henrys Fork of the Snake River. (7-1-99)
- ~~712.~~ **Hunt Area 64.** All of Unit 64 and that portion of Unit 65 west of Highway 33. (3-30-01)
- ~~72.~~ ~~**Hunt Area 66.** All of Unit 66, and that portion of Unit 69 north and east of the Gray's Lake-Long Valley-Bone-Iona Road.~~ (4-5-00)
- ~~73.~~ **Hunt Area 66A.** All of Units 66A and 76. (3-30-01)
- ~~74.~~ **Hunt Area 67.** That portion of Unit 67 south and east of Dry Creek and south and west of Fleming Canyon. (~~3-30-01~~)(3-19-01)T
- ~~75.~~ **Hunt Area 69.** That portion of Unit 69 south and west of the Gray's Lake-Long Valley-Bone-Iona Road. (4-5-00)
- ~~76.~~ **Hunt Area 70.** All of Units 70, 71, 72, 73, 73A, and 74. (3-30-01)
- ~~77.~~ **Hunt Area 73.** That portion of Unit 73 east of Interstate Highway. (3-19-01)T
- ~~778.~~ **Hunt Area 75.** All of Units 75, 77, and 78. (3-30-01)
- ~~789.~~ **Hunt Area 76-1.** That portion of Unit 66A within the Miller and Newswander Creek drainages, the Jackknife Creek drainage east of the mouth of Squaw Creek, and east of the Cabin Creek-Haderlie Ridge Trail (Forest Service Trail 619), and that portion of Unit 76 within the following boundary: Beginning at the intersection of State Highway 34 and the Idaho-Wyoming border, then west approximately four (4) miles to the mouth of the South Fork of Tincup Creek and Forest Service Trail 014, then south up Trail 014 to the Stump Creek Road, then south and east along Stump Creek Road to the Idaho-Wyoming border, then north along the border to the junction of State Highway

34, the point of beginning. (~~3-30-01~~)(3-19-01)T

80. **Hunt Area 76-2.** That portion of unit 76 south of the Georgetown-Wells Canyon-Crow Creek Roads. (3-19-01)T

702. CONTROLLED HUNT AREA DESCRIPTIONS - MOOSE.

01. **Hunt Area 1-1.** That portion of Unit 1 ~~within the Kootenai River drainage west of U.S. Highway 95, and west of the Kootenai River. EXCEPT MYRTLE CREEK GAME PRESERVE - CLOSED~~ within the Priest River drainage, and those portions of the Pend Oreille and Salmon River drainages downstream from the Priest River drainage. (~~7-1-98~~)(3-19-01)T

02. **Hunt Area 1-2.** That portion of Unit 1 ~~east and north of the Kootenai River and west of the Moyie River~~ within the following boundaries: beginning on U.S. Highway 95 bridge across the Pend Oreille River at Sandpoint, then northward along Route 95 to the Kootenai River at Bonner's Ferry, then northwesterly along the Kootenai River to the U.S. border, then west along the U.S. border to the Priest River-Kootenai River divide, then south along the Priest River-Pack River divide to Flat Top Mountain, then south along the divide separating the Priest River drainage and the Pend Oreille River drainage to Priest River, then east along the Pend Oreille River to the point of beginning. EXCEPT MYRTLE CREEK GAME PRESERVE - CLOSED. (~~4-3-95~~)(3-19-01)T

03. **Hunt Area 1-3.** That portion of Unit 1 ~~north of the Kootenai River and east of the Moyie River~~ north and east of the Kootenai River. (~~4-3-95~~)(3-19-01)T

04. **Hunt Area 1-4.** That portion of Unit 1 ~~within the following boundary: Beginning at Bonners Ferry, then east along the Kootenai River to the Idaho-Montana border, then southwest along the Boulder Creek Star Creek divide to Calder Mountain, then west along the Kootenai River-Pack River divide to U.S. Highway 95, then north along the highway to the point of beginning~~ south of the Kootenai River and east of U.S. Highway 95. EXCEPT THE DAVID THOMPSON GAME PRESERVE - CLOSED. (~~4-3-95~~)(3-19-01)T

~~05. **Hunt Area 1-5.** That portion of Unit 1 within the Pend Oreille River drainage east of U.S. Highway 95. EXCEPT THE DAVID THOMPSON GAME PRESERVE - CLOSED. (4-3-95)~~

~~06. **Hunt Area 1-6.** That portion of Unit 1 within the Pend Oreille River drainage west of U.S. Highway 95 excluding the Priest River drainage. (4-3-95)~~

~~07. **Hunt Area 1-7.** Those portions of Unit 1 within the Salmon River drainage, and within the Priest River drainages west of Priest River. (7-1-98)~~

~~08. **Hunt Area 1-8.** That portion of Unit 1 within the Priest River drainage east of Priest River. (7-1-98)~~

~~09. **Hunt Area 1-9.** That portion of Unit 1 within the following boundary: Beginning at the Idaho-Montana border where it crosses the Kootenai River, then south along the Idaho-Montana border to the Kootenai River-Clark Fork watershed divide, then northwest along the watershed divide to Mount Pend Oreille, then north along the Kootenai River-Pack River watershed divide to Mount Calder, then northeast along the Boulder Creek Star Creek watershed divide to the point of beginning. (4-3-95)~~

~~105. **Hunt Area 2.** All of Unit 2. (4-3-95)~~

~~106. **Hunt Area 3.** All of Unit 3. (4-5-00)~~

~~107. **Hunt Area 4.** All of Units 4 and 4A. (4-5-00)~~

~~1308. **Hunt Area 6.** All of Units 5 and 6. (7-1-98)~~

~~1409. **Hunt Area 7.** All of Unit 7. (7-1-98)~~

- 150.** **Hunt Area 8-1 And 8-2.** All of Unit 8. (~~4-5-00~~)(3-19-01)T
- 161.** **Hunt Area 8A-1 And 8A-2.** All of Unit 8A. (~~4-5-00~~)(3-19-01)T
- 172.** **Hunt Area 9.** All of Unit 9. (4-3-95)
- 183.** **Hunt Area 10-1.** That portion of Unit 10 within the Cayuse Creek drainage. (4-3-95)
- 194.** **Hunt Area 10-2.** That portion of Unit 10 on the north side of the Kelly Creek drainage upstream from, but excluding, the Moose Creek drainage, and that portion on the south side of the Kelly Creek drainage upstream from, but excluding, the Cayuse Creek drainage. (4-3-95)
- 2015.** **Hunt Area 10-3.** That portion of Unit 10 on the north side of the Kelly Creek drainage upstream from its mouth to and including the Moose Creek drainage, and the North Fork of the Clearwater River drainage upstream from the mouth of Kelly Creek. (4-3-95)
- 216.** **Hunt Area 10-4.** That portion of Unit 10 within the Fourth of July Creek drainage, that portion on the south side of the North Fork of the Clearwater River from the mouth of Fourth of July Creek upstream to the mouth of Kelly Creek, and the south side of the Kelly Creek drainage from its mouth upstream to, but excluding, the Cayuse Creek drainage. (4-3-95)
- 2217.** **Hunt Area 10-5.** That portion of Unit 10 within the Weitas Creek drainage (a tributary of the upper North Fork of the Clearwater River), and the drainages on the southwest side of the North Fork of the Clearwater River from the Weitas Creek drainage to, but excluding, the Fourth of July Creek drainage. (4-3-95)
- 18.** **Hunt Area 10-6.** That portion of Unit 10 on the north side of the North Fork of the Clearwater River drainage downstream from the mouth of Kelly Creek. (3-19-01)T
- 2319.** **Hunt Area 10A-1.** That portion of Unit 10A within the following boundary: Beginning at the junction of the Unit 10A boundary with Forest Service Road 250 along the North Fork of the Clearwater River, then west along Forest Service Road 250 to Forest Service Road 669, then west and south along Forest Service Road 669 to Highway 11 at Pierce, then south on Highway 11 to Forest Service Road 100, then south on Forest Service Road 100 to ~~Forest Service Road 519, then southeast on Forest Service Road 519 to Forest Service Road 514, then east on Forest Service Road 514~~ the Clearwater National Forest boundary, then south along the Clearwater National Forest boundary to the Unit 10A boundary, then north along the Unit 10A boundary to the point of beginning. (~~4-3-95~~)(3-19-01)T
- 240.** **Hunt Area 10A-2.** That portion of Unit 10A within the following boundary: Beginning at the junction of Unit 10A boundary with Forest Service Road 247, then south on Forest Service Road 247 to Forest Service Road 251, then south on Forest Service Road 251 to Forest Service Road 246, then southwest on Forest Service Road 246 to State Highway 11 at Headquarters, then south on Highway 11 to Forest Service Road 669 at Pierce, then northeast on Forest Service Road 669 to Forest Service Road 250, then northeast on Forest Service Road 250, to the Unit 10A boundary, then north and east along the Unit 10A boundary to the point of beginning. (4-3-95)
- 251.** **Hunt Area 10A-3.** That portion of Unit 10A within the following boundary: Beginning at the Grandad Bridge on the Unit 10A boundary, then south and east along the Silver Creek-Casey Creek Road to Forest Service Road 247, then south on Forest Service Road 247 to Forest Service Road 246 at Headquarters, then northeast on Forest Service Road 246 to Forest Service Road 251, then north on Forest Service Road 251 to Forest Service Road 247, then north on Forest Service Road 247 to the Unit 10A boundary at the North Fork of the Clearwater River, then west on the Unit 10A boundary to the point of beginning. (7-1-98)
- 262.** **Hunt Area 10A-4.** That portion of Unit 10A north of Forest Service Road 1705 from Elk River to Grandad Bridge and north and west of Dworshak Reservoir and the Little North Fork of the Clearwater River. (4-3-95)
- 273.** **Hunt Area 10A-5.** That portion of Unit 10A south of Forest Road 1705 from Elk River to Grandad Bridge and north and west of Dworshak Reservoir. (4-5-00)

~~284.~~ **Hunt Area 12-1.** That portion of Unit 12 north of the Lochsa River from and including the Lost Creek drainage upstream to, but excluding the Crooked Fork drainage. (7-1-98)

~~295.~~ **Hunt Area 12-2.** That portion of Unit 12 within the Crooked Fork Creek drainage northwest of U.S. 12 and north of White Sand Creek upstream to and including the Storm Creek drainage. (~~4-3-95~~)(3-19-01)T

~~3026.~~ **Hunt Area 12-3.** That portion of Unit 12 ~~within~~ south of the Lochsa River from and including the Old Man Creek drainage upstream to and including the Mocus Creek drainage. (~~4-3-95~~)(3-19-01)T

~~3127.~~ **Hunt Area 12-4.** That portion of Unit 12 ~~within the Boulder Creek drainage upstream from the mouth of, but excluding, the Cantaloupe~~ south of the Lochsa River from, but excluding, the Mocus Creek drainage, upstream to and including the Cliff Creek drainage. (~~4-3-95~~)(3-19-01)T

~~328.~~ **Hunt Area 12-5.** That portion of Unit 12 ~~on the south side of the Lochsa River from and including the Lone Knob Creek drainage upstream to and including the Mocus~~ within the Walton Creek drainage, that portion on the south side of White Sand Creek upstream to the mouth of Storm Creek, and all of White Sand Creek drainage upstream from, but excluding, the Storm Creek drainage. (~~4-3-95~~)(3-19-01)T

~~3329.~~ **Hunt Area 12-6.** That portion of Unit 12 ~~south of the Lochsa River from, but excluding, the Mocus Creek drainage upstream to and including the Lake Creek drainage; and including the Fish Lake Creek drainage up to the mouth of California Creek~~ north of the Middle Fork of the Clearwater River from the Smith Creek Road (Forest Service Road 101) upstream to the mouth of the Lochsa River, that portion on the north side of the Lochsa River upstream to, but excluding, the Lost Creek drainage, and that portion on the south side of the Lochsa River from its mouth upstream to, but excluding, the Old Man Creek drainage. (~~7-1-98~~)(3-19-01)T

~~34.~~ **Hunt Area 12-7.** That portion of Unit 12 ~~within the Fish Lake Creek drainage upstream from the mouth of and including California Creek.~~ (4-3-95)

~~35.~~ **Hunt Area 12-8.** That portion of Unit 12 ~~south of the Lochsa River from, but excluding, the Lake Creek drainage upstream to and including the Cliff Creek drainage.~~ (4-3-95)

~~36.~~ **Hunt Area 12-9.** That portion of Unit 12 ~~within the Walton Creek drainage, that portion on the south side of White Sand Creek upstream to the mouth of Storm Creek, and all of White Sand Creek drainage upstream from, but excluding, the Storm Creek drainage.~~ (4-3-95)

~~37.~~ **Hunt Area 12-10.** That portion of Unit 12 ~~within the Crooked Fork Creek drainage south and east of U.S. 12, and the north side of White Sand Creek upstream to and including the Storm Creek drainage.~~ (4-3-95)

~~38.~~ **Hunt Area 12-11.** That portion of Unit 12 ~~north of the Middle Fork of the Clearwater River from the Smith Creek Road (Forest Service Road 101) upstream to the mouth of the Lochsa River, that portion on the north side of the Lochsa River upstream to, but excluding, the Lost Creek drainage, and that portion on the south side of the Lochsa River from its mouth upstream to, but excluding, the Old Man Creek drainage.~~ (4-3-95)

~~390.~~ **Hunt Area 14-1.** That portion of Unit 14 north and west of the following boundary: Beginning on the Unit 14 west boundary on the Slate Creek Road (Forest Service Road 354), then east on the Slate Creek Road to Forest Service Road 221, then north on Forest Service Road 221 to the Unit 14 east boundary. (4-5-00)

~~4031.~~ **Hunt Area 14-2.** That portion of Unit 14 south of the following: Beginning on the Unit 14 west boundary on the Slate Creek Road (Forest Service Road 354), then east on the Slate Creek Road to Forest Service Road 221, then north on Forest Service Road 221 to the Unit 14 east boundary. (4-5-00)

~~4132.~~ **Hunt Area 15-1.** That portion of Unit 15 ~~within~~ north of the South Fork of the Clearwater River from and including the American River drainage downstream to and including the Newsome Creek drainage. (~~4-3-95~~)(3-19-01)T

~~4233.~~ **Hunt Area 15-2.** That portion of Unit 15 ~~north~~ South of the South Fork of the Clearwater River

downstream from and including the ~~American River drainage to, but excluding, the Newsome Creek drainage~~
~~Crooked River drainage upstream to and including the Red River drainage.~~ (4-3-95)(3-19-01)T

434. Hunt Area 15-3. That portion of Unit 15 on the south and west sides of the South Fork of the Clearwater River downstream from, but excluding, the Crooked River drainage. (4-3-95)

4435. Hunt Area 15-4. That portion of Unit 15 ~~on the south side~~ north and east of the South Fork of the Clearwater River from and including the ~~Crooked River~~ Sally Ann Creek drainage upstream to ~~the mouth of Red River, and the south side of Red River from its mouth upstream to and including the Deadwood Creek~~ and including the Leggett Creek drainage. (4-3-95)(3-19-01)T

45. Hunt Area 15-5. ~~That portion of Unit 15 within the Red River drainage EXCEPT the south side of Red River from its mouth upstream to and including the Deadwood Creek drainage.~~ (4-3-95)

46. Hunt Area 15-6. ~~That portion of Unit 15 north and east of the South Fork of the Clearwater River from and including the Sally Ann Creek drainage upstream to and including the Peasley Creek drainage.~~ (4-3-95)

47. Hunt Area 15-7. ~~That portion of Unit 15 north of the South Fork of the Clearwater River from and including the Silver Creek drainage to and including the Leggett Creek drainage.~~ (4-3-95)

4836. Hunt Area 16-1. That portion of Unit 16 north and west of the Hamby Creek Road (Forest Service Road 651), and that portion south and west of the Selway River from its mouth upstream to the Hamby Creek Road. (4-3-95)

4937. Hunt Area 16-2. That portion of Unit 16 south and east of Hamby Creek Road (Forest Service Road 651), and that portion north and east of the Selway River from its mouth upstream to Fog Mountain Road (Forest Service Road 319). (4-3-95)

5038. Hunt Area 16A-1. That portion of Unit 16A north and west of the following boundary: Beginning at Anderson Butte, then east along the Drive Ridge Trail (Forest Service Trail 809) to the Meadow Creek Trail (Forest Service Trail 726), then east along the Meadow Creek Trail to the Disgrace Butte-Vermilion Peak Trail (Forest Service Trail 609), then northeast along the Disgrace Butte-Vermilion Peak Trail to the Buck Lake Creek-Drake Creek Trail (Forest Service Trail 628), then northeast along the Buck Lake Creek-Drake Creek Trail to the Unit 16A boundary at Drake Saddle. (4-3-95)

5139. Hunt Area 16A-2. That portion of Unit 16A south and east of the following boundary: Beginning at Anderson Butte, then east along the Drive Ridge Trail (Forest Service Trail 809) to the Meadow Creek Trail (Forest Service Trail 726), then east along the Meadow Creek Trail to the Disgrace Butte-Vermilion Peak Trail (Forest Service Trail 609), then northeast along the Disgrace Butte-Vermilion Peak Trail to the Buck Lake Creek-Drake Creek Trail (Forest Service Trail 628), then northeast along the Buck Lake Creek-Drake Creek Trail to the Unit 16A boundary at Drake Saddle. (4-3-95)

5240. Hunt Area 17-1. That portion of Unit 17 ~~within the Rhoda Creek~~ north of the Selway River from Fog Mountain Road (Forest Service Road 319) upstream to and including the west side of the Moose Creek drainage, the North Fork Moose Creek drainage, and the north side of the East Fork Moose Creek drainage upstream to, but excluding, Cedar Creek. (4-3-95)(3-19-01)T

5341. Hunt Area 17-2. That portion of Unit 17 ~~within the North Fork Moose Creek drainage EXCEPT the Rhoda Creek drainage, and that portion on the north side of the East Fork Moose Creek drainage upstream to, but excluding, Cedar Creek~~ east of the Selway River from the mouth of Moose Creek upstream to and including the Bear Creek drainage, and that portion on the east side of the Moose Creek and East Fork Moose Creek drainages from the mouth of Moose Creek upstream to and including the Cedar Creek drainage. (4-3-95)(3-19-01)T

542. Hunt Area 17-3. That portion of Unit 17 ~~north of the Selway River from Fog Mountain Road (Forest Service Road 319) upstream to and including the west side of the Moose Creek drainage upstream to the mouth of, but excluding, the North Fork Moose~~ south and west of the Selway River from and including the Mink Creek drainage upstream to and including the Goat Creek drainage. (4-3-95)(3-19-01)T

~~5543.~~ **Hunt Area 17-4.** That portion of Unit 17 ~~east of the Selway River from the mouth of Moose Creek upstream to and including the Bear Creek drainage, and that portion on the east side of the Moose Creek and East Fork Moose Creek drainages from the mouth of Moose Creek upstream to and including the Cedar Creek drainage~~ west of the Selway River from, but excluding the Goat Creek drainage, upstream to Forest Service Road 468.

~~(4-3-95)(3-19-01)T~~

~~5644.~~ **Hunt Area 17-5.** That portion of Unit 17 ~~south and west of the Selway River from and including the Mink Creek drainage upstream to and including the Goat Creek drainage~~ east of the Selway River upstream from, but excluding the Bear Creek drainage to Forest Service Road 468; all of the Selway River drainage south of Forest Service Road 468.

~~(4-3-95)(3-19-01)T~~

~~57.~~ **Hunt Area 17-6.** That portion of Unit 17 west of the Selway River from, but excluding the Goat Creek drainage, upstream to Forest Service Road 468.

~~(4-3-95)~~

~~58.~~ **Hunt Area 17-7.** That portion of Unit 17 east of the Selway River upstream from, but excluding the Bear Creek drainage to Forest Service Road 468; all of the Selway River drainage south of Forest Service Road 468.

~~(4-3-95)~~

~~5945.~~ **Hunt Area 19-1.** That portion of Unit 19 outside the Gospel Hump Wilderness boundary. (4-3-95)

~~6046.~~ **Hunt Area 19-2.** That portion of Unit 19 within the Gospel Hump Wilderness boundary. (4-3-95)

~~6147.~~ **Hunt Area 19A.** All of Unit 19A. (4-5-00)

~~6248.~~ **Hunt Area 20-1.** That portion of Unit 20 within South Fork of Red River, the Big Mallard Creek and Little Mallard Creek drainages and the Salmon River drainage from the Big Mallard drainage to but EXCLUDING the Bargamin Creek drainage. (4-3-95)

~~6349.~~ **Hunt Area 20-2.** That portion of Unit 20 within the Bargamin Creek drainage, and that portion on the north side of the Salmon River to, but excluding, the Sabe Creek drainage. (4-3-95)

~~6450.~~ **Hunt Area 20-3.** That portion of Unit 20 within the Sabe Creek drainage. (4-3-95)

~~651.~~ **Hunt Area 20-4.** That portion of Unit 20 from the Mackay Bar Road (Forest Service Road 222) upstream to and including the Elkhorn Creek drainage. (4-3-95)

~~6652.~~ **Hunt Area 20A-1.** That portion of Unit 20A east of the following Forest Service trails: Beginning at the Salmon River on Forest Service Trail 039, then south on Trail 039 to Forest Service Trail 038, then south on Trail 038 to Forest Service Trail 002, then south on Trail 002 to the south boundary of Unit 20A. (4-3-95)

~~6753.~~ **Hunt Area 20A-2.** That portion of Unit 20A within the following boundary: Beginning at the Salmon River on Forest Service Trail 033, then south on Trail 033 to Forest Service Trail 007, then southwest on Trail 007 to the south boundary of Unit 20A, then east on the Unit 20A boundary to Forest Service Trail 002 to Forest Service Trail 038, then northeast on Trail 038 to Forest Service Trail 039, then northeast on Trail 039 to the Salmon River, then northwest on the unit boundary to Forest Service Trail 033, the point of beginning. (4-3-95)

~~6854.~~ **Hunt Area 20A-3.** That portion of Unit 20A north and west of the following Forest Service trails: Beginning at the Salmon River on Forest Service trail 033, then southwest on Trail 033 to Forest Service Trail 007, then southwest on Trail 007 to the south boundary of Unit 20A. (4-3-95)

~~6955.~~ **Hunt Area 21.** All of Units 21 and 21A. (4-3-95)

~~7056.~~ **Hunt Area 25.** All of Unit 25. (4-5-00)

~~7157.~~ **Hunt Area 26.** That portion of Unit 26 on the north side of Big Creek downstream from, but excluding, the Smith Creek drainage, and the south side of Big Creek downstream from and including the Little

- Marble Creek drainage. (7-1-98)
- ~~7258.~~ **Hunt Area 29.** All of Units 29, 30, 30A, and 37A. (~~4-3-95~~)(3-19-01)T
- ~~73.~~ **Hunt Area 30.** All of Unit 30. (4-5-00)
- ~~74.~~ **Hunt Area 30A.** All of Unit 30A. (4-5-00)
- ~~59.~~ **Hunt Area 44.** That portion of Unit 44 east of the Fairfield-Couch Summit-Five Points Road, and all of Units 48 and 49. (3-19-01)T
- ~~7560.~~ **Hunt Area 50.** All of Unit 50. (4-3-95)
- ~~761.~~ **Hunt Area 51.** All of Unit 51. (4-5-00)
- ~~7762.~~ **Hunt Area 56.** All of Units 56, 73, and 73A. (4-5-00)
- ~~7863.~~ **Hunt Area 59.** All of Units 59 and 59A. (4-3-95)
- ~~7964.~~ **Hunt Area 60.** All of Unit 60. (4-3-95)
- ~~8065.~~ **Hunt Areas 60A-1 and 60A-2.** That portion of Unit 60A south and east of the North Fork (Henry Fork) of the Snake River, and that portion within one (1) mile north and west of the North Fork of the Snake River. (~~4-3-95~~)(3-19-01)T
- ~~8166.~~ **Hunt Area 61-1.** That portion of Unit 61 west of East Dry Creek and Yale-Kilgore Roads. (4-3-95)
- ~~8267.~~ **Hunt Area 61-2.** That portion of Unit 61 east of East Dry Creek and Yale-Kilgore Roads and west of U.S. 191-20 and south and west of State Highway 87. (4-3-95)
- ~~8368.~~ **Hunt Area 61-3.** That portion of Unit 61 north of State Highway 87 and that portion east of U.S. Highway 191-20 EXCEPT that portion enclosed by the Big Springs Loop Road and U.S. Highway 191-20. (4-3-95)
- ~~8469.~~ **Hunt Area 62.** All of Unit 62. (4-3-95)
- ~~8570.~~ **Hunt Area 62A.** All of Unit 62A. (4-3-95)
- ~~8671.~~ **Hunt Areas 63A-1 and 63A-2.** All of Units 63 and 63A. (~~4-5-00~~)(3-19-01)T
- ~~872.~~ **Hunt Area 64-1.** All of Unit 64. (~~7-1-98~~)(3-19-01)T
- ~~88.~~ **Hunt Area 64-2.** All of Units 64 and 65. (~~7-1-98~~)
- ~~8973.~~ **Hunt Area 65.** All of Unit 65. (4-3-95)
- ~~9074.~~ **Hunt Area 66-1.** That portion of Unit 66 north of main Bear Creek EXCEPT the Pritchard and Garden Creek drainages. (4-3-95)
- ~~9175.~~ **Hunt Area 66-2.** That portion of Unit 66 south of main Bear Creek. (4-3-95)
- ~~9276.~~ **Hunt Area 66-3.** All of Units 66 and 69. (4-5-00)
- ~~9377.~~ **Hunt Areas 66A-1 And 66A-2.** All of Unit 66A. (~~4-3-95~~)(3-19-01)T
- ~~9478.~~ **Hunt Area 67-1.** That portion of Unit 67 north and west of State Highway 31. (4-3-95)
- ~~9579.~~ **Hunt Area 67-2.** That portion of Unit 67 south and east of State Highway 31. (4-3-95)

- ~~9680.~~ **Hunt Area 69-1.** That portion of Unit 69 west of the Grays Lake-Long Valley-Bone-Iona Road. (4-3-95)
- ~~9781.~~ **Hunt Area 69-2.** That portion of Unit 69 east of the Grays Lake-Long Valley-Bone-Iona Road EXCEPT the Antelope and Granite Creek drainages. (4-3-95)
- ~~982.~~ **Hunt Area 69-3.** That portion of Unit 69 within the Antelope and Granite Creek drainages, and that portion of Unit 66 within the Pritchard and Garden Creek drainages. (4-3-95)
- ~~9983.~~ **Hunt Area 70.** All of Unit 70. (4-3-95)
- ~~10084.~~ **Hunt Area 71-1.** That portion of Unit 71 located in Bannock and Bingham counties. (4-3-95)
- ~~10185.~~ **Hunt Area 71-2.** That portion of Unit 71 located in Caribou County. (4-3-95)
- ~~10286.~~ **Hunt Area 72.** All of Unit 72. (4-3-95)
- ~~10387.~~ **Hunt Area 74.** All of Unit 74. (4-3-95)
- ~~10488.~~ **Hunt Area 75-1 and 75-2.** All of Unit 75. (~~4-3-95~~)(3-19-01)T
- ~~10589.~~ **Hunt Areas 76-1 and 76-2.** That portion of Unit 76 within the following boundary: Beginning at Soda Springs on State Highway 34, then northeast to the Lanes Creek Road at Wayan, then south along the Lanes Creek-Diamond Creek Road to Timber Creek Road, then northeast along Timber Creek-Smoky Canyon-Stump Creek Road to the Idaho-Wyoming state line, then south along the state line to the Crow Creek Road, then southwest along Crow Creek-Wells Canyon-Georgetown Canyon Road to U.S. 30, then north along U.S. 30 to Soda Springs, the point of beginning. (~~4-3-95~~)(3-19-01)T
- ~~10690.~~ **Hunt Areas 76-3 and 76-4.** That portion of Unit 76 south of the Georgetown-Wells Canyon-Crow Creek Road. (~~4-3-95~~)(3-19-01)T
- ~~10791.~~ **Hunt Areas 76-5 and 76-6.** That portion of Unit 76 north and east of the following boundary: Beginning at the Idaho-Wyoming state line, then west along the Stump Creek-Smoky Canyon-Timber Creek Road to the Diamond Creek Road, then north along the Diamond Creek-Lanes Creek Road to State Highway 34 at Wayan. (~~4-3-95~~)(3-19-01)T
- ~~10892.~~ **Hunt Area 77.** All of Unit 77. (4-3-95)
- ~~1093.~~ **Hunt Area 78.** All of Unit 78. (4-3-95)
- 703. CONTROLLED HUNT AREA DESCRIPTIONS - ANTELOPE.**
- 01.** **Hunt Area 29.** That portion of Unit 29 downstream from and including the Hayden Creek drainage on the west side of the Lemhi River and those drainages on the east side of the main Salmon River upstream from the mouth of the Lemhi River to, but excluding, the Poison Creek drainage. (3-30-01)
- 02.** **Hunt Area 30.** All of Unit 30. (7-1-98)
- 03.** **Hunt Area 30A.** All of Unit 30A. (7-1-98)
- 04.** **Hunt Area 32.** All of Units 32 and 32A (3-30-01)
- ~~05.~~ ~~**Hunt Area 36A.** That portion of Unit 36A west of the East Fork of the Salmon River.~~ (~~3-30-01~~)
- 065.** **Hunt Areas 36B.** All of Unit 36B, and that portion of Unit 28 upstream from and including the

Iron Creek drainage.

~~(3-20-97)~~(3-19-01)T

- ~~076.~~ **Hunt Area 37-1.** That portion of Unit 37 south of the Doublespring Pass-Goldburg Road. (7-1-99)
- ~~087.~~ **Hunt Area 37-2.** That portion of Unit 37 north of the Doublespring Pass-Goldburg Road. (7-1-99)
- ~~098.~~ **Hunt Area 37A.** That portion of Unit 37A east of the (Little) Morgan Creek Road and the north fork of (Little) Morgan Creek. (3-30-01)
- ~~109.~~ **Hunt Area 39.** All of Unit 39. (3-20-97)
- ~~140.~~ **Hunt Area 40.** All of Unit 40. (10-26-94)
- ~~121.~~ **Hunt Area 41.** That portion of Unit 41 east of State Highway 51. (10-26-94)
- ~~132.~~ **Hunt Area 42.** That portion of Unit 41 west of State Highway 51 and all of Unit 42. (10-26-94)
- ~~143.~~ **Hunt Area 44.** All of Unit 44 and that portion of Unit 45 within the Camas Creek drainage. (10-26-94)
14. **Hunt Area 45.** All of Unit 45 except that portion within the Camas Creek drainage. (3-19-01)T
15. **Hunt Area 46.** All of Unit 46. (3-30-01)
16. **Hunt Area 47.** All of Unit 47. (10-26-94)
17. **Hunt Area 49.** All of Unit 49 and that portion of Unit 50 in the Copper Creek and Cottonwood Creek drainages west of the Craters of the Moon National Monument. The boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. ~~(7-1-98)~~(3-19-01)T
18. **Hunt Area 50-1.** That portion of Unit 50 north of Antelope Creek and west of U.S. 93. (10-26-94)
19. **Hunt Area 50-2.** That portion of Unit 50 southeast of Antelope and Pass Creeks but EXCLUDING the Copper Creek and Cottonwood Creek drainages west of Craters of the Moon National Monument. The boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. ~~(10-26-94)~~(3-19-01)T
20. **Hunt Area 50-3.** That portion of Unit 50 north of Pass Creek and east of U.S. 93. (10-26-94)
21. **Hunt Area 51-1.** That portion of Unit 51 north of Badger Creek Road and north of the Wet Creek-Pass Creek Road. (10-26-94)
22. **Hunt Area 51-2.** That portion of Unit 51 south of Badger Creek Road and south of the Wet Creek-Pass Creek Road and that portion of Unit 63 within Butte County including that portion of this hunt area within one-half (1/2) mile inside the boundary of the Idaho National Engineering and Environmental Laboratory (INEEL) adjacent to agricultural lands. (3-30-01)
23. **Hunt Area 52.** All of Unit 52. (3-19-01)T

- ~~234.~~ **Hunt Area 52A.** All of Unit 52A. (~~3-30-01~~)(3-19-01)T
- ~~24.~~ ~~**Hunt Area 53.**~~ ~~All of Unit 53.~~ (~~10-26-94~~)
25. **Hunt Area 54.** All of Unit 54. (3-13-96)
26. **Hunt Area 57.** All of Unit 57 and that portion of Unit 56 west of Interstate 84. (3-13-96)T
27. **Hunt Area 58.** All of Unit 58 outside the Idaho National Engineering and Environmental Laboratory (INEEL) boundary. (7-1-99)
28. **Hunt Area 59.** All of Units 59 and 59A. (3-20-96)
29. **Hunt Area 60A.** All of Units 60 and 60A, and that portion of Unit 61 west of Hotel Creek. (3-20-96)
30. **Hunt Area 61.** That portion of Unit 61 east of Hotel Creek. (10-26-94)
31. **Hunt Area 63-1.** That portion of Unit 63 south of State Highway 33 and including that portion of this hunt area within one-half (1/2) mile inside the east boundary of the Idaho National Engineering and Environmental Laboratory (INEEL) and which is adjacent to agricultural lands. (7-1-99)
32. **Hunt Area 63-2.** That portion of Unit 63 north of State Highway 33, and including that portion of this hunt area within one-half (1/2) mile inside the boundary of the Idaho National Engineering and Environmental Laboratory (INEEL) and which is adjacent to agricultural lands, EXCLUDING the Camas National Wildlife Refuge which is CLOSED. (7-1-99)
33. **Hunt Area 68.** All of Unit 68. (10-26-94)
- 704. CONTROLLED HUNT AREA DESCRIPTIONS - ROCKY MOUNTAIN BIGHORN SHEEP.**
- ~~01.~~ **Hunt Area 11.** That portion of Unit 11 that drains into the Snake River downstream from, but excluding, the Corral Creek drainage to, but excluding, the Tenmile Creek Canyon drainage. (3-19-01)T
- ~~042.~~ **Hunt Area 19.** ~~That Those portions of Units 14, 19 west of the Crooked Creek Trail (Forest Service Trails 215 and 204), and those portions of Units 14 and 19 within and 20 from the Red River Ranger Station-White River Ranch Road (Forest Service Road 421) downstream to and including the Wind River drainage.~~ (~~7-1-98~~)(3-19-01)T
- ~~023.~~ **Hunt Area 20-1.** That portion of Unit 20 upstream from Sabe Creek, that portion of Unit 21 downstream from the Horse Creek Trail (Forest Service Trail 159) and Reynolds Creek Trail (Forest Service Trail 067) and that portion of Unit 17 upstream from the Witter Ridge Trail (Forest Service Trail 75) and the Thompson Flat-Wood Hump-Surprise Creek Trail (Forest Service Trail 031). (7-1-98)
- ~~034.~~ **Hunt Area 20-2.** That portion of Unit 20 downstream from the Nez Perce-Bitterroot Forest boundary along Sabe Creek to the Red River Ranger Station-White Water Ranch Road. (7-1-98)
- ~~045.~~ **Hunt Area 20A.** Those portions of Unit 20A upstream from and including the Butts Creek drainage to the Middle Fork of the Salmon River, and within the Middle Fork of the Salmon River drainage upstream to Papoose Creek-Papoose Lake-Coyote Springs. (7-1-98)
- ~~056.~~ **Hunt Area 21.** That portion of Unit 21 downstream from the Spring Creek Road (Forest Service Road 038) to the Horse Creek Trail (Forest Service Trail 159) and Reynolds Creek Trail (Forest Service Trail 067). (7-1-98)
- ~~067.~~ **Hunt Area 26.** All of Unit 26 and that portion of Unit 20A within the Middle Fork of the Salmon

River drainage upstream from Papoose Creek-Papoose Lake-Coyote Springs and that portion of Unit 27 on the west side of the Middle Fork of the Salmon River from Big Creek upstream to and including the Brush Creek drainage. (7-1-98)

078. Hunt Area 27-1. That portion of Unit 27 west of the Middle Fork of the Salmon River upstream from but excluding the Brush Creek drainage to and including the Indian Creek drainage. (7-1-98)

089. Hunt Area 27-2. That portion of Unit 27 east of the Middle Fork of the Salmon River upstream from its mouth to the Waterfall Creek Trail (Forest Service Trail 045). (7-1-98)

0910. Hunt Area 27-3. That portion of Unit 27 east of the Middle Fork of the Salmon River upstream from the Waterfall Creek Trail (Forest Service Trail 045) to and including the Camas Creek drainage on the north side of Camas Creek, and that portion of Unit 28 within the Camas Creek drainage north of Camas Creek and west of the Silver Creek-Meyers Cove Road (Forest Service Road 108). (7-1-98)

101. Hunt Area 27-4. That portion of Unit 27 within the Loon Creek drainage; that portion of Unit 27 east of the Middle Fork of the Salmon River, south of Camas Creek, and northwest of Fly Creek Trail (Forest Service Trail 124), and Mahoney Creek Trail (Forest Service Trail 121), north of Warm Springs Creek and north of Loon Creek that portion of Unit 36 within the Yankee Fork drainage. (~~7-1-98~~)(3-19-01)T

112. Hunt Area 28. That portion of Unit 28 within the Pine Creek and Panther Creek drainages, and the south side of the main Salmon River from Pine Creek downstream to, but excluding, the Middle Fork of the Salmon River drainage. (4-5-00)

13. Hunt Area 30. All of Units 30 and 30A. (3-19-01)T

124. Hunt Area 36B. All of Unit 36B; that portion of Unit 28 south of and including the Hat Creek drainage; that portion of Unit 28 west of the Panther Creek Road and south of the Silver Creek-Meyers Cove Road; and that portion of Unit 27 southeast of Fly Creek Trail (Forest Service Trail 124) and ~~Mahoney Creek Trail (Forest Service Trail 121), and northeast of Warm Springs Creek and the South Fork of Warm Springs Creek~~ the Sleeping Deer Road (Forest Service Road 086). (~~7-1-98~~)(3-19-01)T

13. Hunt Area 37. All of Unit 37. That portion of Unit 50 east of U.S. Highway 93 and that portion of Unit 51 west of the Howe-Goldburg Road. (7-1-98)

705. CONTROLLED HUNT AREA DESCRIPTIONS - MOUNTAIN GOAT.

01. Hunt Area 10-1. That portion of Unit 10 within the Isabella Creek drainage. (4-3-95)

02. Hunt Area 10-2. That portion of Unit 10 within the Collins Creek drainage. (4-3-95)

03. Hunt Area 18. Those portions of Units 18 and 22 within the Snake River drainage from and including Brush Creek drainage downstream to and including the Sheep Creek drainage, and that portion of Unit 23 within the Rapid River drainage. (7-1-98)

04. Hunt Area 27-21. That portion of Unit 27 south of Forest Service Road 172 from Loon Creek summit to Loon Creek guard station, Pinyon Peak, and Feltman Creek Point, and that portion of Unit 36 from Forest Service Road 172 west to the Pioneer Creek-West Fork Yankee Fork Trail (Forest Service Trail 113-155.) (~~7-1-98~~)(3-19-01)T

05. Hunt Area 27-32. That portion of Unit 27 east of the Middle Fork of the Salmon River, south of Camas Creek, northwest of Fly Creek Trail (Forest Service Trail 124) and Mahoney Creek Trail (Forest Service Trail 121), north of Warm Springs Creek and north of Loon Creek. (~~4-3-95~~)(3-19-01)T

06. Hunt Area 27-43. That portion of Unit 27 east of the Middle Fork of the Salmon River and north of Camas Creek to the Waterfall Creek Trail (Forest Service Trail 045) and that portion of Unit 28 within the

Yellowjacket Creek drainage.

~~(4-5-00)~~(3-19-01)T

07. Hunt Area 30. Those portions of Units 21A and 30 south of and including the Freeman Creek drainage to the Agency Creek-Lemhi Pass Road. (4-3-95)

08. Hunt Area 36A-1. That portion of Unit 50 north of Trail Creek Road and west of U.S. 93, and that portion of Unit 36A south and east of the East Fork of the Salmon River from and including the Herd Creek drainage upstream to and including the West Pass Creek drainage. ~~(4-3-95)~~(3-19-01)T

09. Hunt Area 36A-2. That portion of Unit 36A, including all headwaters of the East Fork of the Salmon River upstream from, but excluding, the Germania Creek drainage on the west and upstream from, but excluding, the West Pass Creek drainage on the east. (4-3-95)

10. Hunt Area 36A-3. That portion of Unit 36A, north and west of the East Fork of the Salmon River downstream from, but excluding, the Germania Creek drainage, and that portion of Unit 36 on the south and east sides of the main Salmon River downstream from, but excluding, the Fourth of July Creek drainage above Stanley. (4-3-95)

11. Hunt Area 36A-4. That portion of Unit 36A within the Germania Creek drainage, and that portion of Unit 36 within the Salmon River drainage east of State Highway 75 from and including the Fourth of July Creek drainage upstream to and including the Pole Creek drainage. (4-3-95)

12. Hunt Area 36B. That portion of Unit 36B south of and including the Challis Creek drainage; that portion of Unit 36 east of the Yankee Fork-Mill Creek Summit Road. (4-3-95)

13. Hunt Area 48. That portion of Unit 48 north and east of State Highway 75 and that portion south and west of State Highway 75 upstream from and including the Baker Creek drainage. (4-3-95)

14. Hunt Area 50. All of Unit 49 and that portion of Unit 50 south and east of the Trail Creek Road and south and west of U.S. Highway 93. ~~(4-3-95)~~(3-19-01)T

15. Hunt Area 51. That portion of Unit 29 south of and excluding the Big Timber Creek drainage, that portion of Unit 51 east of the Howe-Goldburg Road and that portion of Unit 58 west of State Highway 28. (4-3-95)

16. Hunt Area 59A. All of Unit 59A and that portion of Unit 58 east of State Highway 28. (7-1-98)

17. Hunt Area 67-1. ~~That portion~~ All of Unit 67 ~~south of Palisades Creek.~~ ~~(4-3-95)~~(3-19-01)T

706. CONTROLLED HUNT AREA DESCRIPTIONS - CALIFORNIA BIGHORN SHEEP.

01. Hunt Areas 41-1 and 41-2. That portion of Unit 41 within the Little Big Jacks Creek and Shoofly Creek drainages and all of Unit 40. ~~(4-5-00)~~(3-19-01)T

~~02. Hunt Area 41-4 And 41-5. That portion of Unit 41 within the Big Jacks Creek Drainage (4-5-00)~~

~~03. Hunt Areas 42-1, And 42-2. That portion All of Units 41 and 42 and that portion of Unit 41 within the drainage of the East Fork and South Fork of the Owyhee River drainages outside the Duck Valley Indian Reservation boundary (EXCLUDING the South Fork of the Owyhee River drainage). (4-3-95)~~

~~04. Hunt Areas 42-3 And 42-4. That portion of Unit 42 within the South Fork of the Owyhee River drainage. (7-1-98)~~

~~05. Hunt Area 46. Those portions of Units 41, 46, and 47 within the Bruneau and Jarbidge River drainages upstream from, and including, the Sheep Creek drainage. (4-5-00)~~

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS
IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0102

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the nonresident deer and elk tag quotas, and nonresident deer and elk tag outfitter set-aside rules, and has schedule a public hearing and meeting.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proclamation will be held as follows:

A public hearing will be held and will be followed by an open house on:

October 1, 2001 -- 7:00 p.m. - 9:00 p.m.
Idaho Fish and Game Commission
Ameritel Inn
1440 Bench Road
Pocatello, Idaho

A meeting will be held on:

October 2, 2001 -- 8:00 a.m.
Idaho Fish and Game Commission
Ameritel Inn
1440 Bench Road
Pocatello, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-334-5159 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at (208) 334-3715.

DATED this 22nd day of August, 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715/FAX: 208-334-2148

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS
IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0103

NOTICE OF PROCLAMATION OF RULEMAKING

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by proclamation big game seasons on March 19, 2001. Copies of the brochure are available at the Department of Fish and Game offices and at license vendors.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proclamation, contact W. Dallas Burkhalter at (208) 334-3715.

DATED this 22nd day of August, 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO
DOCKET NO. 13-0109-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is effective August 13, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 the required finding and concise statement of the supporting reasons for proposed rulemaking:

Annual season setting for Sandhill crane and September goose. Season setting for migratory game birds (ducks and geese).

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 in order to confer a benefit.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0108-0101

400. AREAS CLOSED TO HUNTING OF GAME BIRDS.

- 01. General.** Hunting, killing, or molesting of any game bird is prohibited in the following areas: (7-1-93)
- a. Craters of the Moon National Monument in Blaine and Butte Counties. (7-1-93)
 - b. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (3-20-97)
 - c. Harriman State Park Wildlife Refuge in Fremont County. (7-1-93)
 - d. Idaho National Engineering Laboratory site in Bingham, Bonneville, Butte, Clark, and Jefferson Counties. (7-1-93)
 - e. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. (7-1-93)
 - f. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. (7-1-93)
 - g. Yellowstone National Park in Fremont County. (7-1-93)
 - h. Fort Boise Wildlife Management Area (WMA) in Canyon County from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the bridge across Sand Hollow Creek on Old Fort Boise Road approximately one hundred (100) yards west of the WMA headquarters, then north along the east bank of Sand Hollow Creek to its confluence with the Snake River, then north and northeast downstream along the east bank of the Snake River to the WMA boundary fence, then south and southeast along the WMA boundary fence to Old Fort Boise Road, then west on Old Fort Boise Road to the point of beginning. (3-20-97)
 - i. Roswell Marsh Wildlife Habitat Area in Canyon County on Sundays, Mondays, Tuesdays and Wednesdays from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the entrance to the Habitat Area parking lot on the south side of State Highway 18 (approximately two (2) miles west of the town of Roswell), then west, south, west and south along the Habitat Area boundary fence to the southwest corner of the Habitat Area, then east along the Habitat Area boundary fence to the southeast corner of the Habitat Area (approximately ten (10) feet east of East Alkali Drain), then north, generally northeast and east along the Habitat Area boundary fence to Pebble Lane, then north along Pebble Lane to State Highway 18, then west along State Highway 18 to the entrance to the Habitat Area parking lot, the point of beginning. (3-20-97)
- i. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action EXCEPT as otherwise expressly stated below in Section 410 under Game Preserves Open to Hunting of Game Birds. (7-1-93)
- 02. Migratory Game Birds.** In addition to the areas listed above, hunting, killing, or molesting of any migratory game bird EXCEPT mourning dove is prohibited in the following areas. Areas CLOSED to hunting of migratory game birds: (7-1-93)
- a. Fort Hall Indian Reservation in Bingham, Bannock, and Power Counties within three hundred (300) yards each way of the Fort Hall Bluffs from Bigbend Boat Launch to the west boundary of the Fort Hall Indian Reservation, and within one hundred (100) yards of any improved roadway or inhabited dwelling any place within the reservation boundary. (7-1-93)
 - b. Hagerman Wildlife Management Area (WMA) in Gooding County in the area enclosed by the following boundary: Beginning at a point two hundred (200) yards west of the point at which U.S. Highway 30

crosses the south bank of Gridley Island, then northwest along a line two hundred (200) yards southwest of and parallel to U.S. Highway 30 to a point two hundred (200) yards west of the junction of U.S. Highway 30 and the WMA entrance, then west and north and east along a line two hundred (200) yards outside of the WMA boundary which is marked by a fence, to the point at which the fence meets U.S. Highway 30, then east and south along a line five hundred (500) yards outside of the WMA boundary to the Snake River, then downstream along the north bank of the Snake River and then along the south bank of Gridley Island to the point where U.S. Highway 30 crosses the south bank of Gridley Island, then two hundred (200) yards west of U.S. Highway 30 to the point of beginning.

(7-1-93)

c. Hubbard Reservoir in Ada County including the shoreline area within two hundred (200) yards of the existing water line.

(7-1-93)

d. Mann's Lake in Nez Perce County ~~in the area enclosed by the following boundary: Beginning at the junction of Reservation Line Road and Old Lapwai Road; then east along Old Lapwai Road to Soldiers Canyon, then south along the posted boundary between Sections 9 and 10, 15 and 16, and 21 and 22, Township 35 North, Range 4 West to Webb Canal, then southwest along Webb Canal to Webb Canal Grade, then west on Webb Canal Grade to Reservation Line Road, then north on Reservation Line Road to the point of beginning and extending three hundred (300) yards beyond the Bureau of Reclamation property line that encompasses the lake.~~

~~(9-1-93)(3-13-01)T~~

e. Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line.

(7-1-93)

f. Pend Oreille River in Bonner County within two hundred (200) yards each way of the ordinary high water line two thousand sixty-two and one-half (2,062.5) feet above sea level from the U.S. Highway 95 long bridge at Sandpoint downstream to an imaginary line between Springy Point on the south side of the river and Dover Peninsula on the north side of the river.

(7-1-93)

g. Spokane River in Kootenai County from the Post Falls Dam to Lake Coeur d'Alene at the orange pilings, within two hundred (200) yards of the ordinary high water line two thousand one hundred twenty-eight (2,128) feet above sea level.

(7-1-98)

h. Thompson Lake in Kootenai County in the area enclosed by the following center-of-roadway boundary and in the additional area within one hundred (100) yards of the exterior side of said boundary: Beginning at the junction of State Highway 97 and Thompson Lake Road 317 north of the town of Harrison, then along Thompson Lake Road 317 to the junction of Blue Lake Road 318 east of Thompson Lake, then along Blue Lake Road 318 to the junction of Anderson Lake Road 319 at Springston, then along Anderson Lake Road 319 to the Union Pacific Railroad tracks, then west along the Union Pacific Railroad tracks to the junction of State Highway 97 west of Harrison, then along State Highway 97 to the point of beginning.

(7-1-93)

03. Geese. Areas CLOSED to the hunting of geese. In addition to the areas listed in Section 301 and Subsection 301.01 above, the hunting, killing, or molesting of any species of geese is prohibited in the following areas:

(7-1-93)

a. Canyon County in the area enclosed by the following roadway boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure shall extend to one hundred (100) yards from the exterior side of said boundary along that section commencing at the junction of Lake Shore Drive and Rim Road, then south on Rim Road to west Lewis Lane, then east on west Lewis Lane to Lake Shore Drive, then along Lake Shore Drive to Emerald Road): Beginning approximately three fourths (3/4) of a mile south of the City of Nampa at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road, then west following Greenhurst Road to its junction with Middleton Road, then north following Middleton Road to its junction with Lake Lowell Avenue, then west following Lake Lowell Avenue to its junction with Lake Avenue, then north following Lake Avenue to its junction with West Roosevelt Avenue, then west following West Roosevelt Avenue to its junction with Indiana Avenue, then north following Indiana Avenue to its junction with State Highway 55 (Karcher Road), then west following State Highway 55 to its junction with Riverside Road, then south following Riverside Road to the Deer Flat National Wildlife Refuge boundary, then west along boundary fence below lower embankment as posted to Lake Shore Drive, then in a southeast direction following Lake Shore Drive to its junction with Marsing Road, then east and south on Lake Shore Drive to Rim Drive, then south on Rim Drive to West Lewis Lane, then east

on West Lewis Lane to Lake Shore Drive, then southeast on Lake Shore Drive to State Highway 45, then north on State Highway 45 to its junction with Greenhurst Road, the point of beginning. (7-1-93)

b. Hagerman Valley in Gooding and Twin Falls Counties in the area enclosed by the following boundary: Beginning at the Gridley Island Bridge on the Snake River, then south and east on U.S. Highway 30 to Miracle Hot Springs, then east on Twin Falls County 4800 North Road (River Road) to Banbury Hot Springs, then upstream approximately three hundred (300) yards to the Banbury Pipeline crossing the Snake River, then east across the Snake River at the Banbury Pipeline, continuing due east to a point two hundred (200) yards east of the east rim of the Snake River Canyon, then north along a line parallel to and two hundred (200) yards east of the Snake River Canyon rim to the Gooding County 3500 South Road (Camp Roach Road), then east on the 3500 South Road to the 1500 East Road, then north on the 1500 East Road to the 3200 South Road, then west on the 3200 South Road to the 1300 East Road, then north on the 1300 East Road to the 1200 East Road, then northwest and north on the 1200 East Road to the 3000 South Road, then west on the 3000 South Road to a point (which is five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) five hundred (500) yards east of the Hagerman Wildlife Management Area (WMA) boundary, then north and west five hundred (500) yards outside the Hagerman WMA boundary to U.S. Highway 30, then west and south two hundred (200) yards outside the Hagerman WMA boundary to the 2900 South Road, then west on the 2900 South Road to the 900 East Road, then due south to a point two hundred (200) yards north of the Snake River, then west and north two hundred (200) yards outside the high water line on the east bank of the Snake River to Lower Salmon Dam, then west across the Snake River, then south, southwest and east two hundred (200) yards outside the high water line on the west bank of the Snake River (including the Idaho Power Upper Salmon Dam diversion canal) to the Gridley Bridge on U.S. Highway 30, the point of beginning. (12-7-94)

~~e. The Snake River and that area within one (1) mile of the Snake River in Adams, Idaho, and Nez Perce Counties from Hells Canyon Dam downstream to China Garden Creek (opposite the Oregon-Washington state line). (7-1-93)~~

~~d.~~ Minidoka and Cassia Counties in the area enclosed by the following boundary: Within two hundred (200) yards of the high water line of the Snake River from Milner Dam upstream to Meridian Road (north side of the Snake River) and 650 East Road (south side of the Snake River), approximately six and one-half (6 1/2) miles east of the City of Burley. (7-1-93)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO
DOCKET NO. 13-0109-0102
NOTICE OF PROCLAMATION OF RULEMAKING

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by proclamation game bird and waterfowl seasons on August 13, 2001. Copies of the brochure containing this proclamation are currently being printed, and will soon be available at the Department of Fish and Game offices and license vendors.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proclamation, contact W. Dallas Burkhalter at (208) 334-3715.

DATED this 22nd day of August, 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0101

NOTICE OF PROCLAMATION OF RULEMAKING

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by proclamation Chinook salmon seasons on May 21, 2001. Copies of the brochure are available at the Department of Fish and Game offices and at license vendors.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proclamation, contact W. Dallas Burkhalter at (208) 334-3715.

DATED this 22nd day of August, 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0102

NOTICE OF PROPOSED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2001 fish and has scheduled a public hearing and a meeting.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proclamation will be held as follows:

A public hearing will be held and will be followed by an open house on:

October 1, 2001 -- 7:00 p.m. - 9:00 p.m.
Idaho Fish and Game Commission
Ameritel Inn
1440 Bench Road
Pocatello, Idaho

A meeting will be held on:

October 2, 2001 -- 8:00 a.m.
Idaho Fish and Game Commission
Ameritel Inn
1440 Bench Road
Pocatello, Idaho

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 208-334-5159 or through the Idaho Relay Service at 1-800-377-2529 (TDD).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at (208) 334-3715.

DATED this 22nd day of August, 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.17 - RULES GOVERNING THE USE OF BAIT FOR TAKING BIG GAME ANIMALS
DOCKET NO. 13-0117-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is effective April 9, 2001.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-104(b).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 the required finding and concise statement of the supporting reasons for proposed rulemaking:

Allow preseason bear baiting in the Clearwater Study Area to increase harvest.

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 in order to confer a benefit.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
PO Box 25
Boise, ID 83707
208-334-3715
FAX: 208-334-2148

THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0117-0101

100. USE OF BAIT.

Bait is defined as any substance placed to attract big game animals, except liquid scent for deer and elk. Bait may be

used to hunt ONLY black bear and ONLY under the following conditions. (7-9-93)

01. Time. (7-1-93)

a. No bait may be placed for the purpose of attracting or taking black bear prior to the opening of black bear take season EXCEPT in that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. ~~(7-1-93)~~(4-09-01)T

b. All bait containers and materials must be removed and all excavations refilled no later than seven (7) days after the close of the spring and fall black bear seasons. (3-20-97)

02. Location. (7-1-93)

a. No bait site may be located within two hundred (200) feet of any water (lake, pond, reservoir, year round free flowing spring and year round free flowing stream), or within two hundred (200) yards from any maintained trail or any road. (3-30-01)

b. No bait site may be located within one-half (1/2) mile of any designated campground or picnic area, administrative site, or dwelling. (7-1-93)

03. Types. (7-1-93)

a. No parts of or whole game animals, game birds, or game fish may be used as bait. (7-1-93)

b. The skin must be removed from any mammal parts or carcasses used as bait. (7-1-93)

04. Containers. (7-1-93)

a. No bait may be contained within paper, plastic, glass, metal, wood or other nonbiodegradable materials, except that a single, metal container with a maximum size of fifty-five (55) gallons may be used if securely attached at the bait site. (7-1-93)

b. No bait may be contained in any excavated hole greater than four (4) feet in diameter. (7-1-93)

05. Establishment Of Bait Sites. (7-1-93)

a. Any structures constructed at bait sites using nails, spikes, ropes, screws, or other materials must be removed by the permit holder within seven (7) days of the close of the spring and fall black bear seasons. (3-20-97)

b. All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

200. BAITING PERMIT.

01. Baiting Permit. (7-1-93)

a. Baiting permits are issued by mail or in person from Idaho Department of Fish and Game regional and subregional office beginning March 1 of each year. (7-1-93)

b. Baiting permits will be valid for the calendar year in which they are issued. (7-1-93)

02. Use Of Baiting Permit. (7-1-93)

a. All persons placing ~~or hunting over~~ bait must possess a baiting permit issued by the Idaho Department of Fish and Game. (7-1-93)(4-09-01)T

b. Each hunter may possess only one (1) Idaho Department of Fish and Game baiting permit each year and may maintain up to three (3) bait sites, except the number of bait sites maintained by outfitters will be specified by the land management agency in the outfitter's operating plan. (7-1-93)

c. No person may hunt over an unlawful bait site. (7-1-93)

d. Guides and clients of outfitters are not required to obtain a baiting permit, but they must have a copy of the outfitter's permit in their possession while hunting over a bait site. (7-1-93)

IDAPA 15 - IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

15.02.30 - BUSINESS ENTERPRISE PROGRAM

DOCKET NO. 15-0230-0101

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5407(e), Idaho Code.

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

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.

The proposed rules have been amended in response to federal agency comment, and are being amended pursuant to Section 67-5227, Idaho Code. Section 150.03 is being amended to cross-reference IDAPA 15.02.02, "Vocational Rehabilitation Services," with regard to post employment services. Section 200 is being amended to eliminate a time limitation for filing an arbitration complaint with the Secretary of the U.S. Department of Education pursuant to 34 CFR 395.13.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rule was published in the July 4, 2001 Idaho Administrative Bulletin, Volume 01-7, pages 45 through 63.

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

DATED this 22nd day of August 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

IDAPA 15, TITLE 02, Chapter 30

BUSINESS ENTERPRISE PROGRAM

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-7, July 4, 2001, pages 45 through 63.

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

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

SUBSECTION 150.03

150. TRAINING PROGRAM.

03. **Post-Employment Services.** ~~These~~ Post-employment services may be provided to eligible ~~program operators~~ vendors when necessary to assure that they maintain suitable employment within the agency's Business Enterprise Program. ~~Each individual's~~ Eligibility for and provision of post-employment services ~~must~~ shall 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:~~ in accordance with IDAPA 15.02.02, Vocational Rehabilitation Services. (3-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 200

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 receipt of the decision of the Administrator.~~ (3-1-93)()

IDAPA 15 - OFFICE OF THE GOVERNOR
15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION
DOCKET NO. 15-0401-0101
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 67-5309, Idaho Code.

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

9:00 am, Friday, October 12, 2001
Offices of the Division of Human Resources
700 W. State Street, Boise, ID

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:

Modifications to the rules to bring them into compliance with statute and to make them more streamlined and understandable. The most significant change is to the reduction in force procedures for classified state employees.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted. Input was solicited through electronic mail, as well as meetings with state human resources personnel.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Daniel Steckel at 334-3596.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 20th day of August, 2001.

Ann Heilman
Administrator
Division of Human Resources
700 West State Street
P.O. Box 83720
Boise, ID 83720-0066
(208)334-3345
(208)334-3182 (fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-0101

010. DEFINITIONS.

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

- 01. Allocation.** The assignment of a class to a pay grade in the compensation schedule. (8-1-81)
- 02. Appeal.** Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Personnel Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (4-5-85)
- 03. Appellant.** An employee, appointing authority, or applicant filing an appeal or a petition for review with the Personnel Commission. (7-1-87)
- 04. Appointment, Limited.** The appointment of a person to a classified, non-career position for which the person has qualified by examination. (4-5-85)
- 05. Appointment, Nonclassified.** The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)
- 06. Appointment, Original Or Initial.** The first appointment of a person to any classified position in state service. (4-5-85)
- 07. Appointment, Permanent.** The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Chapter 53, Title 67, Idaho Code, and the rules of the Division of Human Resources and Personnel Commission. (7-1-87)
- 08. Appointment, Probationary.** The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)
- 09. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (7-1-87)
- 10. Appointment, Provisional.** The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the class of such position. (4-5-85)
- 11. Appointment, Temporary.** The appointment of a person to a nonclassified position which is not permanent in nature, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) during any twelve (12) month period for any one (1) department. (7-1-87)
- 12. Certifiable Range.** An examination score and a rank on an eligibility register sufficiently high to be among the top ten (10) available names, plus names of all individuals with scores identical to the tenth ranking eligible, for certification to fill a position in the class for which the register was established. (3-30-01)
- 13. Class Specification.** A written statement of the purpose and responsibilities characteristic of a class, which includes the title, principal accountabilities, and minimum qualifications of education, training and experience, abilities, knowledge, skill, and other qualifications required to perform the work of the class. (7-1-87)
- 14. Classification Schedule.** All class specifications utilized in classified service listed by title, class code, and pay grade to which allocated. (4-5-85)
- 15. Classified Service.** That body of positions in state departments subject to Chapter 53, Title 67, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (7-1-87)
- 16. Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules; Division of Human Resources and Personnel Commission rules and policies; and departmental policies governing employee pay.

(7-1-87)

17. Compensation Schedule. The pay grades established by Section 67-5309C, Idaho Code, and associated rates of pay established in Subsection 070.05. (3-30-01)

18. Consultant. An independent contractor who provides professional or technical advice, counsel, or service on a set fee basis. (Ref. Subsection 010.30). (7-1-87)

19. Demotion. The reduction of an employee from a position which the employee occupies in one (1) class to a position in another class with a lower entrance salary. Demotion does not include returning an employee to a class in which the employee has permanent status for failure to complete the promotional probationary period. (Ref. Subsection 150.04) (7-1-87)

20. Departmental Class. A class of positions that is unique to a department. (7-1-87)

21. Dismissal. The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Section 190. (7-1-87)

22. Earned Administrative Leave (EAL). Paid leave for hours worked which exceed the regularly scheduled hours but do not result in overtime. These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) workweek. In the case of those employees engaged in law enforcement, correctional, and firefighting activities characterized by irregular shift work schedules, EAL hours may accrue after hours worked and hours on paid leave exceed one hundred and sixty (160) hours in a period of twenty-eight (28) consecutive days. (3-30-01)

23. Employee. Any person in the employ of a state department who is paid a salary or wages. (4-5-85)

24. Employment History. The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reason(s) for separation from employment but not including accrued leave balances or usage. (3-30-01)

25. Examination. The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)

26. Factoring. The assignment of Hay evaluation points to a classification in accordance with Section 67-5309B, Idaho Code, and Section 074. (3-30-01)

27. General Class. A class of positions that is common to more than one participating department. (7-1-87)

28. Good Cause. The conduct of a reasonable person in the same or similar circumstances. (7-1-87)

29. Hours Worked: (7-1-87)

a. Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave or other approved leaves of absence, and excluding on-call time. (Ref. Subsection 010.40) (3-30-01)

b. Travel time shall be compensated pursuant to policy set forth by the Board of Examiners. (3-30-01)

c. Attendance at lectures, meetings, training programs and similar activities outside of the employee's regular working hours when attendance has been directed by the appointing authority or designee. (5-15-85)

30. Incumbent. Any person holding a classified or non-classified position in state service. (7-1-87)

- 31. Independent Contractor.** Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Subsection 010.18) (3-30-01)
- 32. Interested Person.** A person or department directly affected by a rule, statute or department action or inaction. (6-30-78)
- 33. Intoxication.** Being under the influence of alcohol, or misuse of medication or controlled substances. (Ref. Subsection 190.01.f.) (3-30-01)
- 34. Involuntary Transfer.** A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-30-01)
- 35. Layoff.** An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (4-5-85)
- 36. Leave Of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (3-30-01)
- 37. Leave Of Absence Without Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)
- 38. Merit Increase.** The advancement of an employee's compensation in accordance with Section 67-5309C(b), Idaho Code. (7-1-87)
- 39. Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a class that is in addition to the other minimum qualifications required for all positions in the class. (7-1-93)
- 40. New Class.** A classification that is not essentially described by any existing job classification. (7-1-94)
- 41. Occasional Or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)
- 42. On-Call Time.** Time when an employee is required to carry a pager, cellular phone, or to leave work at home or with the department where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (3-30-01)
- 43. Overtime.** Those hours defined as such in Section 67-5302(19), Idaho Code, excluding any time, such as traded time and occasional or sporadic work, that is specifically excluded from the overtime calculation by federal law. (7-1-87)
- 44. Pay Line Exception.** A temporary assignment of pay grade, pursuant to Section 67-5309C(b)(i), Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B(a), Idaho Code, as approved by the administrator. (3-30-01)
- 45. Position, Classified.** A position subject to Chapter 53, Title 67, Idaho Code, and these rules in which one (1) person is hired as a full-time or part-time employee; or in which two (2) or more persons share in the aggregate of the position. (7-1-87)
- 46. Promotion.** The advancement through the competitive process of an employee with permanent status from a position which he or she occupies in one (1) class to a position in another class having a higher entrance salary. (4-5-85)

- 47. Rating.** The number of Hay evaluation points assigned to a classification in accordance with Subsection 074. (7-1-87)
- 48. Reasonable Accommodation.** An adjustment made to a job and/or work environment that enables a qualified individual with a disability to perform the essential functions of the position and would not cause undue hardship on the operation of the department. (Ref. Subsection 190.01.c.) (7-1-87)
- 49. Reclassification Of A Position.** A change of a position from the class to which it is assigned to another class. (3-30-01)
- 50. Reclassification Of An Employee.** Means a change in the classification assigned to the employee to properly reflect the duties and responsibilities assigned to that employee by an appointing authority. (3-30-01)
- 51. Recruitment.** The act of seeking applicants for employment. ()
- 542. Reduction In Pay.** A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's class is allocated. (7-1-94)
- 523. Register.** A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a class on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the class for which the register was established. (4-5-85)
- 534. Reinstatement.** The reappointment of a former or current classified employee pursuant to Section 125. (7-1-87)
- 545. Relief Shift Employee.** An employee whose regular assignment is to work during the absences of others. (Ref. Subsection 075.01.b.) (12-10-90)
- 556. Resignation.** The voluntary quitting of state employment, excluding retirement. (6-11-89)
- 567. Respondent.** The party whose interests are adverse to those of the appellant. (7-1-93)
- 578. Status.** The character of an employee's appointment. (7-1-77)
- 589. Suspension.** An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Section 190. (7-1-87)
- 5960. Termination.** The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Section 150. (3-30-01)
- 601. Traded Time.** Those hours an employee agrees to substitute for another employee during scheduled hours of work, where both work in the same capacity, the agreement to substitute is solely at the employees' option, and the agreement is approved by the agency by whatever manner is customary. (7-1-87)
- 642. Transfer.** A change of work location of an employee in which the employee changes from one (1) position to another in the same class or to another class in the same pay grade. (4-5-85)
- 623. Underfill.** The filling of a class of position with an employee in a class of lower pay grade to accommodate a training period as approved by the administrator. (4-5-85)
- 634. Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Section 073). (12-10-90)

(BREAK IN CONTINUITY OF SECTIONS)

081. ~~PURPOSE OF EXAMINATIONS (RESERVED).~~

~~The administrator shall conduct examinations for the purpose of maintaining eligibility registers. (8-1-81)~~

(BREAK IN CONTINUITY OF SECTIONS)

083. ~~LOCATION OF EXAMINATIONS (RESERVED).~~

~~When the administrator determines it to be in the best interest of the personnel system, examinations may be held in specific areas of the state, by approved proctors outside the state of Idaho, or via electronic communications. (3-30-01)~~

084. ANNOUNCEMENT OF ~~EXAMINATIONS~~ RECRUITMENT.

01. Distribution Of Announcements. The announcement of each open-competitive ~~examination~~ recruitment shall be supplied to the appropriate local offices of the Idaho Department of Labor and to other locations determined necessary by the administrator to develop a register of eligibles. If the open-competitive ~~examination~~ recruitment has been requested by the appointing authority in lieu of a promotional ~~examination~~ recruitment, it shall be his or her responsibility to post or otherwise distribute the announcement so it can be seen by all employees of that department prior to its expiration date. (Ref. Rule 170.01.b.) (4-5-85)(____)

02. Posting Of Announcements Within Departments. The announcement for each promotional ~~examination~~ recruitment shall be supplied to the appointing authority of each affected department. It shall be his or her responsibility to post or otherwise distribute such announcement so it can be seen by all employees in the department prior to the expiration date. (4-5-85)(____)

085. CONTENT OF ANNOUNCEMENTS.

Each announcement ~~of an examination~~ shall contain the title of the class, characteristic duties and responsibilities, salary, minimum qualifications, nature of ~~the~~ examination, relative weights of the various portions of the examination, qualifying score, closing date, and other pertinent information. (4-5-85)(____)

086. APPLICATIONS.

01. Form. All applications shall be filed on the form prescribed by the administrator. A separate form must be filed for each class for which application is made unless otherwise prescribed in the announcement. (8-1-81)

02. Filing Of Applications. Applications are currently accepted by mail, personal delivery, electronic mail and FAX to the Division of Human Resources. Whenever applications are filed by electronic mail or FAX, the original shall be deposited in the mail the same day or hand delivered the following day. An application will also be considered timely if any Job Service or agency human resources office receives and date stamps it by the closing date, notifies the Division of Human Resources, and ensures that it is delivered to the Division of Human Resources by close of the next business day. (3-30-01)

03. Application By Military Personnel. An application ~~for examination~~ will be accepted after the closing date of the announcement from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the ~~examination~~ announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of ~~the~~ an examination. The applicant must be a resident of Idaho when application is made. (Ref. Sections 65-502 and 67-5309(f), Idaho Code). (4-5-85)(____)

04. ~~Examination Of~~ Application By Disabled Veterans. A disabled veteran may file an application ~~for examination~~ at any time for any class for which the Division of Human Resources maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same class,

does not have current eligibility on that register, or is not serving in a class in the same or higher pay grade as the class for which application is made. The applicant must be a resident of Idaho when application is made. (Ref. Sections 65-502 and 67-5309(f), Idaho Code). (4-5-85)()

05. Promotion Of Entrance Probationary Employee. Any classified employee on entrance probation may file an application for a promotional opportunity but may not be placed on a register until permanent status has been attained. (Ref. Subsections 160.01. and 170.03.). (7-1-87)

06. Disclosure Of Information For Hiring Purposes. By submitting an application, an individual is deemed to authorize disclosure of confidential information to state agencies for purposes of screening, testing, interviewing and hiring. (Ref. Section 9-340C, Idaho Code). (12-10-90)

087. DENIAL OF APPLICATIONS.

01. Basis. The administrator may choose not to process an application ~~for examination~~ if: (3-30-01)()

a. The applicant will not meet the minimum qualifications specified in the announcement at the time set for appointment. (3-30-01)

b. The application was not received on or before the closing date for acceptance of applications. (3-30-01)

c. A background investigation or examination of an applicant discloses that the applicant committed an act which is cause for dismissal as provided in Section 190. (3-30-01)

02. Further Actions. When any such finding under Subsection 087.01 is made, the administrator may deny the application and may cancel the eligibility of the applicant if he or she has already attained a place on the eligibility register. If the applicant has already received appointment, the administrator may take appropriate action to have the employee removed from the position. (3-30-01)

~~088.—089.~~ (RESERVED).

088. PURPOSE OF EXAMINATION.
The administrator shall use examinations or evaluations to establish eligibility registers. ()

089. LOCATION OF EXAMINATIONS.
When the administrator determines it to be in the best interest of the personnel system, examinations may be held in specific areas of the state, by approved proctors outside the state of Idaho, or via electronic communications. ()

(BREAK IN CONTINUITY OF SECTIONS)

102. PLACEMENT ON REGISTER.

01. Score Order. Eligible candidates shall be placed on the register for a given class ranked in descending numerical order based on their final score on the examination for such class. (3-30-01)

02. Veterans' Preference. Eligible veterans or surviving spouses entitled to five (5) point preference shall be placed on the open-competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Subsection 093.03, Section 65-506, Idaho Code) (3-30-01)

03. Disabled Veterans' Preference. Eligible disabled veterans or surviving spouses entitled to ten (10) point preference shall be placed at the top of the open-competitive register above all other candidates in order of their final score on the examination augmented by preference points. (Ref. Subsection 093.03, Section 65-605, Idaho Code)

Code)

(3-30-01)

04. Veterans' Preference For Initial Appointment Only. The additional points added by reason of veterans' preference shall be used for initial appointment to each state agency and not for the purpose of promotions *in classified service*. (Ref. Section 65-506, Idaho Code) ~~(3-30-01)~~()

(BREAK IN CONTINUITY OF SECTIONS)

110. CERTIFICATION AND SELECTION.

Whenever a vacancy in a classified position is to be filled by the ~~competitive examination~~ recruitment process, the appointing authority shall make selection from eligibility registers certified by the Division of Human Resources' staff. ~~(4-5-85)~~()

(BREAK IN CONTINUITY OF SECTIONS)

126. TRANSFERS.

01. Authority To Transfer. An appointing authority may transfer an employee at any time from one position to another in the same class. (4-5-85)

02. Transfer Within Pay Grade. An appointing authority may transfer an employee from a class in which he or she holds permanent status to another class allocated to the same pay grade for which the employee meets the minimum qualifications. (4-5-85)

03. Probationary Period. An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. (Ref. Subsection 150.02) (3-30-01)

04. Limitation. Transfers shall not be used to abridge an employee's rights in reduction in force prescribed by Sections 140 through 147. (7-1-87)

05. Transfer Between Departments. An employee shall be eligible for transfer between departments in the same class in which he or she holds permanent status or to another class in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave shall be transferred in accordance with Subsections 230.04 and 240.02. Salary treatment is covered by Subsection 072.04. (7-1-87)

06. Restriction. Transfer of an employee between departments is not permissible as long as there is a departmental layoff register (Subsection 101.01) for the class in the department to which transfer is desired with names of eligibles who are willing to accept reemployment. (4-5-85)

07. Examination. The administrator may require an employee transferring between classes to pass an examination for the class to which transfer is desired. (4-5-85)

08. Involuntary Transfer. Due process must be given to any employee subject to an involuntary transfer. (Ref. Subsections 010.34 and 200.01) ()

(BREAK IN CONTINUITY OF SECTIONS)

130. ACTING APPOINTMENT TO A POSITION.

01. Conditions For Acting Appointment. At the discretion of an appointing authority, a classified employee with permanent status may be appointed to a position in a class of higher pay grade within his or her own department in an acting capacity whenever: (7-10-88)

- a. The incumbent of the position in the higher class is on authorized leave of absence; or (7-10-88)
- b. A vacancy exists and there is no departmental layoff register (Rule 101.01) with names of eligibles who are willing to accept reemployment, nor adequate departmental register for the class. (7-10-88)

02. Minimum Qualifications. To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (4-5-85)

03. Notification. Appointing authorities shall notify the administrator of each acting appointment on the prescribed form no later than the effective date of the appointment unless an exception is specifically authorized by the administrator. (2-6-92)

04. Effective Date. The effective date of each ~~active~~ acting appointment may be retroactive to the beginning of the pay period during which approval is granted. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

140. REDUCTION IN FORCE.

An appointing authority may lay off an employee whenever it is necessary because of shortage of funds or work, reorganization, or the abolishment of one (1) or more positions (ref. Rule 066). A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff (ref. Rule 067). A reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions within the department or within the organizational unit approved pursuant to Rule 140.02. Layoffs shall be accomplished in a systematic manner with equity for the rights of classified employees and shall not abrogate an employee's right of grievance or appeal if the layoff is in fact a dismissal. (4-5-85)

01. Layoff By Position. Reduction in force shall be by class of position ~~regardless of class of incumbent.~~ (4-5-85)(____)

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification (Rule 113) for bona fide occupational qualifications or appointed under specific options or minimum qualification specialties (MOS) in a class. Inclusions or exclusions must include or exclude all incumbents of the class appointed under similar selective certification, or the same option or minimum qualification specialty ~~and must be approved in advance by the administrator.~~ To exclude other positions from the layoff, a legitimate business need must be provided to the administrator. These positions must require an MOS, even if not formally designated at present. The incumbent(s) must be certified to possess the MOS. All exclusions must be approved in advance by the administrator. (7-1-93)(____)

b. Reduction in force for employees in limited-service appointments shall be limited to the program or function for which the appointments were made. (4-5-85)

c. Reduction in force for employees in seasonal appointments will be governed by workload fluctuations and has no applicability under this rule. (Ref. Rule 122). (12-10-90)

02. Layoff Unit. Reduction in force shall be department-wide or by organizational unit determined by the appointing authority ~~provided the organizational unit designation for layoff purposes is made by the appointing authority and approved by the administrator before the effective date of the layoff~~ and approved prior to the layoff by the administrator. (4-5-85)(____)

03. ~~Calculation Of Retention Points.~~ ~~There shall be competition among all employees in the class in the department or organizational unit affected by the reduction in force based on a retention point system derived from performance evaluations (ref. Rule 210 as follows:~~ **RIF Review Panel Appointed.** A panel will be convened if calculation of retention points is necessary in a reduction in force. The appointing authority will appoint the panel.

Performance Level	Retention Points Earned Per Hour of Credited State Service
Superior or equivalent	.100
Very Good or equivalent	.075
Satisfactory or equivalent	.050
Needs Improvement or equivalent	.000
Unsatisfactory	.000

(7-1-87)()

~~a. All credited state service for which there is no performance evaluation shall receive five one hundredths (.05) points per hour.~~ (4-5-85)

~~b. War veterans as defined in Chapter 5, Title 65, Idaho Code, shall receive a bonus of three hundred twelve (312) retention points which is equivalent to three (3) years of satisfactory service.~~ (4-5-85)

~~e. No points shall be calculated for the last three (3) months prior to a reduction in force.~~ (4-5-85)

04. Calculation Of Retention Points. ()

a. Credited State Service. ()

i. For each year (two thousand eighty (2080) hours) of credited state service, as defined in Rule 141, the incumbent receives one (1) point, or fraction thereof. ()

ii. Subtract one (1) point for any year for which the incumbent received a final rating of "Does Not Achieve Performance Standards" or equivalent less than satisfactory final rating. ()

iii. For eligible veterans (Idaho Code, Title 65, Chapter 5) add three (3) points to the total. ()

iv. If no documentation of performance exists, the incumbent is assumed to have met the rating of "Achieves Performance Standards." ()

b. RIF Panel Review. ()

i. The panel will review the incumbent's performance for the previous five (5) calendar years. The panel will assign points to the incumbents based upon their performance and performance documentation in those five (5) years. If a formal evaluation does not exist, the incumbent shall be assigned points based on available information in order to ensure fairness and equity. ()

ii. Up to five (5) points per year may be awarded per incumbent based on performance. ()

iii. Maximum points per person for Subsection 140.04.b. is twenty-five (25). ()

c. Supervisors Recommendation to the RIF Review Panel (Optional). ()

i. At the time of the proposed RIF, the current supervisor and/or manager may make a written recommendation to the RIF Panel on a specific need to retain critical program skills or other skills or knowledge the

incumbent(s) may possess, as well as other non-discriminatory factors that may impact a layoff decision. The panel may award up to five (5) points per incumbent in Subsection 140.04.c. ()

ii. The maximum optional points per person for Subsection 140.04.c. is five (5) points. ()

05. Implementation Of The Reduction In Force (RIF). Implementation of the RIF is based on total points. Before implementation, agencies shall review their process to ensure it followed the above criteria and is based on justifiable business need. For RIF actions impacting groups of employees, a statistical analysis should be completed to identify the potential for adverse impact to legally protected classes or individuals. The Division of Human Resources will provide assistance if needed. ()

06. Accountability. The appointing authority has accountability for the final decisions of the RIF panel and must ensure that fairness and equity are maintained. ()

047. Audit Of Retention Points. Each employee shall be entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. (7-1-87)

(BREAK IN CONTINUITY OF SECTIONS)

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

01. Overview Of Procedures. (3-30-01)

a. The due process procedure deals with the disciplinary matters set forth in Idaho Code Section 67-5315(2), dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the department. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions are appealable in accordance with Section 201. (3-30-01)

b. The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions are not normally appealable to the Personnel Commission. (Ref. Section 67-5316, Idaho Code) (~~3-30-01~~)()

02. Establishment Of Departmental Problem-Solving And Due Process Procedures. Each participating department shall maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and this section. (7-1-98)

03. Eligibility And Time For Filing Under Problem-Solving Procedure. Any classified employee with permanent, provisional or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee shall file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the department is strongly encouraged to waive any time limits. (Ref. Subsection 200.05). The time limit for filing shall be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The department may accept a filing that is or appears to be filed late. Department policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing authority. (3-30-01)

04. Elements Of The Problem-Solving Procedure. The procedure shall contain a statement from the department head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and

encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement shall also provide a means whereby department representatives can obtain timely authority, if needed, to resolve the matter. The procedure shall require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure shall provide for such additional levels of management as are appropriate in the department. The procedure shall also provide for the use of an impartial mediator upon agreement by the employee and department. Timelines shall not exceed five (5) working days between each step. The procedure shall also inform the employee that he or she is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative shall be expressly prohibited. This procedure shall not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1), Idaho Code; Sections 150 through 154). (3-30-01)

05. Filings Alleging Sexual Harassment Or Other Illegal Discrimination. Each department's problem-solving procedure shall provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure shall expressly prohibit sexual harassment and discrimination. Employees shall be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure shall designate a specific person or persons to receive and investigate such filings, and shall require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (7-1-98)

06. Elements Of Due Process Procedure. A department must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, a department must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice shall be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond shall not occur later than ten (10) working days after the employee has received notice, unless both the employee and department agree otherwise in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the appointing authority, or designee, shall make and implement the department's decision not later than ten (10) working days thereafter, excluding days the appointing authority, or designee, is out of the office. The procedure shall inform the employee of his or her right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure shall also provide for the use of an impartial mediator upon agreement by the employee and department. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code; Sections 150 through Section 154). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision shall also be sent to the administrator concurrently. (3-30-01)

07. Notification. A copy of the approved problem-solving and due process procedures shall be furnished and explained to each employee with permanent, provisional or entrance probationary status in the department concerned. (7-1-98)

08. Assistance To Departments. The administrator shall assist departments whenever requested in the development or revision of their departmental problem-solving and due process procedures. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

241. WORKERS COMPENSATION AND DISABILITY.

01. Use Of Leave In A Workers Compensation Claim. In the event of a disability incurred on the job covered by workers compensation, the employee shall be given the choice of either: 1) leave of absence without pay while receiving workers compensation; or 2) utilizing a portion of accrued sick leave to supplement workers

compensation to maintain his or her regular salary. No appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his or her rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (4-5-85)

02. Layoff After Six Months' Disability. If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after six (6) months' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position shall be declared vacant unless precluded by the Americans with Disabilities Act (ADA). (Ref. Subsection 101.01) The period of absence is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (~~3-30-01~~)()

a. The disabled employee's retention points need not be calculated unless there are other employees on the departmental layoff register in the same class. The employee shall be entitled to reemployment preference pursuant to Sections 145 and 146 and reinstatement privileges provided under Section 125 when released by his or her physician to return to work. (12-10-90)

b. The disabled employee's name shall be certified to a layoff register when the administrator has been notified by the physician that the employee is able to return to work. Conditional releases will be considered in accordance with the Americans with Disabilities Act. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

243. MATERNITY AND PATERNITY LEAVE.

01. Use Of Sick Leave. Disabilities caused or contributed to by pregnancy, child birth or related medical conditions are considered temporary disabilities and shall be treated as such for sick leave purposes. Maternity and paternity leave shall be granted under the same conditions and requirements as other compensable and non-compensable leave under these rules. (3-30-01)

02. Determination Of Disability Period. The employee's physician shall be considered the sole authority in determining the disability period insofar as compensable sick leave is concerned. (4-5-85)

03. Additional Time Off. Maternity and paternity leave preceding and following the time that the ~~employee~~ person is disabled shall be leave without pay unless the ~~employee~~ person elects to use accrued vacation leave, earned administrative leave or compensatory time off for overtime. (~~3-30-01~~)()

04. Discrimination Prohibited. Pregnancy discrimination is prohibited. The employee may continue to work as long as she is physically capable of performing the duties of her position and may return to work as soon as she is physically able as determined by her physician. (3-30-01)

05. Adoption and Foster Care. Leave will be granted for adoption and foster care as set forth in the Family and Medical Leave Act. (Ref. Section 242) (3-30-01)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-0101

NOTICE OF PROPOSED RULEMAKING (FEE RULE)

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) Title 39, Chapters 1, 2, and 54, Idaho Code, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Pursuant to Section 39-252, Idaho Code, the Bureau of Vital Records and Health Statistics (Vital Statistics) is responsible for the provision of state vital statistics services as stipulated under Title 39, Chapter 2, Idaho Code, and associated Department of Health and Welfare Rules.

The National Vital Statistics System is the basis for the nation's official statistics on births, deaths, fetal deaths, abortions, marriages, and divorces. The National Center for Health Statistics (NCHS) closely collaborates with the states to develop standard certificates and reports to promote a uniform national database. These are revised approximately every 10 years to ensure the data collected meet current and future health information and administrative needs. In 1998, NCHS initiated planning for new standard certificates of birth, death, and stillbirth to be utilized starting January 1, 2003. Pursuant to Section 39-245, Idaho Code, Vital Statistics began preparing for adoption of the revisions. States were recently notified that, due to funding constraints, only the race coding of the new birth, death, and stillbirth certificates would be required by 2003; however, these new certificates in their totality will be included in the NCHS 2005 contract renewal.

Since 1994, Vital Statistics has utilized an electronic birth certificate software system for registering approximately 20,000 live births per year. In order to comply with the new coding requirements and the eventual certificate revisions, the software must be modified. Updating the system will also allow for use of the latest technology to assist Vital Statistics in continuing to serve Idahoans in a timely and efficient manner. Associated costs include working with system participants, (e.g., birthing facilities, physicians etc.), conducting workshops, and modifying the mainframe applications, that store data and are accessed for certificate generation and health statistics. Many other programs are reliant upon this system, including Child Support Enforcement, Medicaid, Welfare, and the Immunization Registry while others, such as, universities, health programs, Social Security, the Department of Law Enforcement (Missing Children's Act), Immigration and Naturalization and Passport require verifications or data for research, fraud prevention, and other mandated activities.

Current funding is insufficient to meet these needs. Therefore, an increase in fees are necessary.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Vital Statistics has historically been self-sufficient, with operations exclusively funded from receipts (generated through services rendered) and from federal contracts. Vital Statistics requested, and was granted, fee increases in 1972, 1981, 1984, 1989, and 1997. In order to cover new, necessary costs, and system maintenance, a fee increase of \$3.00 is required. The changes in rule will be from \$10 to \$13 per certified copy or search; from \$10 to \$13 for legal actions (paternities and rescissions, court-ordered name changes, adoptions, delayed registrations); and from \$6 to \$9 per verification.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is necessary to comply with Title 39, Chapter 2, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Jane S. Smith at (208) 334-5976.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0208-0101

251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.

01. Certified Copies. The fee shall be ~~ten~~ thirteen (\$103) dollars per copy for the issuance of a certified copy of a vital record. (3-30-01)()

02. Searches. The fee shall be ~~ten~~ thirteen (\$103) dollars for each search of the files when no record is found or no copy is made. (7-1-97)()

03. Verifications. Except for Idaho state executive agencies and public health districts, there shall be a fee of ~~six~~ nine (\$9) dollars for verification of data from certificates. (12-31-91)()

04. Statistical, Research, Or Public Health Services. The State Registrar shall assess the fee for statistical, research or public health services. The costs shall be calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a pro-rated basis to reflect the number of expected requests for the same information or service. (12-26-83)

05. Other Services. (12-31-91)

a. The fee shall be ~~ten~~ thirteen (\$103) dollars for establishing a new birth certificate pursuant to a report of adoption. (7-1-97)()

b. The fee shall be ~~ten~~ thirteen (\$103) dollars for establishing a delayed certificate of any event. (7-1-97)()

c. The fee shall be ~~ten~~ thirteen (\$103) dollars for establishing a new or amended birth certificate pursuant to a court order, a paternity affidavit or rescission, or a subsequent marriage affidavit. (7-1-97)()

d. A service fee of three dollars (\$3), in addition to the ~~ten~~ thirteen (\$103) dollars for a certified copy, shall be paid to the local registrar for securing each expedited certified copy of a vital record. (7-1-97)()

e. The fee shall be ten dollars (\$10) for filing a copy of "Request and Consent for Artificial Insemination", as required by Section 39-5403, Idaho Code. (12-31-91)

f. The fee shall be ~~ten~~ thirteen (\$13) for copies of certificates provided upon written request to local, states other than Idaho, or federal government agencies in accordance with Section 39-270(b), Idaho Code.

(7-1-97)(____)

g. When a funeral director must correct an error on a certificate of death or stillbirth for which certified copies have been issued, the correction fee shall be ~~ten~~ thirteen (\$13) dollars and shall include issuance of one (1) certified copy of the corrected death or stillbirth record. The fee shall be two dollars (\$2) for additional (replacement) copies issued at the time of correction.

(7-1-97)(____)

h. A service fee of five dollars (\$5) will be added for priority mailing or special handling, including additional document requests. This fee will be in addition to the current fee(s) for the requested certified copy(ies) and/or search(es).

(7-1-97)

06. Waiver Of Fee Requirement. Fees may be waived for Idaho state executive agency and public health district requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest.

(12-26-83)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.02.14 - RULES GOVERNING CONSTRUCTION AND OPERATION
OF PUBLIC SWIMMING POOLS IN IDAHO

DOCKET NO. 16-0214-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

Public swimming pools are the only pools regulated under these rules. The way the definition of public swimming pool is currently written there has been some question as to which specific facility types are regulated. The rules will be revised to clarify the definition of public swimming pool. The current rules also contain a definition of private pool. This definition will be deleted because it will not be necessary once public swimming pool is clearly defined.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rules were needed to make it clear which facilities are regulated under the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Russell Duke at (208) 334-4964.

Anyone can submit written comments regarding this proposed rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0214-0101

004. PUBLIC RECORDS INCORPORATION BY REFERENCE.

The Public Health Districts will comply with Sections 9-337 through 9-347, Idaho Code, when requests for the examination and copying of public records are made, unless otherwise exempt, as set forth in Section 9-340, Idaho

~~Code.~~ There are no incorporated materials in this chapter of rules.

~~(4-5-00)~~()

(BREAK IN CONTINUITY OF SECTIONS)

006. APPLICABILITY.

All public swimming pools, as defined, shall be constructed and operated in conformance with these rules. Public swimming pools constructed prior to 1982 that can meet the requirement of Sections 190 through 198 and Sections 230 and 231 shall not be required to meet the structural aspects of these rules. ~~These rules shall apply to all public swimming pools except private pools and special-use pools.~~ (4-5-00)()

007. PUBLIC RECORDS.

The Public Health Districts will comply with Sections 9-337 through 9-347, Idaho Code, when requests for the examination and copying of public records are made, unless otherwise exempt, as set forth in Section 9-340, Idaho Code. ()

~~0078.~~ -- **009. (RESERVED).**

010. DEFINITIONS.

For the purpose of these rules, the following words and phrases will be used, as defined below: (4-5-00)

- 01. Bather.** A person who becomes partially or totally immersed in water in a pool. (4-5-00)
- 02. Board.** Idaho State Board of Health and Welfare. (4-5-00)
- 03. Break In Grade.** Where the slope of the bottom of pool exceeds a uniform slope greater than one (1) foot in twelve (12) feet horizontally. (4-5-00)
- 04. Department.** Idaho Department of Health and Welfare. (4-5-00)
- 05. Director.** Director of the Department of Health and Welfare. (4-5-00)
- 06. Director's Designee.** The seven Public Health Districts. (4-5-00)
- 07. Geothermal Water.** Water derived from and heated exclusively from the natural heat energy from the earth. (4-5-00)
- 08. Geothermal Pool.** A flow-through public pool, which uses water solely derived from and heated exclusively by the natural heat energy from the earth. (4-5-00)
- 09. Flow-Through Pool.** A pool fed by a continuous supply of acceptable water that causes an equal volume of water to overflow to waste. (4-5-00)
- 10. Lifeguard.** A person who holds a current lifeguard training certificate and basic life support cardiopulmonary resuscitation (CPR) certificate from the American Red Cross, YMCA, Ellis & Associates, or any other equivalent certifying agency approved by the Director's Designee. (4-5-00)
- 11. Lifeguard Chair.** An elevated stand erected for use by a lifeguard while superintending the safety of bathers in a pool. The height and location shall afford the user an unobstructed view of all bathers within the pool enclosure. (4-5-00)
- 12. Operator.** An individual eighteen (18) years of age or older, who is familiar with the operation of the pool and is responsible for the health and safety of the public using the pool and for operating the pool in compliance with these rules. The operator shall have an approved certification of competency from a Certified Pool Operator (CPO), National Swimming Pool Foundation Certification; an Aquatic Facility Operator (AFO), National

Recreation and Parks Association Certification; a National Swimming Pool Institute (NSPI Tech 1), National Spa and Pool Institute Certification Program, District Health Department Certification, or other certification programs approved by the Director designee. The operator shall also have a basic life support cardiopulmonary resuscitation (CPR) certificate and current first aid certification as stated in Subsection 010.10 of these rules. (4-5-00)

13. Person. A person, firm, partnership, association, corporation, company, governmental agency, club or organization of any kind. (4-5-00)

14. Pool. An artificial structure containing water and its appurtenances used or intended to be used for swimming, diving, or recreation. (4-5-00)

~~**15. Private Pool.** Any pool constructed in connection with or appurtenant to single family dwellings or condominiums used solely by the persons maintaining their residence within such dwellings and the guests of such persons. (4-5-00)~~

~~**16. Public Swimming Pool.** Herein referred to as public pool. A pool, and its appurtenances, that contains water more than two (2) feet deep, is used or~~ Any structure containing an artificial body of water, more than two (2) feet deep, that is intended to be used by the public, for swimming, diving, wading or recreational bathing, and is for the use of any segment of the public pursuant to a general invitation but not an invitation to a specific occasion or occasions. together with structures, appurtenances and equipment used in connection with that body of water, regardless of whether a fee is charged for its use. The term includes, but is not limited to: (4-5-00)()

- a. Municipal and community pools; ()
- b. Hotel, motel, RV parks, and resort pools; ()
- c. Health/athletic clubs pools; ()
- d. Educational institution pools; and ()
- e. Commercial and institutional pools such as Girl and Boy Scouts, YMCA and YWCA, camps and water parks. ()
- f. Provided, however, the term does not include pools owned and maintained by private home owners, homeowners associations and apartment management companies, for the sole use of the owner, members or tenants and their invited guests, and does not include spas, special-use pools and wading pools. ()

~~**17. Remodel.** To replace all or part of any structure, circulation system or appurtenance of a pool facility, or to modify to the extent its design, configuration, or operating characteristics differ from those of the original. The term does not include normal maintenance, repair, or replacement of equipment or similar equipment that has previously been approved. Only that which is being remodeled needs to meet current specifications. (4-5-00)~~

~~**18. Spa.** An artificial structure containing water no more than four (4) feet deep and a recirculation system primarily designed for relaxation or therapeutic use where the user is sitting, reclining, or at rest. (4-5-00)~~

~~**19. Special-Use Pool.** A pool used exclusively for rehabilitating, curing, or treating a disease or disorder. This term also includes geothermal flow-through pools used exclusively for relaxation or therapeutic use where the user is sitting, reclining, or at rest. (4-5-00)~~

~~**20. Wading Pool.** A public pool with water ~~less~~ not more than two (2) feet deep used mainly by non-swimming children and those supervising the children. (4-5-00)()~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.07 - RULES FOR HOME HEALTH AGENCIES

DOCKET NO. 16-0307-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-5603, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

The rule change is to bring the Department into compliance with the HCBS Waiver for the aged and disabled and for changes that have been made in the federal regulations governing home health agencies.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is to comply with changes in federal regulations

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Virginia Loper at (208) 364-1843.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 24, 2001.

DATED this 31st day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0307-0101

000. LEGAL AUTHORITY.

The following rules were adopted by the Board of Health and Welfare, state of Idaho. These rules become effective under authority vested by the Idaho Department of Health and Welfare, by of the Idaho code, as amended by the Board of Health and Welfare adopted the following rules according to 39-5603, Idaho Code. adopts these rules for the operation of home health agencies. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

002. DEFINITIONS.

- 01. Abuse.** Any conduct as a result of which (a person) suffers skin bruising, bleeding, malnutrition, sexual molestation, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, or mental injury, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death, may not be the product of accidental occurrence. (Idaho Code, Title 39, Chapter 5202(2). (7-1-93)
- 02. Administrator.** The person appointed by the governing body delegated the responsibility for managing the home health agency. (12-31-91)
- 03. Audiologist.** A person who: (7-1-93)
- a. Meets the education and experience requirements for a Certificate of Clinical Competence in audiology granted by the American Speech-Language-Hearing Association; or (7-1-93)
- b. Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification. (7-1-93)
- 04. Audit.** A methodical examination and review. (12-31-91)
- 05. Board.** The Idaho State Board of Health and Welfare. (12-31-91)
- 06. Branch Office.** A location from which a HHA provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the HHA and must be sufficiently close to the parent agency that it is not impractical for it to receive administration, supervision and services from the parent agency. The branch office is not required to independently meet the requirements for licensure. (7-1-93)
- 07. Business Entity.** A public or private organization owned or operated by one (1) or more persons. (7-1-93)
- 08. Patient.** A natural person who is a recipient of provided health care services. (7-1-93)
- 09. Clinical Note.** A notation of a contact with or regarding a patient that is written and dated by a member of the health team. (7-1-93)
- 10. Clinical Record.** A legal document containing all pertinent information relating to a patient. (7-1-93)
- 11. Complaint Investigation.** An investigation by an agency to determine the validity of an allegation against it and to identify solutions to resolve conflicts between the complainant and the agency. (7-1-93)
- 12. Complaint Survey.** On-site inspection conducted by the Department to investigate an allegation against an agency. (7-1-93)
- 13. Deficiency.** A determination of noncompliance with a specific rule or part of a rule. (7-1-93)
- 14. Department.** The Idaho Department of Health and Welfare. (7-1-93)
- 15. Directly.** Providing home health services either through salaried employees or through personnel under hourly or per visit contracts. (7-1-93)
- 16. Director.** A physician or registered nurse responsible for general supervision, coordination, and direction of patient care in a home health agency. (7-1-93)
- 17. Follow-Up Survey.** A survey made to determine if corrections have been made to deficiencies cited

in an earlier survey. Areas surveyed are determined by the nature of the deficiencies cited during the previous survey although new deficiencies may be cited in any area. (7-1-93)

18. Governing Body. The designated person or persons who assume full responsibility for the conduct and operation of the home health agency. (12-31-91)

19. Government Unit. The state, or any county, municipality, or other political subdivision, or any department, division, board or other agency thereof. (7-1-93)

20. Grievance Procedure. A method to insure patient rights by receiving, investigating, resolving, and documenting complaints related to the provision of services of the home health agency. (12-31-91)

21. Group Of Professional Personnel. A group which includes, at least, one (1) physician, at least, one (1) registered nurse, and other health professionals representing at least the scope of the program, agency staff, and others. (7-1-93)

22. Health Care Services. Any of the following services that are provided at the residence of an individual: (7-1-93)

- a. Skilled nursing services; (7-1-93)
- b. Homemaker/home health aide services; (7-1-93)
- c. Physical therapy services; (7-1-93)
- d. Occupational therapy services; (7-1-93)
- e. Speech therapy services; (7-1-93)
- f. Nutritional Services/Registered Dietitian Services; (7-1-93)
- g. Respiratory therapy services; (7-1-93)
- h. Medical/social services; (7-1-93)
- i. Intravenous therapy services; and (7-1-93)
- j. Such other services as may be authorized by rule of the Board. (7-1-93)

23. Home Health Agency. Any business entity that ~~directly~~ primarily provides skilled nursing services by licensed nurses and at least one (1) other health care service as defined in Subsection 002.22 to a patient in that patient's place of residence. Any entity that has a provider agreement with the Department as a personal assistance agency under Title 39, Chapter 56, Idaho Code, requires licensure as a home health agency only if it primarily provides nursing services. (7-1-93)()

24. Homemaker/Home Health Aide. A person who has successfully completed a basic prescribed course or its equivalent and has been placed on the Home Health Aide Registry by the state of Idaho, Board of Nursing. (7-1-93)

25. Individual. A natural person who is a recipient of provided health care services. (7-1-93)

26. Licensed Practical Nurse. A person who is duly licensed pursuant to Title 54, Chapter 14 of the Idaho Code. (7-1-93)

27. Licensing Agency. The Department of Health and Welfare. (12-31-91)

28. Medical Equipment And Supplies. Items, which due to their therapeutic or diagnostic

- characteristics, are essential to provide patient care. (7-1-93)
- 29. Must/Will/Shall.** A requirement. (7-1-93)
- 30. Neglect.** The negligent failure to provide those goods or services which are reasonably necessary to sustain the life and health of a person. {Idaho Code, Title 39, Chapter 5302 (8)}. (7-1-93)
- 31. Occupational Therapist.** A person licensed by the Idaho State Board of Medicine to provide occupational therapy services. (7-1-93)
- 32. Occupational Therapy Assistant.** A person certified by the Idaho State Board of Medicine to provide occupational therapy services under the supervision of an occupational therapist. (7-1-93)
- 33. Parent Unit.** The part of the HHA which develops and maintains administrative and professional control of subunits and/or branch offices. Services are provided by the parent unit. (7-1-93)
- 34. Physical Therapist.** A person licensed by the Idaho State Board of Medicine to provide physical therapy services. (7-1-93)
- 35. Physical Therapy Assistant.** A person certified by the Idaho State Board of Medicine to provide physical therapy services under the supervision of a physical therapist. (7-1-93)
- 36. Physician.** Any person licensed as required by Title 54, Chapter 18, of the Idaho Code. (7-1-93)
- 37. Place Of Residence.** Wherever a patient makes their home. This may be a dwelling, an apartment, a relative's home, a residential care facility, a retirement center, or some other type of institution exclusive of licensed facilities which provide skilled nursing care. (7-1-93)
- 38. Progress Note.** A written notation, dated and signed by a member of the health team, that documents facts about the patient's assessment, care provided, and the patient's response during a given period of time. (7-1-93)
- 39. Registered Dietitian.** A person who is registered by the Commission of Dietetic Registration as a registered dietitian. (7-1-93)
- 40. Registered Nurse (R.N.).** A person who is duly licensed pursuant to Title 54, Chapter 14 of the Idaho Code. (7-1-93)
- 41. Regulation.** A requirement established by State, Federal, or local governments pursuant to law and having the effect of law. (7-1-93)
- 42. Respiratory Therapist.** A person who is duly licensed pursuant to Title 54, Chapter 43, of the Idaho Code. (7-1-93)
- 43. Skilled Nursing Services.** Those services provided directly by a licensed nurse for the purpose of promoting, maintaining, or restoring the health of an individual or to minimize the effects of injury, illness, or disability. (7-1-93)
- 44. Social Services.** Those services provided by a person currently licensed by the Bureau of Occupational Licenses as a social worker in the state of Idaho. (12-31-91)
- 45. Speech Therapist.** A person who: (7-1-93)
- a. Has a current certificate of clinical competence in speech pathology granted by the American Speech-Language-Hearing Association; or (7-1-93)
 - b. Meets the educational requirements for certification and is in the process of accumulating the

supervised experience required for certification. The supervision is provided by a qualified speech therapist who is contracted or employed by the home health agency. (7-1-93)

46. Subunit. A semi-autonomous organization under the same governing body serving patients in a geographic area different from that of the parent agency. The parent agency, because of the distance between it and the subunit, is incapable of sharing administration, supervision and services with the subunit on a daily basis. Therefore, the subunit must independently meet the requirements for licensure. (7-1-93)

47. Summary Of Care Report. The compilation of the pertinent factors of a patient's clinical and progress notes that is submitted to the patient's physician. (7-1-93)

48. Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity. (7-1-93)

49. Under Arrangement. Furnishing home health services through contractual or affiliation arrangements with other agencies, organizations or persons. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

022. DIRECTOR.

01. Qualifications. General supervision, coordination, and direction of the medical, nursing, and other services provided shall be the responsibility of a physician or registered nurse. The physician or registered nurse or their designee, who shall be a physician or registered nurse, shall be available at all times during operating hours and shall participate in all activities relative to the professional or other services provided, including the qualifications of personnel as related to their assigned duties. (11-19-76)

02. Responsibilities. The director or designee shall be responsible for assuring that: (11-19-76)

a. An initial assessment/evaluation is made to provide a data base to plan and initiate care of the patient; (11-19-76)

b. There is a plan of treatment established for each patient; (7-1-93)

c. Continuing assessment and evaluation is provided in accordance with the patient's response and progress as related to the course of his disease or illness and the plan of treatment; (11-19-76)

d. The initial plan of treatment and subsequent changes are approved by signature of the attending physician and carried out according to his direction. (11-19-76)

e. The total plan of treatment is reviewed by the attending physician as often as the severity of the patient's condition requires and shall be reviewed at least every sixty-two (62) days; (7-1-93)()

f. Information is available to the attending physician on an ongoing basis and is timely, accurate, and significant of change in clinical status or condition; (11-19-76)

g. Information is provided to the administrator and guidance requested as is necessary to carry out assigned duties. (11-19-76)

(BREAK IN CONTINUITY OF SECTIONS)

030. PLAN OF CARE.

Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and

social needs can be met adequately by the agency in the patient's plan of care. (7-1-93)

01. Written Plan Of Care. A written plan of care shall be developed and implemented for each patient by all disciplines providing services for that patient. Care follows the written plan of care and includes: (7-1-93)

- a. All pertinent diagnoses; (7-1-93)
- b. The patient's mental status; (7-1-93)
- c. Types of services and equipment required; (7-1-93)
- d. Frequency of visits; (7-1-93)
- e. Functional limitations; (7-1-93)
- f. Ability to perform basic activities of daily living; (7-1-93)
- g. Activities permitted; (7-1-93)
- h. Nutritional requirements; (7-1-93)
- i. Medication and treatment orders; (7-1-93)
- j. Any safety measures to protect against injury; (7-1-93)
- k. Any environmental factors that may affect the agency's ability to provide safe, effective care; (7-1-93)
- l. The family's or other caregiver's ability to provide care; (7-1-93)
- m. The patient and his family's teaching needs; (7-1-93)
- n. Planning for discharge; and (7-1-93)
- o. Other appropriate items. (7-1-93)

02. Goals Of Patient Care. The goals of patient care must be expressed in behavioral terms that provide measurable indices for performance. (7-1-93)

03. Orders For Therapy Services. Orders for therapy services include the specific procedures and modalities to be used and the amount, frequency, and duration. (7-1-93)

04. Initial Plan Of Care. The initial plan of care and subsequent changes to the plan of care are approved by a doctor of medicine, osteopathy, or podiatric medicine. (7-1-93)

05. Total Plan Of Care. The total plan of care is reviewed by the attending physician and HHA personnel as often as the severity of the patient's condition requires but at least once every sixty-~~two~~ (62) days. (7-1-93)()

06. Changes To Plan. Agency professional staff promptly alert the physician to any changes that suggest a need to alter the plan of care. (7-1-93)

07. Drugs And Treatments. Drugs and treatments are administered by agency staff only as ordered by the physician. The nurse or therapist immediately records and signs oral orders and obtains the physician's countersignature. Agency staff check all medications a patient may be taking to identify possible ineffective side effects, the need for laboratory monitoring of drug levels, drug allergies, and contraindicated medication and promptly report any problems to the physician. (7-1-93)

031. CLINICAL RECORDS.

01. Purpose. A clinical record containing past and current findings, in accordance with accepted professional standards, is maintained for every patient receiving home health services. (7-1-93)

02. Contents. Clinical records must include: (7-1-93)

- a. Appropriate identifying information; (7-1-93)
- b. Assessments by appropriate personnel; (7-1-93)
- c. The plan(s) of care; (7-1-93)
- d. Name of physician; (7-1-93)
- e. Drug, dietary treatment, and activity orders; (7-1-93)
- f. Signed and dated clinical and progress notes; (7-1-93)
- g. Copies of summary reports sent to the attending physician; (7-1-93)
- h. Signed patient release or consent forms where indicated; (11-19-76)
- i. A signed dated copy of the patient's bill of rights; (7-1-93)
- j. Copies of transfer information sent with the patient; and (7-1-93)
- k. A discharge summary. (7-1-93)

03. Clinical And Progress Notes, And Summaries Of Care. Clinical and progress notes must be written or dictated on the day service is rendered and incorporated into the clinical record within seven (7) days. Summaries of care reports must be submitted to the attending physician at least every sixty ~~two~~ (620) days. (7-1-93)()

04. Written Policies And Procedures. Written policies and procedures must insure that clinical records are legibly written in ink suitable for photocopying and are available and retrievable during operating hours either in the agency or by electronic means. (7-1-93)

05. Retention Period. Clinical records must be retained for five (5) years after the date of discharge, or in the case of a minor, three (3) years after the patient becomes of age. Policies provide for retention even if the HHA discontinues operations. Records must be protected from damage. (7-1-93)

06. Disposal Of Records. There must be a method of disposal of clinical records, assuring prevention of retrieval and subsequent use of information. (7-1-93)

07. Copies Of Records. There must be a means of submitting a copy of the clinical record or an abstract and copy of most recent summary report with the patient in the event of patient transfer to another agency or health care facility. (7-1-93)

08. Safeguarding And Protection Of The Record. Agencies shall insure that records are protected from unauthorized use and damage and shall adhere to written procedures governing use and removal of records and conditions for release of information unless authorized by law. (7-1-93)

09. Discontinuation Of Operation. Agencies discontinuing operation shall obtain approval of a plan to preserve or destroy clinical records prior to disposition. (7-1-93)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)
DOCKET NO. 16-0308-0102
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: These temporary rules are effective August 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) 56-1004(l) and 56-202(b), 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 October 17, 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 changes to the rules are to make the valuation and treatment of vehicles in the TAFI program consistent with that in the Food Stamp program.

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.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is to protect the public health, safety and welfare and to be consistent with the findings of the Governor's Welfare Reform Advisory Council, proposal 35.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5818.

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 October 24, 2001.

DATED this 22nd day of August, 2001.

Sherri Kovach
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DHW - Division of Legal Services
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(208) 334-5564 phone
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0308-0102

207. COUNTING VEHICLE VALUE.

The fair market value above four thousand six hundred fifty dollars (\$4,650) of one (1) vehicle is counted towards the resource limit. If no vehicle is worth more than four thousand six hundred fifty dollars (\$4,650) the fair market value of one (1) vehicle, minus encumbrances, is not counted. The fair market value, minus encumbrances, of additional vehicles, snowmobiles, boats, aircraft or other recreational vehicles is counted. The value of one specially equipped vehicle used to transport a disabled family member is not counted in determining resources. The Department counts the resource value of vehicles as described in Subsections 207.01 through 207.07 of these rules. ~~(7-1-98)~~(8-1-01)T

01. Vehicle Used To Transport Disabled Household Member. The Department does not count as a resource the value of any vehicle used to transport a physically disabled household member, regardless of the purpose of the transportation, even if that person is a disqualified or an ineligible household member. (8-1-01)T

02. Vehicle Necessary For Household Function. The Department does not count as a resource the value of any vehicle meeting one (1) of the conditions in Subsections 207.02.a. through 207.02.d. (8-1-01)T

a. The vehicle produces income consistent with its Fair Market Value (FMV). (8-1-01)T

b. The household uses the vehicle as their home. (8-1-01)T

c. A migrant farm worker uses the vehicle to travel from job to job. (8-1-01)T

d. The household uses the vehicle to carry their primary source of heating fuel or water. (8-1-01)T

03. Vehicle Value Less Than Fifteen Hundred Dollars. The Department does not count as a resource the value of any vehicle having a fair market value, or equity value, of less than fifteen hundred dollars (\$1,500). (8-1-01)T

04. Adults And Vehicle Value Greater Than Four Thousand Six Hundred Fifty Dollars. The Department counts as a resource the FMV, above four thousand six hundred fifty dollars (\$4,650), of one (1) vehicle per adult household member, regardless of use. (8-1-01)T

05. Persons Under Age Eighteen and Vehicle Value Greater Than Four Thousand Six Hundred Fifty Dollars. The Department counts as a resource the FMV, above four thousand six hundred fifty dollars (\$4,650), of one (1) vehicle per household member under age eighteen (18), when used by that person to commute to work, school, training or to look for work. This applies even if another vehicle was already totally excluded for that household member. (8-1-01)T

06. Other Vehicles. The Department counts as a resource the FMV, minus encumbrances or equity value, whichever is higher, of licensed or tagged vehicles, snowmobiles, boats, aircraft or other recreational vehicles not falling under the provisions of Subsections 207.01 through 207.05. (8-1-01)T

07. Unlicensed Vehicles. The Department counts as a resource the equity value of any unlicensed vehicles. (8-1-01)T

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

DOCKET NO. 16-0309-0104

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the July 4, 2001 Administrative Bulletin, Volume 01-7, pages 64 through 66.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Kathleen Allyn at (208) 334-5747.

DATED this 22nd day of August, 2001.

Sherri Kovach
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IDAPA 16, TITLE 03, Chapter 09

RULES GOVERNING MEDICAL ASSISTANCE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-7, July 4, 2001, pages 64 through 66.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

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

DOCKET NO. 16-0309-0107

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is effective August 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 October 17, 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:

These rules are being proposed at the request of the participating physicians in the Idaho Medicaid program to allow for billing by the patients attending physician for the services of a substitute physician. Such billing may occur under the conditions specified in the rules and will match current Medicare policy and billing practice. If such billing is not allowed, some individuals would not be able to be seen by a physician during periods of absence of their primary physician and either not receive care or end up in the hospital emergency room unnecessarily.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with the Idaho Medical Association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Esther Ussing at (208) 334-5795.

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 October 24, 2001.

DATED this 22nd day of August, 2001

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0107

003. DEFINITIONS.

For the purposes of these rules, the following terms will be used, as defined below: (11-10-81)

01. Abortion. The medical procedure necessary for the termination of pregnancy endangering the life of the woman, or the result of rape or incest, or determined to be medically necessary in order to save the health of the woman. This Subsection is effective retroactively from October 1, 1993. (2-17-94)

02. Access Unit (ACCESS). Access to Care Coordination, Evaluation, Services and Supports. A regional multidisciplinary, transdivisional unit that has the responsibility of determining eligibility, authorizing services, and assuring quality for services and supports for individuals with developmental disabilities. (7-1-95)

03. Activities Of Daily Living (ADL). The performance of basic self-care activities in meeting an individual's needs for sustaining him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. (3-30-01)

04. Ambulatory Surgical Center (ASC). Any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, and which is certified by the U.S. Department of Health and Human Services as an ASC. (7-1-97)

05. Attendant Care. Services provided under a Medicaid Home and Community-Based Services waiver that involve personal and medically oriented tasks dealing with the functional needs of the participants and accommodating the participant's needs for long-term maintenance, supportive care or IADLs. These services may include, but are not limited to, personal assistance and medical tasks that can be done by unlicensed persons or delegated to unlicensed persons by a health care professional or the participant. Services are based on the person's abilities and limitations, regardless of age, medical diagnosis or other category of disability. (3-30-01)

06. Authorized Provider. A licensed nurse practitioner, clinical nurse specialist, or physician assistant. (3-30-01)

07. Bill. The itemized cost of all services provided to one (1) participant on a single claim form. (3-30-01)

08. Buy-In Coverage. The amount the State pays for Part B of Title C XVIII on behalf of the A/R. (11-10-81)

09. Category I Sanctions. Less severe administrative sanctions, which can be employed concurrently, which neither require notification nor are subject to appeal unless specifically allowed. (11-10-81)

10. Category II Sanctions. Severe administrative sanctions which are appealable as provided for in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (7-1-97)

11. Central Office. The administrative headquarters for the Idaho Department of Health and Welfare which are located in the State Office Building (State Towers), 450 West State Street, Boise, Idaho 83720. (11-10-81)

12. Certified Registered Nurse Anesthetist (CRNA). A Registered Nurse qualified by advanced training in an accredited program in the specialty of nurse anesthesia to manage the care of the patient during the administration of anesthesia in selected surgical situations. (7-1-97)

13. Claim. An itemized bill for services rendered to one (1) participant by a provider submitted on any of the following Department claim forms: (3-30-01)

a. DHW PH 3-80, "Physician Invoice" or such other claim form as may be prescribed by the

- Department; or (11-10-81)
- b. DHW 03-80, "Title XIX Pharmacy Claim"; or (11-10-81)
 - c. DHW-AD78, "Adjustment Request"; or (11-10-81)
 - d. DHW OP REV 4-80, "Hospital Out-patient"; or (11-10-81)
 - e. DHW IP 3-80, "Hospital In-patient"; or (11-10-81)
 - f. DHW 0137, "Attending Dentist's Statement"; or (11-10-81)
 - g. DHW NH 3-80, "Nursing Home Statement"; or (11-10-81)
 - h. HW-0034 "Consent Form" for sterilization procedures. (11-10-81)
- 14. Collateral Contacts.** Contacts made with a parent, guardian, or other individual having a primary relationship to the patient by an appropriately qualified treatment professional. The contact must be ordered by a physician, contained in the treatment plan, directed at the medical treatment of the patient, and documented in the progress notes or continuous service record. (10-6-88)
- 15. Community Living Home.** A licensed ICF/MR facility of eight (8) beds or less that has converted to a group home to provide residential habilitation services to developmentally disabled waiver recipients. Room and board is not included in the reimbursement rate. (7-1-95)
- 16. Contraception.** The provision of drugs or devices to prevent pregnancy. (1-16-80)
- 17. Department.** The state of Idaho Department of Health and Welfare (DHW). (11-10-81)
- 18. Director.** The Director of the Idaho Department of Health and Welfare. (11-10-81)
- 19. Durable Medical Equipment (DME).** Equipment other than prosthetics or orthotics which can withstand repeated use by one (1) or more individuals, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury, is appropriate for use in the home, and is reasonable and necessary for the treatment of an illness or injury for a MA participant. (3-30-01)
- 20. Educational Services.** Services which are provided in buildings, rooms or areas designated or used as a school or as educational facilities; which are provided during the specific hours and time periods in which the educational instruction takes place in the normal school day and period of time for these students; and which are included in the individual educational plan for the participant or required by federal and state educational statutes or regulations; are not "related services" as listed in Sections 119 and 120 of these rules; and such services are provided to school age individuals as defined in Section 33-201, Idaho Code. (3-30-01)
- 21. Eligibility Manuals.** IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families and Children," and IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled". (3-30-01)
- 22. Emergency.** Any situation arising in the medical condition of a patient, which, after applying the prevailing medical standards of judgement and practice within the community requires immediate medical intervention. All obstetrical deliveries are considered emergencies. (10-29-92)
- 23. Endangerment Of Life.** A condition where, in the opinion of two (2) licensed physicians, a pregnant woman may die or suffer severe and long lasting physical health damage if the fetus is carried to term. (1-16-80)
- 24. Health Authority.** An authorized official of any of the seven (7) Idaho District Health Departments or their satellite centers. (1-16-80)

- 25. Home Health Services.** Services ordered by a physician and performed by a licensed nurse, registered physical therapist, or home health aide as defined in IDAPA 16.03.07, Subsection 002.11, "Rules for Home Health Agencies". (3-30-01)
- 26. In-Patient Hospital Services.** Services that are ordinarily furnished in a hospital for the care and treatment of an in-patient under the direction of a physician or dentist except for those services provided in mental hospitals. (11-10-81)
- 27. In-State Care.** Medical services provided within the Idaho border or in counties bordering Idaho are considered to be in-state, excluding long term care. (2-5-93)
- 28. Inspection Of Care Team (IOCT).** An interdisciplinary team which provides inspection of care in intermediate care facilities for the mentally retarded approved by the Department as providers of care for eligible medical assistance participants. Such a team is composed of: (3-30-01)
- a. At least one (1) registered nurse; and (7-1-94)
 - b. One (1) qualified mental retardation professional; and when required, one (1) of the following: (7-1-94)
 - i. A consultant physician; or (7-1-94)
 - ii. A consultant social worker; or (7-1-94)
 - iii. When appropriate, other health and human services personnel responsible to the Department as employees or consultants. (7-1-94)
- 29. Instrumental Activities Of Daily Living (IADL).** Those activities performed in supporting the activities of daily living, including, but not limited, to managing money, preparing meals, shopping, light housekeeping, using the telephone, or getting around in the community. (3-30-01)
- 30. Interested Physician.** (11-10-81)
- a. A physician who performs a Medicaid funded abortion for a fee; or (11-10-81)
 - b. A physician who is related by blood or marriage to another physician performing a Medicaid funded abortion. (11-10-81)
- 31. Intermediate Care Facility Services.** Those services furnished in an intermediate care facility as defined in 42 CFR 440.150, but excluding services provided in a Christian Science Sanatorium. (3-30-01)
- 32. Law Enforcement Authority.** An agency recognized by the state of Idaho in enforcement of established state and federal statutes. (11-10-81)
- 33. Legal Representative.** A parent with custody of a minor child, one who holds a legally-executed and effective power of attorney for health decisions, or a court-appointed guardian whose powers include the power to make health care decisions. (3-30-01)
- 34. Legend Drug.** A drug that requires by federal regulation or state rule, the order of a licensed medical practitioner before dispensing or administration to the patient. (11-10-81)
- 35. Licensed Psychologist.** An individual who is licensed to practice psychology under Chapter 23, Title 54, Idaho Code. (10-6-88)
- 36. Licensed, Qualified Professionals.** Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (11-10-81)

37. Lock-In Program. An administrative sanction, required of participant found to have misused the services provided by the Medical Assistance Program, requiring the participant to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (3-30-01)

38. Locum Tenens/Reciprocal Billing. The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the "Locum Tenens" physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis not to exceed a period of fourteen (14) continuous days. (8-1-01)T

389. Medical Care Treatment Plan. The problem list, clinical diagnosis, and treatment plan of care administered by or under the direct supervision of a physician. (11-10-81)

390. Medical Necessity. A service is medically necessary if: (7-1-98)

a. It is reasonably calculated to prevent, diagnose, or treat conditions in the client that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (7-1-98)

b. There is no other equally effective course of treatment available or suitable for the client requesting the service which is more conservative or substantially less costly. (7-1-98)

c. Medical services shall be of a quality that meets professionally recognized standards of health care and shall be substantiated by records including evidence of such medical necessity and quality. Those records shall be made available to the Department upon request. (7-1-98)

401. Medical Supplies. Items excluding drugs and biologicals and equipment furnished incident to a physician's professional services commonly furnished in a physician's office or items ordered by a physician for the treatment of a specific medical condition. These items are generally not useful to an individual in the absence of an illness and are consumable, nonreusable, disposable, and generally have no salvage value. Surgical dressings, ace bandages, splints and casts, and other devices used for reduction of fractures or dislocations are considered supplies. (11-1-86)

412. Morbid Obesity. The condition of a person who exceeds ideal weight by more than one hundred (100) pounds and who has significant medical complications directly related to weight gain. (7-1-97)

423. Non-Legend Drug. Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (11-10-81)

434. Nurse Midwife. A registered nurse (RN) who is currently licensed to practice in Idaho, who meets applicable standards as found in the Idaho Nurse Practice Act, Rules and Minimum Standards promulgated by the Idaho State Board of Nursing, and who meets one of the following provisions: (11-10-81)

a. Is currently certified as a Nurse Midwife by the American College of Nurse Midwives; or (11-10-81)

b. Has satisfactorily completed a formal educational program of at least one (1) academic year that: (11-10-81)

i. Prepares a RN to furnish gynecological and obstetrical care to women during pregnancy, delivery and postpartum, and care to normal newborns; (11-10-81)

ii. Upon completion, qualifies a RN to take the certification examination offered by the American College of Nurse Midwives; (11-10-81)

iii. Includes at least four (4) months, in the aggregate, of classroom instruction and a component of supervised clinical practice; and (11-10-81)

- iv. Awards a degree, diploma, or certificate to persons who successfully complete the program. (11-10-81)
- 445. Nurse Practitioner.** A registered nurse (RN) who is currently licensed to practice in this State, who meets applicable standards as found in the Idaho Nurse Practice Act, Rules and Minimum Standards promulgated by the Idaho State Board of Nursing, and who meets one (1) of the following provisions: (11-10-81)
- a. Is currently certified as a Primary Care Nurse Practitioner by the American Nurses Association or by the National Board of Pediatric Nurse Practitioners and Associates, or by the Nurses Association of the American College of Obstetricians and Gynecologists; or (11-10-81)
- b. Has satisfactorily completed a formal one (1) year academic year educational program that: (11-10-81)
- i. Prepares a RN to perform an expanded role in the delivery of primary care; (11-10-81)
- ii. Includes at least four (4) months, in the aggregate, of classroom instruction and a component of supervised clinical practice; and (11-10-81)
- iii. Awards a degree, diploma, or certificate to persons who successfully complete the program. (11-10-81)
- 456. Nursing Facility (NF).** An institution, or distinct part of an institution, which is primarily engaged in providing skilled nursing care and related services for residents. The residents must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. An institution must provide, on a regular basis, health-related care and services to individuals; who because of their mental or physical condition require care and services above the level of room, board, and supervision; which are made available to them only through institutional facilities, not primarily for care and treatment of mental diseases. The institution is licensed in the state of Idaho pursuant to Section 39-1301, Idaho Code and is certified as a nursing facility pursuant to 42 CFR 405.1120 through 405.1136. (7-1-94)
- 467. Orthotic.** Pertaining to or promoting the straightening of a deformed or distorted part. (10-1-91)
- 478. Orthotic And Prosthetic Professional.** An individual certified or registered by the American Board for Certification in Orthotics and/or Prosthetics. (10-1-91)
- 489. Other Public Education Agency.** Charter schools and the Idaho Infant Toddler Program. (3-30-01)
- 4950. Otologist.** A licensed physician who specializes in the diagnosis and treatment of hearing disorders and diseases of the ear. (11-10-81)
- 501. Out-Patient Hospital Services.** Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of hospital bed accommodation. (11-10-81)
- 512. Out-Of-State Care.** Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (7-1-97)
- 523. Oxygen-Related Equipment.** Equipment which is utilized or acquired for the routine administration of oxygen in the home. This includes oxygen tanks, regulators, humidification nebulizers, oxygen concentrators, and related equipment. Equipment which is used solely for the administration of medication into the lungs is excluded from this definition. (11-1-86)
- 534. Participant.** An individual who is receiving Medical Assistance. (3-30-01)

- 545. Patient.** The person undergoing treatment or receiving services from a provider. (11-10-81)
- 556. Personal Assistance Agency.** An entity that recruits, hires, fires, trains, supervises, schedules, oversees quality of work, takes responsibility for services provided, provides payroll and benefits for personal assistants working for them, is the employer of record and in fact, and may provide fiscal intermediary services. (3-30-01)
- 567. Personal Assistance Services (PAS).** Services that include attendant care and personal care services. (3-30-01)
- 578. Physician.** A person possessing a Doctorate of Medicine degree or a Doctor of Osteopathy degree and licensed to practice medicine by a state or United States territory. (10-1-91)
- 589. Physician's Assistant.** A person who is licensed by the Idaho Board of Medicine and who meets at least one (1) of the following provisions: (7-1-97)
- a. Is currently certified by the National Commission on Certification of Physician Assistants to assist primary care physicians; or (11-10-81)
 - b. Has satisfactorily completed a program for preparing physician's assistants that: (11-10-81)
 - i. Was at least one (1) academic year in length; and (11-10-81)
 - ii. Consisted of supervised clinical practice and at least four (4) months, in the aggregate, of classroom instruction directed toward preparing students to deliver health care; and (11-10-81)
 - iii. Was accredited by the American Medical Association's Committee on Allied Health Education and Accreditation. (11-10-81)
- 5960. Plan Of Care.** A written description of medical, remedial and/or rehabilitative services to be provided to a participant, developed by or under the direction and written approval of a physician. Medications, services and treatments are identified specifically as to amount, type and duration of service. (3-30-01)
- 601. Premium Or Subscription Charge.** The per capita amount paid by the Department for each eligible MA participant enrolled under a contract for the provisions of medical and rehabilitative care and services whether or not such a participant receives care and services during the contract period. (3-30-01)
- 642. Property.** The homestead and all personal and real property in which the participant has a legal interest. (3-30-01)
- 623. Prosthetic Device.** Replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts profession within the scope of his practice as defined by state law to: (10-1-91)
- a. Artificially replace a missing portion of the body; or (10-1-91)
 - b. Prevent or correct physical deformities or malfunctions; or (10-1-91)
 - c. Support a weak or deformed portion of the body. (10-1-91)
 - d. Computerized communication devices are not covered under the definition of a prosthetic device. (7-1-99)
- 634. Provider.** Any individual, organization or business entity furnishing medical goods or services in compliance with this chapter and who has applied for and received a provider number, pursuant to Section 020, and who has entered into a written provider agreement, pursuant to Section 040. (7-1-97)

- 645. Provider Agreement.** An agreement between the provider and the Department, entered into pursuant to Section 040. (12-31-91)
- 656. Provider Reimbursement Manual.** IDAPA 16.03.10, "Rules Governing Provider Reimbursement in Idaho". (7-1-97)
- 667. Psychology Assistant.** An individual who practices psychology under the supervision of a licensed psychologist when required under Chapter 23, Title 54, Idaho Code, and Section H of the "Rules of the Idaho State Board of Psychologist Examiners". (7-1-94)
- 678. Recreational Therapy (Services).** Those activities or services that are generally perceived as recreation such as, but not limited to, fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, training for Special Olympics, and special day parties (birthday, Christmas, etc.). (10-6-88)
- 689. Regional Nurse Reviewer (RNR).** A registered nurse who reviews and makes determinations on applications for entitlement to and continued participation in Title XIX long term care for the Department. (7-1-94)
- 6970. Social Security Act.** 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons meeting certain criteria. (11-10-81)
- 701. Specialized Family Home.** Living situation where a maximum of two (2) waiver participants who do not require a skilled nursing service live with a provider family of residential habilitation services. (3-30-01)
- 712. Speech/Language Pathology And Audiology Services.** Diagnostic, screening, preventative, or corrective services provided by a speech pathologist or audiologist, for which a patient is referred by a physician or other practitioner of the healing arts within the scope of his or her practice under state law. Speech, hearing and language services do not include equipment needed by the patient such as communication devices or environmental controls. (7-1-99)
- 723. Subluxation.** A partial or incomplete dislocation of the spine. (11-10-81)
- 734. Supervision.** Procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. (6-21-90)
- 745. Title XVIII.** That program established by the 1965 Social Security Act authorizing funding for the Medicare Program for the aged, blind, and disabled. The term is interchangeable with "Medicare". (11-10-81)
- 756. Title XIX.** That program established by the 1965 Social Security Act authorizing the Medical Assistance Program, commonly referred to as "Medicaid", which is jointly financed by the federal and state governments and administered by the states. The term is interchangeable with "Medicaid". (11-10-81)
- 767. Third Party.** Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a participant of medical assistance. (3-30-01)
- 778. Transportation.** The physical movement of a participant to and from a medical appointment or service by the participant, another person, taxi or common carrier. (3-30-01)
- 789. Utilization Control (UC).** A program of prepayment screening and annual review by at least one (1) Regional Nurse Reviewer to determine the appropriateness of medical entitlement and the need for continued medical entitlement of applicants/participants to Title XIX benefits in a NF. (3-30-01)
- 7980. Utilization Control Team (UCT).** A team of Regional Nurse Reviewers which conducts on-site reviews of the care and services in the NFs approved by the Department as providers of care for eligible medical assistance participants. (3-30-01)

801. Vocational Services. Services or programs which are directly related to the preparation of individuals for paid or unpaid employment. The test of the vocational nature of the service is whether the services are provided with the expectation that the participant would be able to participate in a sheltered workshop or in the general work force within one (1) year. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

070. PHYSICIAN SERVICES.

01. Services Provided. The Department will reimburse for treatment of medical and surgical conditions by doctors of medicine or osteopathy subject to the limitations of practice imposed by state law, and to the restrictions and exclusions of coverage contained in Section 065 and Subsection 070.02. All services not specifically included in this chapter are excluded from reimbursement. (12-31-91)

02. Restriction Of Coverage. (7-1-93)

a. Out-patient psychiatric mental health services are limited to twelve (12) hours of psychiatric evaluations per eligible recipient in any twelve (12) month period; and any combination of individual or group psychotherapy services provided by a physician up to a maximum of forty-five (45) hours of service in the consecutive twelve (12) months period beginning with the first such service. (11-10-81)

b. Particular restrictions pertaining to payment for sterilization procedures are contained in Section 090; and (12-31-91)

c. Restrictions governing payment for abortions are contained in Section 095; and (12-31-91)

d. Payment for tonometry is limited to one (1) examination for individuals over the age of forty (40) years during any twelve (12) month period (in addition to tonometry as a component of examination to determine visual acuity). In the event examination to determine visual acuity is not done, two (2) tonometry examinations per twelve (12) month period are allowed recipients over the age of forty (40). This limitation does not apply to recipients receiving continuing treatment for glaucoma. (10-25-88)

e. Payment for physical therapy services performed in the physician's office is limited to those services which are described and supported by the diagnosis; and (11-10-81)

f. Payment for allowable injectable vitamins will be allowed when supported by the diagnosis. Injectable vitamin therapy is limited to Vitamin B12 (and analogues), Vitamin K (and analogues), folic acid, and mixtures consisting of Vitamin B12, folic acid, and iron salts in any combination. (11-10-81)

g. Corneal transplants and kidney transplants are covered by the MA program. (5-15-84)

03. Misrepresentation Of Services. Any representation that a service provided by a nurse practitioner, nurse midwife, physical therapist, physician assistant, psychologist, social worker, or other nonphysician professional as a physician service is prohibited. (6-1-86)

04. Physician Penalties For Late PRO Review. Medicaid will assess the physician a penalty for failure to have a preadmission review in accordance with Subsection 080.02.a. and Idaho Department of Health and Welfare Rules, IDAPA 16.03.10, "Rules Governing Provider Reimbursement in Idaho," as amended. A penalty will be assessed according to Subsection 070.05 entitled "Physician Penalty Chart". The penalty will be assessed after billing for physician services has occurred. (3-30-01)

05. Physician Penalty Chart. (3-1-92)

a. A request for preadmission PRO review that is one (1) day late will result in a penalty of fifty

dollars (\$50). (3-30-01)

b. A request for preadmission PRO review that is two (2) days late will result in a penalty of one hundred dollars (\$100). (3-30-01)

c. A request for preadmission PRO review that is three (3) days late will result in a penalty of one hundred and fifty dollars (\$150). (3-30-01)

d. A request for preadmission PRO review that is four (4) days late will result in a penalty of two hundred dollars (\$200). (3-30-01)

e. A request for preadmission PRO review that is five (5) days late or later will result in a penalty of two hundred and fifty dollars (\$250). (3-30-01)

06. Physician Excluded From The Penalty. Any physician who provides care but has no control over the admission, continued stay or discharge of the patient will not be penalized. Assistant surgeons and multi-surgeons are not excluded from the penalty. (3-1-92)

07. Procedures For Medicare Cross-Over Claims. If a MA recipient is eligible for Medicare, the physician must bill Medicare first for the services rendered to the recipient. (11-10-81)

a. If a physician accepts a Medicare assignment, the payment for the Medicare co-insurance and deductible will be made and forwarded to the physician automatically based upon the EOMB information on the computer tape which is received from the Medicare Part B Carrier on a weekly basis. (11-10-81)

b. If a physician does not accept a Medicare assignment, a Medicare EOMB must be attached to the appropriate claim form and submitted to the Bureau for the billing of Medicare co-insurance and deductible. (11-10-81)

c. In order for the Department to make payment, the physician must agree to accept the payment from Medicare and Medicaid as payment in full for covered services. (11-10-81)

08. Procedure For Locum Tenens Claims And Reciprocal Billing. (8-1-01)

a. In reimbursement for Locum Tenens/Reciprocal Billing, the patient's regular physician may submit the claim and receive payment for covered physician services (including emergency visits and related services) provided by a Locum Tenens physician who is not an employee of the regular physician if: (8-1-01)T

i. The regular physician is unavailable to provide the visit services. (8-1-01)T

ii. The Medicaid patient has arranged for or seeks to receive services from the regular physician. (8-1-01)T

iii. The regular physician pays the Locum Tenens for his services on a per diem or similar fee-for-time basis. (8-1-01)T

iv. The substitute physician does not provide the visit services to Medicaid patients over a continuous period of longer than ninety (90) days for Locum Tenens and over a continuous period of fourteen (14) days for Reciprocal Billing. (8-1-01)T

v. The regular physician identifies the services as substitute physician services meeting the requirements of this Section by appending modifier-Q6 (service furnished by a Locum Tenens physician) to the procedure code or Q5 (services furnished by a substitute physician under Reciprocal Billing arrangements). (8-1-01)T

vi. The regular physician must keep on file a record of each service provided by the substitute physician associated with the substitute physician's UPIN, and make this record available to the department upon

request. (8-1-01)T

vii. The claim identifies (in a manner specified by the department) the physician who furnished the services. (8-1-01)T

b. If the only Locum Tenens/Reciprocal billing services a physician performs in connection with an operation are post-operative services furnished during the period covered by the global fee, those services shall not be reported separately on the claim as substitution services, but shall be deemed as included in the global fee payment. (8-1-01)T

c. A physician may have Locum Tenens/reciprocal billing arrangements with more than one (1) physician. The arrangements need not be in writing. Locum Tenens/reciprocal billing services need not be provided in the office of the regular physician. (8-1-01)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0108
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is effective March 15, 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), 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 October 17, 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 level of care determination process for Medicaid payment has been simplified. A current Minimum Data Set (MDS) will be used for determination. The use of the Regional Review Committee will be used only when determined appropriate by the Regional Medicaid Unit.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Christine Cuellar at (208) 364-1891.

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 October 24, 2001.

DATED this 6th day of August, 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. 16-0309-0108

501. PREPAYMENT SCREEN AND DETERMINATION OF ENTITLEMENT TO MEDICAID PAYMENT FOR NF CARE AND SERVICES.

A determination of medical entitlement will not be made until a medical history, physical, and plan of care signed and dated by the physician, a physician's certification for NF care, and the Level I screen and when required, the Level II screen conducted by the Department indicating that NF placement is appropriate have been received in the Regional Medicaid Unit (RMU). The effective date of Medicaid payment will be no earlier than the date of the physician's

~~certification for NF care.~~ The level of care for Title XIX payment purposes is determined by the Regional Nurse Reviewer(s). Necessity for payment is determined in accordance with 42 CFR ~~456.271 and 42 CFR 456.372~~ 483 Subpart C and Section 1919(e) (7) ~~(4)~~ of the Social Security Act. In the event a required Level II screen was not accomplished prior to admission, entitlement for Medicaid payment as established by the Regional Medicaid Unit (RMU) will not be earlier than the date the Level II screen is completed, indicating that NF placement is appropriate. (7-1-99)(3-15-01)T

502. INFORMATION REQUIRED FOR DETERMINATION - MEDICAL EVALUATION.

~~A complete medical evaluation current within thirty (30) days of admission, signed and dated by the physician (an electronic physician's signature is permissible), which includes: diagnosis (primary and secondary); medical findings and history; mental and physical functional capacity; prognosis; and a statement by the physician certifying the need for NF care and services. A current Minimum Data Set (MDS) assessment will be provided to the Department. Additional supporting information may be requested.~~ (7-1-99)(3-15-01)T

~~503. INFORMATION REQUIRED FOR DETERMINATION - PLAN OF CARE.~~

~~A physician's plan of care current within thirty (30) days of admission, signed and dated by the physician, which includes: orders for medications and treatments; diet and activities; rehabilitative, restorative services, and special procedures, where appropriate; and plan of continuing care and discharge, where appropriate.~~ (7-1-99)

~~504. INFORMATION REQUIRED FOR DETERMINATION - SOCIAL INFORMATION.~~

~~Social information submitted by one (1) of the following: the physician; the applicant or family member; Health and Welfare agency worker; or facility social worker or R.N.~~ (7-1-99)

503. -- 504. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~662. REGIONAL REVIEW COMMITTEE (RESERVED).~~

~~A committee established in each region to provide thorough and impartial reviews and final determinations on cases submitted by the Regional Medicaid Unit which includes: A resident's continued medical entitlement to NF or ICF/MR care that is no longer recommended by the Regional Nurse Reviewer; applications for medical entitlement where the level of care, client safety, or the effectiveness of care appears to be questionable; and all denial decisions recommended by the Regional Nurse Reviewer.~~ (7-1-99)

~~01- Termination Of Payment. The Committee may continue, terminate the client's Medicaid payments, or recommend a supplemental on-site visit by the Regional Nurse Reviewer if it is deemed necessary.~~ (7-1-99)

~~02- Review Of Denial Of Payment. No review of a denial of payment is required of the Committee when the denial is based on the level of care determination by the attending physician, i.e. the physician documents that the applicant/recipient does not require NF or ICF/MR level of care.~~ (7-1-99)

~~03- Regional Review Committee. The Regional Review Committee shall be composed of the following:~~ (7-1-99)

~~a. A consultant physician; and~~ (7-1-99)

~~b. Two (2) registered nurses; and~~ (7-1-99)

~~e. A social worker when necessary; and~~ (7-1-99)

~~d. A qualified mental retardation professional (QMRP) or a qualified mental health professional (QMHP) when necessary; and~~ (7-1-99)

~~e. When appropriate, other health and human service personnel responsible to the Department as employees or consultants.~~ (7-1-99)

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

DOCKET NO. 16-0309-0109

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

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

October 10, 2001, at 7:00 p.m.
Department of Health & Welfare
1120 Ironwood Drive, lower level
Coeur d'Alene, Idaho

October 11, 2001, at 7:00 p.m.
Red Lion Inn
621 21st Street
Lewiston, Idaho

October 15, 2001, at 7:00 p.m.
Department of Health & Welfare
3402 Franklin Road
Caldwell, Idaho

October 15, 2001, at 7:00 p.m.
Department of Health & Welfare
1720 Westgate Drive, Suite "D"
Boise, Idaho

October 16, 2001, at 7:00 p.m.
Department of Health & Welfare
601 Pole Line Road
Twin Falls, Idaho

October 17, 2001, at 7:00 p.m.
Holiday Inn
Jasper Room
Pocatello, Idaho

October 18, 2001, at 7:00 p.m.
Department of Health & Welfare
150 Shoup Avenue
Idaho Falls, 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, to the agency address below.

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

Psychosocial Rehabilitation was a new Medicaid option which began in 1994. The rules have had little revision since that time. The rules continue to lack sufficient detail to give clear direction to Department staff and service providers and to enable effective enforcement. Psychosocial Rehabilitative Services Program has been operating on a developing set of written best practice interpretive guidelines and a manual. S/URS (Service Utilization Review) has been unable to go beyond the promulgated rules in sanctioning providers.

These proposed rules are in an incorporation of interpretive guidelines into rule. Proposed rules include the addition of: eligibility criteria for both adults and children; clarification of location of service; framework for plan oversight, service authorization and quality assurance; clarification of what is included in the service and task plans; incorporates services which are currently billable, but not in rule including Crisis Intervention, Collateral Contact, and Nursing; specifies provider agency requirements; clarification of what constitutes a closely related field (degree requirement); clarification of service limitations; and eliminates Occupational Therapists as PSR providers and Psychotherapy as a PSR service.

In anticipation of Utilization Management, all references to Regional Mental Health Authority (RMHA) or State Mental Health Authority have been changed to read "Department or its designee."

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with PSR provider agencies; Department RMHA staff; families; and consumers.

Meetings were held in Boise, Coeur d'Alene, Pocatello, Twin Falls and Idaho Falls.

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

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 24, 2001.

DATED this 13th day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0109

450. REHABILITATIVE SERVICES -- MENTAL HEALTH.

Pursuant to 42 CFR 440.130(d), the Department shall purchase rehabilitative services for maximum reduction of mental disability, ~~and restoration of the recipient to the best~~ These services are intended to promote the highest possible functional level through restoration and skill maintenance. Rehabilitative Services, ~~shall be provided through the State Mental Health Authority in each region,~~ hereafter referred to as the Psychosocial Rehabilitation (PSR), ~~in accordance with Title 39, Chapter 31, Idaho Code, Regional Mental Health Services. Each region shall deliver a range of Psychosocial Rehabilitation (PSR) services in their communities including treatment, rehabilitation and supportive services~~ shall be provided through the Department of Health Welfare, hereinafter referred to as the Department, or its designee in each region, in accordance with Section 39-3124, Idaho Code. ~~(3-30-01)~~()

01. Eligibility Criteria For PSR Services. Eligibility shall be determined by the Department or its designee based on the following definition of the child and adult target population: ()

a. A seriously emotionally disturbed child is any individual under the age of eighteen (18) who has a serious emotional disturbance (SED). The following definition of the SED target population is based on the guidelines taken from Section 1912(c) of the Public Health Services Act as amended by Public Law 102-321 and the Children's Mental Health Services Act (Section 16-2401, Idaho Code). ()

i. Presence of an emotional or behavioral disorder, according to the DSM-IV, which results in a serious disability; and ()

ii. Requires sustained treatment interventions; and ()

iii. Causes the child's functioning to be impaired in thought, perception, affect, or behavior. ()

iv. The disorder shall be considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment shall be assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment shall require a full eight (8) scale score of eighty (80) or higher with "moderate"

impairment in at least one (1) of the following three (3) scales: ()

(1) Self-Harmful Behavior; ()

(2) Moods/Emotions; or ()

(3) Thinking. ()

v. A substance abuse disorder or conduct disorder, or developmental disorder, alone, does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. ()

b. A severely and persistently mentally ill adult is any individual eighteen (18) years or older who has a severe and persistent mental illness. The following criteria are required to be a member of the target population based on the guidelines taken from the Federal Register pursuant to Section 1912(c) of the Public Health Services Act and as amended by Public law 102-21 "adults with a serious mental illness". ()

i. The individual must have a diagnosis under DSM-IV of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder severe and recurrent, Delusional Disorder, or Borderline Personality Disorder. Also included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a more conclusive diagnosis, and ()

ii. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following areas on either a continuous or an intermittent (at least once per year) basis: ()

(1) Vocational/academic; ()

(2) Financial; ()

(3) Social/interpersonal; ()

(4) Family; ()

(5) Basic living skills; ()

(6) Housing; ()

(7) Community/legal; or ()

(8) Health/medical. ()

02. Place Of Service. PSR services are to be community-based. ()

a. PSR services shall be provided to the recipient in his home and community of residence whenever possible. Office-based services may be used if the office as the place of service is prior authorized in the service plan. ()

b. PSR services may be provided to a recipient living in a residential and assisted living facility (RALF) if the PSR services are determined by the Department or its designee to be appropriate, desired by the resident, and are not the responsibility of the RALF or another agency under the RALF Negotiated Service Agreement. ()

451. RESPONSIBILITIES OF REGIONS.

Each region shall enter into a provider agreement with the Division of Medicaid for the provision of PSR services and shall also be responsible for the following tasks: (3-30-01)()

01. Service System. Each region is responsible for the development, maintenance and coordination of a region-wide, comprehensive and integrated service system of including the Department and other private providers. (3-30-01)()

02. Service Provision. Each region shall provide PSR services directly, or through private providers and with supplemental service agreements. (3-30-01)()

03. Service Availability. Assure provision of PSR services to recipients on a twenty-four (24) hour basis. (3-30-01)

04. Intake Assessment. Assure completion of an intake assessment and service plan for each recipient. Determination Of Eligibility. A determination of eligibility for PSR services shall be completed for each person who requests services through a face-to-face screening. (3-30-01)()

05. Service Authorizations. Provide service authorizations and functions required to administer this section: Assessment And Service Plan Development. The Department or its designee is responsible to conduct a comprehensive assessment and develop a service plan for each recipient eligible for PSR services. (3-30-01)()

06. Quality Of Services. Monitor the quality of services provided in this section in coordination with the Divisions of Medicaid and Family and Community Services: Task Plan Oversight. Task plan oversight is the responsibility of the Department or its designee. (3-30-01)()

a. The task plan shall be reviewed by the Department or its designee to assure it addresses the objectives outlined in the comprehensive assessment and service plan. ()

b. The Department or its designee shall require recipient participation in the development of the task plan. ()

c. Following completion of the task plan, the Department or its designee shall authorize the number of hours needed to implement the task plan. The final task plan shall be authorized and signed by the Department or its designee within ten (10) days of receipt. ()

d. The Department or its designee may prior authorize PSR hours for a maximum of thirty (30) days during the task plan development. ()

07. Service Authorizations. All PSR services must be authorized by the Department or its designee. ()

a. The signature of a physician, or other licensed practitioner of the healing arts within the scope of his practice under state law according to Title 54, Idaho Code, is required on the service plan indicating the services are medically necessary. The date of the plan is the date it is signed by the physician. ()

b. Service authorizations are limited to a twelve (12) month period and must be reviewed and updated at least annually. ()

c. The Department or its designee shall monitor to prevent duplication of services provided to PSR recipients through other Medicaid reimbursable and non-Medicaid programs. ()

08. Plan Changes. When the Department or its designee is notified by the provider of necessary and specific amendments to the task plan, the Department or its designee shall have ten (10) working days to object to any or all of the amendments. If no objection is received, the provider shall assume that there is no objection and shall incorporate those, and only those, specific amendments to the task plan. When the Department or its designee receive recommendations for changes to the service plan, those recommendations shall be reviewed and if appropriate, included in the plan. ()

09. Quality Of Services. The Department or its designee shall monitor the quality and outcomes of PSR services provided to recipients, in coordination with the Divisions of Medicaid, Management Services, and

Family and Community Services. ()

a. An outcome-based quality assurance review shall be conducted on each case at least annually as defined in the provider agreement. A billing audit shall be conducted through a sampling of cases. These activities shall be conducted by the Department or its designee. ()

b. Effectiveness of services as measured by achievement of positive outcomes (objectives) shall contribute to the decision of renewing provider agreements. Outcomes shall be used to develop provider profiles to assist recipients with provider selection. ()

452. SERVICE DESCRIPTIONS.

All services provided must be clinically appropriate in content, service location and duration and based on measurable and behaviorally specific expected outcomes. A PSR shall consist of the following services:

~~(3-30-01)~~()

01. Screening. Initial recipient face to face contact to determine service need and eligibility for PSR.

()

~~**02. Comprehensive Assessment.** *A comprehensive assessment shall be completed for each recipient of PSR services which addresses the recipient's assets, deficits and needs directed towards formulation of a written diagnosis and treatment plan. Assessment is an interactive process with the maximum feasible involvement of the recipient and is directly related to individual's mental illness. The assessment, with supplemental psychiatric, psychological, or specialty evaluations and tests, must be in written form, dated and signed. They must be retained in the recipient's file for documentation purposes. Should the assessment reveal that the person does not need rehabilitative services, appropriate referrals shall be made to meet other needs of the recipient. The assessment is reimbursable if conducted by a qualified provider, in accordance with Section 454. All the following areas must be evaluated and addressed* A full comprehensive assessment may be necessary before a final PSR eligibility determination can be made, especially for individuals unknown to the Department or its designee. A comprehensive assessment shall be completed for each recipient which addresses the individual's strengths and supports, deficits and needs, and is directed toward formulation of a diagnosis and written service plan which includes the task plan. The recipient shall participate in the assessment to the extent possible. The assessment shall be directly related to the individual's mental illness and level of functioning. The assessment and supplemental psychiatric, psychological or other specialty evaluation and tests must be written, dated, and signed and must be retained in the recipient's file. Should the assessment reveal that the individual does not need PSR, appropriate referrals shall be made to meet the identified needs of the individual. The assessment is reimbursable if conducted by a qualified provider in accordance with Section 455 of these rules. Each of the following areas must be assessed initially and at least annually thereafter:~~

~~(3-30-01)~~()

a. Psychiatric history and current mental status which includes at a minimum, age at onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of decompensation that the recipient manifests, the recipient's ability to identify his symptoms, medication history, substance abuse history, history of mental illness in the family, current mental status observation, any other information that contributes to the recipient's current psychiatric status. The psychiatric history and current mental status section ~~and must shall~~ contain the diagnosis documented by a licensed physician or other licensed practitioner of the healing arts within the scope of his practice under state law; ~~and~~

~~(3-30-01)~~()

b. Medical history and current medical status which includes at a minimum, history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications, name of current physician, and recipient's "medical home" if applicable; ~~and~~

~~(7-1-94)~~()

c. Vocational/Educational status which includes at a minimum, current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment. ~~For children, this area addresses relevant school enrollment, performance, achievement levels and school related social functioning; and~~

~~(7-1-94)~~()

d. Financial status which includes at a minimum, adequacy and stability of the recipient's financial

status, financial difficulties as perceived by the recipient ~~perceives with it~~, resources available, and the recipient's ability to manage personal finances; ~~and~~ (7-1-94)(____)

e. Social relationships/support which includes, at a minimum, recipient's ability to establish/maintain personal support systems or relationships and recipient's ability to ~~acquire~~ develop leisure, recreational, or social interests; ~~and~~ (7-1-94)(____)

f. Family status which includes, at a minimum, the recipient's ability or desire to carry out family roles, recipient's perception of the support he receives from his family, and the role the family plays in the recipient's mental illness. For children this area addresses the child's functioning within the family and the impact of the child's mental illness on family functioning; ~~and~~ (7-1-94)(____)

g. Basic living skills which includes at a minimum, recipient's ability to meet age appropriate basic living ~~needs, what the recipient wants to accomplish in this area~~ skills including transition to adulthood; ~~and~~ (7-1-94)(____)

h. Housing which includes at a minimum, current living situation and level of satisfaction with the arrangement, ~~present situation as appropriate to the recipient's needs~~ and appropriateness of current living situation with respect to recipient's needs; ~~and~~ (7-1-94)(____)

i. Community/Legal status which includes at a minimum, legal history with law enforcement, transportation needs, supports the recipient has in the community, and daily living skills necessary for community living. (7-1-94)(____)

023. Written Service Plan. A written service plan shall be developed and implemented for each recipient of PSR services as a vehicle to address the rehabilitative service needs of the recipient. ~~To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family and other support systems. The written service plan shall be developed within thirty (30) calendar days from the date of application and be signed by a licensed physician. Service planning is reimbursable if conducted by a qualified provider, in accordance with Subsections 454.01 through 454.09. Task planning may be done by a qualified provider in accordance with Section 454. The service plan must include, at a minimum:~~ Services must support the goals of PSR which are maximum reduction of mental disability and achievement of the highest possible functioning level for that individual. For adults this means becoming independent or maintaining the highest level of independence. For children this means learning or maintaining developmentally appropriate role functioning. The service plan identifies the goal(s), areas of need, the objectives and the total number of hours estimated to achieve all objectives based on the ability of the recipient to effectively utilize services. The service plan shall be developed by the recipient, his family, other support systems and the Department or its designee. The service plan shall be recorded by the Department or its designee. (3-30-01)(____)

a. A service plan must include the following, at a minimum: (____)

~~ai.~~ A list of focus problems identified during the assessment statement which identifies the recipient's goal relative to the goals of PSR as per Section 450 and Subsection 452.03 of these rules; ~~and~~ (7-1-94)(____)

~~bii.~~ Concrete, measurable goals objectives to be achieved, including time frames for ~~achievement~~ completion. At least one (1) objective is required for each focus area where substantial impairment is identified; ~~and~~ (7-1-94)(____)

~~e.~~ Specific objectives directed toward the achievement of each one of the goals; ~~and~~ (7-1-94)

~~diii.~~ Documentation of who participants participated in the service planning; the recipient, if possible, must be a participant. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided why this was not possible including recipient refusal to sign. A copy of the plan ~~must~~ shall be given to the recipient and parent or guardian when they are participants; ~~and~~ (7-1-94)(____)

~~e.~~ Reference to any formal services arranged, including specific providers where applicable; ~~and~~ (7-1-94)

~~f. Planned frequency of services initiated. (7-1-94)~~

b. A service plan shall be developed within thirty (30) calendar days from the date of determination of eligibility for PSR services and be signed by a licensed physician or other licensed practitioner of the healing arts. Service planning is reimbursable if conducted by a qualified provider, in accordance with Subsections 455.01 through 455.10 of these rules. A registered nurse shall have a minimum of a bachelor's degree to be reimbursed for service planning. ()

c. A service plan review by the Department or its designee and the recipient shall occur at least annually. During the review, the Department or its designee and the recipient review any new issues and objectives which may be added to the service plan. The Department or its designee's signature is necessary to approve any changes. ()

d. Each service plan shall be reviewed and signed by a physician at least annually. Once the date of a plan is established, that date shall continue to be the annual date of the plan. ()

e. Each recipient must choose a provider(s) of services to assist in the accomplishment of the objectives stated in the service plan. ()

034. ~~Psychotherapy.~~ Individual, group and family psychotherapy shall be provided in accordance with the objectives specified in the written service plan. Task Plan. The task plan is developed by the recipient and the selected provider(s). It identifies outcome-oriented and time-limited activities to accomplish the objectives contained in the service plan. The task plan must be complete within thirty (30) days from completion of the service plan. The task plan must be completed by a qualified provider in accordance with Section 455 of these rules. Each task shall specify the place of service, the frequency of services, and the person(s) responsible to assist the recipient in the completion of the task. (3-30-01)()

~~a. These services are reimbursable if provided by a qualified professional who must have, at a minimum, one (1) or more of the following degrees: (3-30-01)~~

~~i. Psychiatrist, M.D.; or (3-30-01)~~

~~ii. Physician, M.D.; or (3-30-01)~~

~~iii. Licensed Psychologist; or (3-30-01)~~

~~iv. Psychologist extender, registered with the Bureau of Occupational Licenses; or (3-30-01)~~

~~v. Licensed Certified Social Worker or Licensed Certified Social Worker – Private practice; or (3-30-01)~~

~~vi. Licensed Professional Counselor – Private Practice Licensure; or (3-30-01)~~

~~vii. A licensed social worker who was employed by the clinic prior to February 27, 1998; or (3-30-01)~~

~~viii. Certified Psychiatric Nurse, R.N.; or (3-30-01)~~

~~ix. A Registered Nurse, R.N., who was employed by the clinic prior to February 27, 1998. (3-30-01)~~

~~b. Family psychotherapy must include the recipient and at least one (1) family member at any given time and must be delivered in accordance with objectives as specified in the written service plan. (7-1-94)~~

045. Pharmacologic Pharmacological Management. ~~Pharmacologic~~ Pharmacological management services shall be provided in accordance with the service plan. Pharmacological management, alone, may be provided if the plan indicates that this service is necessary and sufficient to prevent relapse or hospitalization and that

functional deficits are expected to return if pharmacological management is not provided. The telephoning of prescriptions to the pharmacy is not a billable service. Medication prescription must be done by a licensed physician or ~~licensed nurse practitioner~~ other practitioner of the healing arts within the scope of practice defined in their license in direct visual contact with the recipient. (3-30-01)(____)

056. Administration Of Medication. Licensed and qualified nursing personnel can supervise, monitor, or administer medications within the limits of the Nurse Practice Act, Section 54-1402 (d), Idaho Code. Other PSR providers, included in Section 4545 of these rules, may assist in "self" administration by verbal prompts and must include assessment of current mental status. (3-30-01)(____)

067. Individual Psychosocial Rehabilitation. Individual Psychosocial Rehabilitation shall be provided in accordance with the objectives specified in the service plan. The service plan goal is to aid recipients in work, school, or other ~~problems~~ issues related to their mental illness, ~~in~~ by obtaining skills to live independently or ~~in~~ by preventing movement to a more restrictive living situation. Individual psychosocial rehabilitation is reimbursable if provided by ~~personnel of the region or an agency contracting with the region for PSR services~~ an agency with a current provider agreement and if the employee is a qualified provider the agency's providers meet the qualifications, in accordance with Section 4545 of these rules. ~~This service~~ Individual Psychosocial Rehabilitation includes one (1) or more of the following: (3-30-01)(____)

a. Assistance in gaining and utilizing skills necessary to undertake school, ~~or~~ employment, or independence. This includes helping the recipient learn personal hygiene and grooming, ~~securing~~ selecting and acquiring appropriate clothing, time management and other skills related to recipient's psychosocial ~~condition~~ circumstances; (7-1-94)(____)

b. Ongoing, on-site assessment, ~~evaluation~~, and feedback sessions, including one hundred twenty (120) day reviews, to identify symptoms or behaviors and to develop interventions with the recipient and employer or teacher; (7-1-94)(____)

c. Individual interventions in social skill training to improve communication skills and facilitate appropriate interpersonal behavior directly related to the individuals mental illness; (3-30-01)(____)

d. Problem solving, support, and supervision related to activities of daily living to assist recipients to gain and utilize skills ~~including, but not limited to,~~ such as personal hygiene, household tasks, transportation utilization, and money management; (7-1-94)(____)

e. ~~To assist the acquisition of necessary services when recipients are unable to obtain them by escorting them to Medicaid reimbursable appointments.~~ Escorting recipient to necessary Medicaid reimbursable appointments when the recipient has difficulty or is unable to obtain services without assistance; and (7-1-94)(____)

f. Medication education may be provided by a licensed physician, ~~or~~ licensed nurse, or a licensed practitioner of the healing arts within the scope of his practice under state law. This service ~~focuses~~ focuses on educating the recipient about the role and effects of medications in treating symptoms of mental illness and symptom management. (2-6-95)(____)

078. Group Psychosocial Rehabilitation. Group psychosocial rehabilitation shall be provided in accordance with the objectives specified in the service plan. This is a service provided to two (2) or more individuals, at least one (1) of whom is a recipient. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Group psychosocial rehabilitation is reimbursable if provided by ~~personnel of the region or an agency contracting with the region for PSR services and if the employee is a qualified provider,~~ with a current provider agreement and the agency's provider meets the qualifications in accordance with Section 4545 of these rules. This service includes one (1) or more of the following: (3-30-01)(____)

a. Medication education groups provided by a licensed physician, ~~or~~ licensed nurse, or a licensed practitioner of the healing arts within the scope of his practice under state law. This service ~~focuses~~ focuses on educating recipients about the role and effects of medications in treating symptoms of mental illness and symptom management. These groups ~~must~~ shall not be used solely for the purpose of group prescription writing; (7-1-94)(____)

b. Employment or school related groups to focus on symptom management on the job or in school, ~~anxiety~~ symptom reduction, and education about appropriate job or school related behaviors; (7-1-94)()

c. ~~Groups in e~~Communication and interpersonal skills groups, the goals of which are to improve communication skill and facilitate appropriate interpersonal behavior. The ~~client~~ recipient must be present; (3-30-01)()

d. Symptom management groups to identify mental illness symptoms ~~of mental illnesses~~ which are barriers to successful community integration, crisis prevention, problem identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons; and (7-1-94)()

e. ~~Groups on a~~Activities of daily living groups which help recipients learn skills related to, ~~but not limited to,~~ personal hygiene, ~~and~~ grooming, household tasks, transportation utilization, socialization, and money management. (7-1-94)()

089. Community Crisis Support. Community crisis support which includes intervention for recipients in crisis situations to ensure the health and safety or to prevent hospitalization or incarceration of a recipient. (3-30-01)

a. A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. (7-1-94)

b. Community crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service, ~~even if it is not in the service plan~~ and the services are either authorized the next business day following the beginning of the crisis or prior authorized in anticipation of the need for crisis support. (7-1-94)()

c. Community crisis support is reimbursable if provided by ~~personnel of the region or an agency contracting with the region for PSR services and if the employee is a qualified provider,~~ with a current provider agreement and the agency's provider meets the qualifications, in accordance with Section 4545 of these rules. (3-30-01)()

10. Crisis Intervention (ER). A service provided in a hospital emergency room as an adjunct to the medical evaluation completed by the emergency room physician. This evaluation may include a psychiatric assessment. The goal of this service is to assist in the identification of the least restrictive setting appropriate to the needs of the recipient. This service must be reported to, reviewed and authorized, when appropriate, by the Department or its designee on the next working day. ()

11. Collateral Contact. Contacts made with significant individuals in the recipient's environment for the purpose of assisting the recipient to live in the community. Collaterals may include a parent, guardian, relatives, family members, landlord, employer, teacher, provider or other individuals with a primary relationship with the recipient. Contacts are to exchange information with individuals identified in the service or task plan. The contacts must be prior authorized. The types of collateral contact are as follows: ()

a. Collateral contact face-to-face. When two persons meet visually at the same time; ()

b. Collateral contact telephone. When it is the most expeditious and effective way to exchange information; and ()

c. Collateral contact parent group. When two (2) or more parents of children, under the age of eighteen (18), with similar serious emotional disturbances meet to share information and learn about their children's needs. ()

12. Nursing Service. A service performed by licensed and qualified nursing personnel within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code. This may include supervision monitoring, and

administration of medications. ()

453. EXCLUDED SERVICES.

Excluded services are those services which are not reimbursable under Medicaid PSR. The following is a list of those services: ()

01. Inpatient. Treatment services rendered to recipients residing in inpatient medical facilities including nursing homes, hospitals or correctional facilities including jail and detention; (~~3-30-01~~)()

02. Recreational ~~Therapy~~ Activities. ~~Recreational therapy which includes a~~ Activities which are primarily social or recreational in ~~nature~~ purpose; (~~3-30-01~~)()

03. Employment. Job-specific interventions, job training and job placement services which includes helping the recipient develop a resume, applying for a job, and job training or coaching; (~~3-30-01~~)()

04. Staff Performance. Staff performance of household tasks and chores; (~~3-30-01~~)()

05. Treatment Of Other Individuals. ~~Services for treatment of other individuals, such as family members.~~ Treatment services for persons other than the identified recipient; (~~3-30-01~~)()

06. Client Staffing Within The Same PSR Agency. ~~A~~ Client staffing between PSR, case management or clinic staff within the same PSR agency; (~~3-30-01~~)()

07. Medication Drops. Delivery of medication only; ()

08. Services Delivered On An Expired Service Plan. Services provided between the expiration date of one (1) plan and the start date of the subsequent plan; and ()

09. Services Not Listed. Any other services not listed in Section 452 of these rules. (~~3-30-01~~)()

454. PROVIDER AGENCY REQUIREMENTS.

01. Agency. A proprietorship, partnership, corporation, or other entity, employing at least two (2) providers and offering both PSR services and administrative services. ()

02. Staff Qualifications. An agency shall assure that all agency staff meet the qualification in Section 455 of these rules. ()

03. Supplemental Services Agreement. An agency must have negotiated a Supplement Services Agreement (SSA) with the Department or its designee. The SSA shall specify what PSR services shall be provided by the agency. A new Supplemental Services Agreement is required annually. ()

04. Agency Employees And Subcontractors. Employees and subcontractors of an agency shall be subject to the same conditions, restrictions, qualifications and rules as the agency. ()

05. Supervision. An agency shall provide staff with adequate clinical supervision to insure that the tasks on a recipient's task plan can be implemented effectively and the objectives on the service plan can be achieved. At least one (1) hour of clinical supervision per twenty (20) hours of direct services is required. Individuals in Subsections 455.09 through 455.11, of these rules, must be supervised by individuals in Subsections 455.01 through 455.08, of these rules. Documentation of supervision must be maintained by the agency. ()

4545. PSYCHOSOCIAL REHABILITATION PROGRAM Provider STAFF QUALIFICATIONS.

All individuals providers providing services must be employees of the State Mental Health Authority in each region or employees of an agency contracting with the Department to provide psychosocial rehabilitation services. Individuals in Subsections 454.08 through 454.11, of these rules, must be supervised by individuals in Subsections 454.01 through 454.07, of these rules. The employing entity shall supervise individual PSR providers and assure that the following qualifications are met for each individual provider meet at least one (1) of the following qualifications:

(3-30-01)(____)

01. Physician Or Psychiatrist. A physician, ~~or~~ psychiatrist, or other licensed practitioners of the healing arts within the scope of his practice under state law shall be licensed in accordance with Title 54, Chapter 18, Idaho Code, to practice medicine; (3-30-01)(____)

02. Certified Psychiatric Nurse. A certified psychiatric nurse, Clinical Nurse Specialist or Psychiatric Nurse Practitioner, shall be licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree; (3-30-01)(____)

03. Psychologist. A psychologist shall be licensed in accordance with Title 54, Chapter 23, Idaho Code; (3-30-01)

04. Psychologist Extender. A psychologist extender ~~who is~~ shall be registered with the Bureau of Occupational Licenses. A copy of that registration shall be retained in the extender's personnel file; (3-30-01)(____)

05. Clinician. A clinician shall be employed by a state agency and meet the minimum standards established by the Idaho State Division of Human Resources and the Idaho Department of Health and Welfare Division of Human Resources ~~and the Personnel Commission;~~ (3-30-01)(____)

06. Licensed Professional Counselor - Private Practice. A Licensed Professional Counselor -Private Practice ~~Licensure who is~~ (LPC-P) shall be licensed in accordance with Section 54-3404(10), Idaho Code and IDAPA 24.15.01, "Rules of the Idaho ~~Counselor~~ Licensing Board of Professional Counselors and Marriage and Family Therapists," Section 225; (3-30-01)(____)

07. Certified Social Worker. A certified social worker or Certified Social Worker, Private/Independent Practice (CSW-P), shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; (3-30-01)(____)

08. Licensed Marriage and Family Therapist. A Marriage and Family Therapist shall be licensed in accordance with Section 54-3405C, Idaho Code; (____)

~~089.~~ **Social Worker.** A social worker shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; (3-30-01)

~~0910.~~ **Registered Nurse.** A registered nurse, R.N., shall be licensed in accordance with Title 54, Chapter 14, Idaho Code; ~~and~~ (3-30-01)(____)

~~101.~~ **Psychosocial Rehabilitation Specialist.** A psychosocial rehabilitation specialist shall hold a bachelor's degree in a behavioral science such as ~~social work;~~ psychology, marriage and family counseling, psychosocial rehabilitation, or a closely related field; ~~A closely related field shall have at least twenty-one (21) semester credit hours (equivalent to a minor degree) in a human service field such as psychology, social work, counseling, marriage and family counseling and psychosocial rehabilitation.~~ (3-30-01)(____)

~~11.~~ **Occupational Therapist.** An occupational therapist shall be licensed in accordance with Chapter 54, Idaho Code. (3-30-01)

4556. RECORD REQUIREMENTS.

In addition to the development and maintenance of the ~~treatment~~ task plan, the following documentation must be maintained by the provider: (7-1-94)(____)

01. Name. Name of recipient; ~~and~~ (3-30-01)(____)

02. Provider. Name of the provider agency and person providing the service; ~~and~~ (3-30-01)(____)

03. Date, Time, Duration Of Service, And Justification. Date, time, ~~and~~ duration of services; ~~and~~ duration must be justified by ~~a~~ Documentation must justify the length of time which is billed; ~~and~~ (3-30-01)(____)

~~04. **Activity Record Documentation Of Progress.** Activity record describing the recipient, the service provided, and the recipient's response to service; and~~ The written description of the service provided, the place of service, and the response of the recipient shall be included in the progress note. A separate progress note is required for each contact with a recipient; (3-30-01)()

05. Review Of Progress. Documented review of progress toward each service plan goal and assessment of recipient's need for services at least every one hundred twenty (120) days. ~~The one hundred twenty (120) day~~ review shall be in visual contact with the recipient; (3-30-01)()

~~06. **Physician's Signature.** Physician's signature assuring the need for the services.~~ (3-30-01)

076. Service Provider's Signature. The legible, dated signature, with degree credentials listed of the staff member performing the service; ~~and~~ (3-30-01)()

07. Plan Changes. The provider must notify the Department or its designee when making specific and necessary amendments to the task plan. Unless notified by the Department or its designee within ten (10) working days, the provider may incorporate the specific amendments to the task plan. Providers may also recommend changes in the service plan to the Department or its designee. Recommendations shall be reviewed and incorporated into the plan when appropriate. ()

4567. PAYMENT FOR SERVICES.

Payment for PSR services must be in accordance with rates established by the Department. (3-30-01)

01. Duplication. Payment for services shall not duplicate payment made to public or private entities under other program authorities for the same purpose. (3-30-01)

02. Number Of Staff Able To Bill. Only one (1) staff member may bill for an assessment, ~~treatment~~ service plan, or case review when multiple PSR staff are present. (3-30-01)()

03. Medication Prescription And Administration. Medication prescription and administration may be billed only by physicians and other medical staff qualified under Title 54, Idaho Code. ~~PSR staff shall not be paid for other medical procedures. For example, changing dressings on a wound.~~ (3-30-01)()

04. Recoupment. Billing for services and receiving reimbursement for services that were not rendered or failure to comply with these rules shall be cause for recoupment of payments for services, sanctions, or both. (3-30-01)

05. Access To Information. Upon request, ~~the~~ provider shall provide the Department with access to all information required to review compliance with these rules. ~~Failure by the provider to comply with such a request shall result in termination of the Medicaid PSR Provider Agreement.~~ (3-30-01)()

~~06. **Evaluations And Tests.** Psychiatric or psychological evaluations and tests may be provided as a reimbursable service in conjunction with the assessment.~~ (3-30-01)

076. Psychological Evaluations. Psychological evaluations are reimbursable if provided by a qualified clinician or psychology extender, in accordance with Subsection 4545.04 of these rules, under the direction of a licensed psychologist, ~~Ph.D.~~ (3-30-01)()

~~08. **Evaluations By Occupational Therapists.** Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with development of a service plan are reimbursable.~~ (3-30-01)

097. Inpatient Stays. Services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those included in the responsibilities of the inpatient facility. Treatment services are the responsibility of the facility. (3-30-01)()

~~4578.~~ **SERVICE LIMITATIONS.**

The following service limitations shall apply to PSR services, unless otherwise authorized by the ~~State Mental Health Authority~~ Department or its designee in each region. (3-30-01)(____)

01. Evaluation Or Diagnosis. A combination of any evaluation or diagnostic services are limited to a maximum of six (6) hours annually. (3-30-01)

~~02. Psychotherapy. Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. (3-30-01)~~

~~032. Community Crisis Support.~~ Community crisis support services are limited to ~~a maximum of four (4) hours per day during a period of five (5) consecutive days and must receive prior authorization from the State Mental Health Authority in each region~~ a maximum of five (5) consecutive days per crisis. A maximum of four (4) hours per day may be reimbursed. (3-30-01)(____)

~~043. Psychosocial Rehabilitation.~~ Individual and group psychosocial rehabilitation services are limited to twenty (20) hours per week and must receive prior authorization from the ~~State Mental Health Authority~~ Department or its designee in each region. Services in excess of twenty (20) hours require additional review and prior authorization by the ~~State Mental Health Authority~~ Department or its designee in each region. The prior authorization of additional hours must be documented in the service plan and written approval must be retained in the recipient's file. (3-30-01)(____)

~~458.~~ **459. (RESERVED).**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0110
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is 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), 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 October 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

The DME rule has been revised to incorporate by reference the Medicare DMERC Supplier Manual, which coverage criteria and limitations have been used as the internal guide for some years. The rule clarifies for the public what those criteria and limitations are, and includes coverage criteria and limitations for equipment or supplies that are not covered by Medicare, but for which the Department has determined we will cover when medically necessary.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety, and welfare.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking has an effective date in order to protect the public health, safety and welfare.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Dorrie Phillips at (208) 364-1830.

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 October 24, 2001.

DATED this 8th day of August, 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

FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0110

011. INCORPORATION BY REFERENCE.

The following is incorporated by reference in this chapter of rules:

01. Board Of Examiners. "Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners," Appendices A and B, June 13, 2000. (10-1-00)T

02. Availability. The "Idaho Travel Policies and Procedures of the Idaho State Board of Examiners," can be found at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at <http://www.sco.state.id.us>. (10-1-00)T

03. Medicare Region D DMERC Supplier Manual April 2001. The full text of the Medicare Region D DMERC Supplier Manual Chapters IX and X is available via the Internet at www.cignamedicare.com. A copy is also available at the Idaho State Supreme Court Law Library. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

106. DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES.

The Department will purchase or rent when medically necessary, reasonable, and cost effective, durable medical equipment (DME) and medical supplies for ~~recipients~~ participants residing in community settings including those provided through home health agency plans of care which meet the requirements found in Subsections 105.01 and 105.02. No payment will be made for any ~~recipient's~~ participant's DME or medical supplies that are included in the per diem payment while such an individual is an inpatient in a hospital NF, or ICF/MR. Replacement of medical equipment or supplies that are lost, damaged or broken due to participant misuse/abuse are the responsibility of the participant. When multiple features, models or brands of equipment or supplies are available, coverage will be limited to the least costly version that will reasonably and effectively meet the minimum requirements of the individual's medical needs. (~~7-1-99~~)(7-1-01)T

01. Medical Necessity Criteria. Department standards for medical necessity are those national standards set by Cigna Medicare in the DMERC Supplier Manual, hereafter referred to as DMERC. Exceptions to Medicare coverage are contained in this Section of these rules. DME/medical supplies will be purchased or rented only if ordered in writing (signed and dated) by a physician ~~prior to delivery of equipment or supplies~~ as listed in DMERC. Date of delivery is considered the date of service. The following information to support the medical necessity of the item(s) shall be included in the physician's order and accompany all requests for prior authorization or be kept on file with the DME provider for items which do not require prior authorization: (~~7-1-99~~)(7-1-01)T

a. The ~~recipient's~~ participant's medical diagnosis ~~and prognosis~~ including current information on the medical condition which requires the use of the supplies and/or medical equipment; and (~~7-1-99~~)(7-1-01)T

b. An estimate of the time period that the medical equipment or supply item will be necessary and frequency of use. As needed (PRN) orders must include the conditions for use and the expected frequency; and (7-1-99)

c. For medical equipment, a full description of the equipment needed. All modifications or attachments to basic equipment must be supported; and (7-1-99)

d. For medical supplies, the type and quantity of supplies necessary must be identified; and (11-1-86)

e. ~~The number of months the equipment or supplies will be needed; and~~ Documentation of the participant's medical necessity for the item, that meets coverage criteria in the DMERC. (~~7-1-99~~)(7-1-01)T

f. Additional information may be requested by the Department or its designee for specific equipment and/or supplies such as, but not limited to, wheelchairs, apnea monitors, oximeters, hospital beds or equipment for which DMERC has established no coverage criteria. (~~4-5-00~~)(7-1-01)T

g. Items for convenience, comfort or cosmetic reasons are not covered. (7-1-01)T

02. Medical Equipment Program Requirements. All claims for durable medical equipment are subject to the following guidelines: (7-1-99)

a. Unless specified by the Department, durable medical equipment ~~does not~~ requires prior authorization by the Department or its designee. (7-1-99)(7-1-01)T

~~i. When multiple features or models of equipment are available, authorization will be limited to the least costly version that will reasonably and effectively meet the minimum requirements of the individuals needs.~~ (4-5-00)

b. Unless specified by the Department ~~in the Medical Vendors Handbook~~, all equipment must be rented except when it would be more cost effective to purchase it. Rentals are subject to the following guidelines: (7-1-99)(7-1-01)T

i. Rental payments, including intermittent payments, shall automatically be applied to the purchase of the equipment. When rental payments equal the purchase price of the equipment, ownership of the equipment shall pass to the ~~recipient~~ participant. (4-5-00)(7-1-01)T

ii. The Department may choose to continue to rent certain equipment without purchasing it. Such items include but are not limited to apnea monitor, ventilators and other respiratory ~~monitoring~~ equipment. (4-5-00)(7-1-01)T

iii. The total monthly rental cost of a DME item shall not exceed one-tenth (1/10) of the total purchase price of the item. (7-1-99)

iv. The determination of cost-effectiveness of rental versus purchase will be made by the vendor based on guidelines specified by the Department ~~in the most current Medical Vendors Handbook~~. Documentation to support the vendor's decision must be kept on file. (7-1-99)(7-1-01)T

c. For codes that are manually priced, including miscellaneous codes, a copy of the manufacturer's suggested retail pricing (MSRP) or an invoice or quote from the manufacturer is required. Reimbursement will be seventy-five percent (75%) of MSRP. If pricing documentation is the invoice, reimbursement will be at cost plus ten percent (10%), plus shipping (if that documentation is provided). (7-1-01)T

~~ed.~~ No reimbursement will be made for the cost of repairs (materials or labor) covered under the manufacturer's warranty. The date of purchase and warranty period must be kept on file by the DME vendor. The following warranty periods are required to be provided on equipment purchased by the Department: (7-1-99)

i. A power drive wheelchair shall have a minimum one (1) year warranty period; (7-1-99)

ii. An ultra light or high strength lightweight wheelchair shall have a lifetime warranty period on the frame and crossbraces; (10-22-93)(7-1-01)T

~~iii. An active duty lightweight wheelchair shall have a minimum five (5) year warranty period;~~ (7-1-99)

~~iv.~~ All other wheelchairs shall have a minimum one (1) year warranty period; (7-1-99)

iv. All electrical components and new or replacement parts shall have a minimum six (6) month warranty period; (7-1-99)

v. All other DME not specified above shall have a minimum one (1) year warranty period; (7-1-99)

vi. If the manufacturer denies the warranty due to user misuse/abuse, that information shall be

forwarded to the Department at the time of the request for repair or replacement; (10-1-91)

viii. The monthly rental payment shall include a full service warranty. All routine maintenance, repairs, and replacement of rental equipment ~~is~~ are the responsibility of the provider. ~~(10-22-93)~~(7-1-01)T

~~de.~~ Any equipment purchased will become the property of the recipient. (4-5-00)

~~ef.~~ Covered equipment must meet the definition of durable medical equipment and be medically necessary as defined in Subsection 003.36. All equipment must be prior authorized by the Department or its designee except for the following: (4-5-00)

i. Bilirubin lights (require prior authorization after fourteen (14) days); and ~~(7-1-99)~~(7-1-01)T

ii. Commode chairs and toilet seat extenders; and (11-1-86)

iii. Crutches and canes; and (11-1-86)

iv. Electric or hydraulic patient lift devices designed to transfer a person to and from bed to wheelchair or bathtub, but excluding lift chairs, devices attached to motor vehicles, and wall mounted chairs which lift persons up and down stairs; and ~~(7-1-99)~~(7-1-01)T

v. Grab bars for the bathroom adjacent to the toilet and/or bathtub; and (11-1-86)

vi. Hand-held showers; and (11-1-86)

vii. Head gear (protective); and (7-1-99)

viii. Hearing aids (see Section 108 for coverage and limitations); and (7-1-99)

ix. Home blood glucose monitoring equipment; and (11-1-86)

x. Non-implantable ~~in~~travenous infusion pumps, and/or NG/gastric tube feeding pumps, IV poles/stands, intrathecal administration kits; and ~~(4-5-00)~~(7-1-01)T

xi. Hand-held nebulizers, ~~air therapy vests~~ and manual or electric percussor; and ~~(4-5-00)~~(7-1-01)T

xii. Medication organizers; and (7-1-99)

xiii. Oxygen ~~concentrators~~ equipment; and ~~(11-1-86)~~(7-1-01)T

~~xiv. Pacemaker monitors; and (11-1-86)~~

xiv. Compressors and breathing circuits, humidifiers used with IPPB or oxygen; ~~(4-5-00)~~(7-1-01)T

xv. Sliding boards and bath benches/chairs; and (11-1-86)

xvi. Suction pumps; and (11-1-86)

xvii. Sheep skins, foam or gel pads or alternating pressure pad with pump for the prevention or treatment of decubitus ulcers; and ~~(7-1-99)~~(7-1-01)T

~~xviii.~~ Traction equipment; and (7-1-99)

xix. Walkers. (4-5-00)

03. Coverage Conditions - Equipment. ~~The following M~~medical equipment is subject to ~~the following coverage~~ limitations ~~and~~ in DMERC. ~~A~~Additional documentation requirements or coverage beyond those in the

DMERC Supplier Manual include:

(7-1-99)(7-1-01)T

a. Wheelchairs. The Department will provide the least costly wheelchair ~~which that~~ is appropriate to meet the ~~recipient's~~ participant's medical needs. ~~The Department will authorize the purchase of a wheelchair not more often than once every five (5) years. Specially designed seating systems for wheelchairs shall not be replaced more often than once every five (5) years.~~ Wheelchair rental or purchase requires prior authorization by the Department or its designee ~~and shall be authorized in accordance with the following criteria:~~ (7-1-99)(7-1-01)T

i. In addition to the physician's information, each request for purchase of a wheelchair must be accompanied by a written evaluation by a physical therapist or an occupational therapist. The evaluation must include documentation of the appropriateness and cost effectiveness of the specific wheelchair and all modifications and/or attachments and its ability to meet the ~~recipient's~~ participant's long-term medical needs. For each request for a rental of a wheelchair, a physical therapist or an occupational therapist evaluation may be required on a case-by-case basis, to be determined by the Department or its designee; (3-30-01)(7-1-01)T

~~ii. Manual wheelchairs will be authorized based on the recipient's need according to the following criteria:~~ (7-1-99)

~~(1) The recipient must be nonambulatory or have severely limited mobility and require a mobility aid to participate in normal daily activities and the alternative would be confinement to a bed or chair;~~ (7-1-99)

~~(2) A standard lightweight wheelchair will be authorized if the recipient's conditions are such that he cannot propel a lightweight or standard weight wheelchair;~~ (7-1-99)

~~(3) An ultralight wheelchair will be authorized if the recipient's conditions are such that he cannot propel a lightweight or standard weight wheelchair.~~ (7-1-99)

~~iii. Electric wheelchairs are purchased only if the recipient's medical needs cannot be met by a manual wheelchair. The attending physician must certify that the power drive wheelchair is a safe means of mobility for the recipient and all of the following criteria are met:~~ (7-1-99)

~~(1) The recipient is permanently disabled; and~~ (7-1-99)

~~(2) The disability is such that, because of the severe upper extremity weakness or lack of function, the recipient cannot operate any manual wheelchair.~~ (7-1-99)

~~iv. Additional wheelchairs or seating systems may be considered within the five (5) year limitation with written documentation from the physician and a written evaluation from a physical therapist or an occupational therapist indicating that the reason the current wheelchair no longer meets the participant's medical needs and what may be damaging to participant's medical condition, and cannot be modified to meet the participant's needs. All documentation required for a wheelchair or seating system purchase is required.~~ (4-5-00)(7-1-01)T

~~b. Electronic blood glucose testing devices with voice synthesizers must be prior authorized by the Department or its designee and are covered only when the following documentation is submitted and verified by the attending physician:~~ (7-1-99)

~~i. The recipient has been determined to be legally blind and is unable to read a standard glucose monitor (this does not include any correctable vision defects); and~~ (7-1-99)

~~ii. The recipient lives alone or has no caregiver available during the times when the glucose testing must be done.~~ (7-1-99)

~~e. Electronic pain suppression/muscle stimulation devices TENS Units must be prior authorized by the Department or its designee and are purchased only when the effectiveness of such devices is documented by the physician and only after:~~ (7-1-99)

~~i. The pain has been present for a minimum of three (3) months; and~~ (7-1-99)

- ~~ii. Other treatment modalities have been tried and failed (documentation must be submitted with the request for prior authorization; and (7-1-99)~~
- ~~iii. The effectiveness of the device is documented following a maximum of a two (2) month trial rental period; and (7-1-99)~~
- ~~iv. The physician determines that the recipient is likely to derive significant therapeutic benefit from the continuous use of the device over a long period of time. (7-1-99)~~
- ~~4b. Semi-electric hospital beds must be prior authorized by the Department or its designee and will be approved only when the following is documented by the physician: documents that the participant meets the criteria set by DMERC and the participant lives in an independent living situation where there is no one available to provide assistance with a manual bed a major portion of the day. (4-5-00)(7-1-01)T~~
- ~~i. The recipients medical condition is such that he is unable to operate a manual hospital bed; and (7-1-99)~~
- ~~ii. The recipient is unable to change position as needed without assistance; and (7-1-99)~~
- ~~iii. The recipient reside in an independent living situation where there is no one to provide assistance with a manual bed for the major portion of the day. (10-31-89)~~
- ~~e. Continuous positive airway pressure (C-PAP) machines must be prior authorized by the Department or its designee and are purchased or rented only in the following circumstances: (7-1-99)~~
- ~~i. the physician certifies that the recipient's diagnosis is obstructive sleep apnea, which is supported by a sleep study; and (7-1-99)~~
- ~~ii. There is documentation that the recipient's oxygen saturations improve with the use of the machine or respiratory events can be controlled with the use of this machine. The machine may be rented for three (3) to six (6) months to determine its effectiveness. (7-1-99)~~
- ~~f. Bilevel positive pressure (BiPAP) machines must be prior authorized by the Department or its designee and are purchased or rented only in the following circumstances; (7-1-99)~~
- ~~i. A C-PAP machine has been proven ineffective in treating obstructive sleep apnea; and/or (10-22-93)~~
- ~~ii. The C-PAP machine has proven ineffective during titration; and/or (7-1-99)~~
- ~~iii. Used in place of a ventilator (10-22-93)~~
- ~~g. Lymphedema pumps shall be authorized only as a last resort for the treatment of refractory lymphedema involving one (1) or more limbs. The following documentation must be provided: (4-5-00)~~
- ~~i. Documentation showing location and size of the venous stasis ulcer (4-5-00)~~
- ~~ii. Documentation showing how long each ulcer has been present. (4-5-00)~~
- ~~iii. Documentation showing that the patient has been treated with regular compression bandaging for at least the past six (6) months (4-5-00)~~
- ~~iv. Documentation showing approximately when and the results that the patient has been treated with custom fabricated gradient pressure stockings/sleeves. (4-5-00)~~
- ~~v. Documentation showing all other treatments used for the venous stasis ulcers during the last six (6)~~

- ~~months.~~ (4-5-00)
- ~~vi. Documentation showing the recipient has been seen regularly by a physician for the treatment of venous stasis ulcer(s) during the last six (6) months.~~ (4-5-00)
- ~~04c.~~ Communication ~~D~~devices. ~~W~~will be considered for purchase by the Department under the following conditions. (4-5-00)(7-1-01)T
- ~~a.~~ Communication devices must be prescribed by the primary care physician. (4-5-00)
- ~~b.i.~~ The need for the device must be based on a comprehensive history and physical. (4-5-00)
- ~~e.ii.~~ ~~The device must be considered medically necessary by the primary care physician and~~ ~~r~~The individual must lack the ability to communicate needs with the primary care physician or caregiver. (4-5-00)(7-1-01)T
- ~~d.iii.~~ ~~The device must be the most effective least costly means of meeting the minimum requirements of the client's needs.~~ If the individual knows sign language or is capable of learning sign language a communication device would not be considered medically necessary. (4-5-00)(7-1-01)T
- ~~e.iv.~~ The assessment and evaluation for the communication device must include comprehensive information as related to the individual's ability to communicate and review of the most cost effective devices to meet the individuals needs. Documentation shall include: (4-5-00)
- ~~i.(1)~~ Demographic and biographic summary; (4-5-00)
- ~~ii.(2)~~ Inventory of skills and sensory function; (4-5-00)
- ~~iii.(3)~~ Inventory of present and anticipated future communication needs; (4-5-00)
- ~~iv.(4)~~ Summary of device options; (4-5-00)
- ~~vi.(5)~~ Recommendation for device; and (4-5-00)
- ~~vii.(6)~~ Copy of individual treatment plan. (4-5-00)
- ~~fv.~~ Repairs to the device must be prior authorized and must not include modifications, technological improvements or upgrades. (4-5-00)
- ~~g.vi.~~ Reimbursable supplies include rechargeable batteries, overlays, and symbols. (4-5-00)
- ~~h.~~ ~~Replacements, modifications, and upgrades will be reimbursed only with prior authorization by the Department, and will require a complete new assessment. Authorization for replacements, modifications and upgrades will be issued only in the following circumstances:~~ (4-5-00)
- ~~i.~~ ~~System is broken though no fault of the client and is deemed non-repairable and the client is unable to function without it.~~ (4-5-00)
- ~~ii.~~ ~~System no longer meets the client's minimum medical needs.~~ (4-5-00)
- ~~viii.~~ The use or provision of the system by any individual other than the ~~recipient~~ participant for which the system was authorized is prohibited. (4-5-00)(7-1-01)T
- ~~iv.~~ ~~The Department shall have no obligation to repair or replace the communication device if it has been damaged, defaced, lost or destroyed as a result of neglect, abuse or misuse of the equipment.~~ (4-5-00)
- ~~iviii.~~ Training and orientation of the communication device may be billed as speech therapy by Medicaid

approved providers such as a Developmental Disability Agency, or a Hospital that employs a speech therapist. (4-5-00)

- ~~j.~~ *Rental of equipment shall equal one-tenth (1/10) of purchase price.* (4-5-00)
- ~~k.~~ *All rental applies to purchase of equipment.* (4-5-00)
- d. Maternity abdominal supports will be covered if the participant has: (7-1-01)T
 - i. Vulvular varicosities; or (7-1-01)T
 - ii. Perineal edema; or (7-1-01)T
 - iii. Lymphedema; or (7-1-01)T
 - iv. External prolapse of the uterus or bladder; or (7-1-01)T
 - v. Hip separation; or (7-1-01)T
 - vi. Pubic symphysis separation; or (7-1-01)T
 - vii. Severe abdominal or back strain. (7-1-01)T

054. Medical Supply Program Requirements. *All claims for medical supply items are subject to the following requirements:* (7-1-99)

~~α.~~ The Department will purchase no more than a one (1) month supply of necessary medical supplies per calendar month for the treatment or amelioration of a medical condition identified by the attending physician ~~in an amount not to exceed one hundred dollars (\$100) per month without prior authorization. Any combination of one (1) month's worth of supplies greater than one hundred dollars (\$100) may require prior authorization by the Department or its designee. The prior authorization period will be established by the Department or its designee.~~ Limitations for supplies follow DMERC. Supplies in excess of those limitations must be prior authorized by the Department. (4-5-00)(7-1-01)T

- ~~βa.~~ Each request for prior authorization must include all information required in Subsection 106.01. (7-1-99)
- ~~βb.~~ Supplies other than those listed below will require prior authorization: (4-5-00)
 - i. Catheter supplies including catheters, drainage tubes, collection bags, and other incidental supplies; (11-1-86)
 - and
 - ii. Cervical collars; and (11-1-86)
 - iii. Colostomy and/or urostomy supplies; and (11-1-86)
 - iv. Cotton tip applicators; and (7-1-01)T
 - ~~iv.~~ Disposable supplies necessary to operate Department approved medical equipment such as suction catheters, syringes, saline solution, etc.; and (11-1-86)
 - vj. Dressings and bandages to treat wounds, burns, or provide support to a body part; and (11-1-86)
 - vii. Fluids for irrigation; and (11-1-86)
 - viii. Incontinence supplies (See Subsection 106.05.b. for limitations); and (7-1-99)

~~viii.~~ Injectable supplies including normal saline and Heparin but excluding all other prescription drug items; and (10-31-89)

~~ix.~~ Blood glucose or urine glucose checking/monitoring materials (tablets, tapes, strips, etc.), ~~automatic injectors~~ lancets; and (7-1-99)(7-1-01)T

xj. Therapeutic drug level home monitoring kits. (10-31-89)

xii. Oral, enteral, or parenteral nutritional products, ~~(see Subsection 106.05.a. for limitations and additional documentation requirements).~~ (7-1-99)(7-1-01)T

065. Coverage Conditions - Supplies. Medical supplies are covered when medical necessity criteria per the Medicare DMERC Supplier Manual or ~~the~~ following medical supply items are subject to the following limitations and additional documentation requirements: (7-1-99)(7-1-01)T

a. Nutritional products. Nutritional products will be purchased ~~only under the following circumstances:~~ for participants who meet DMERC criteria, when the supplement is given by tube feeding or orally. (7-1-99)(7-1-01)T

i. A nutritional plan shall be developed and be on file with the provider and shall include appropriate nutritional history, the recipient's current height, weight, age and medical diagnosis. For recipients under the age of twenty-one (21), a growth chart including weight/height percentile must be included; (7-1-99)

ii. The plan shall include goals for either weight maintenance and/or weight gain and shall outline steps to be taken to decrease the recipient's dependence on continuing use of nutritional supplements; (10-1-91)

iii. Documentation of evaluation and updating of the nutritional plan and assessment by a physician as needed but at least annually. (7-1-99)

b. Incontinent supplies. Incontinent supplies are covered for persons over four (4) years of age only and do not require prior authorization unless the ~~recipient~~ participant needs supplies in excess of the following limitations: (7-1-99)(7-1-01)T

i. Diapers are restricted in number to two hundred forty (240) per month. If the physician documents that additional diapers are medically necessary, the Department or its designee may authorize additional amounts on an individual basis. (7-1-99)

ii. Disposable underpads are restricted to one hundred fifty (150) per month. (10-22-93)

iii. Pullups are only allowed when ~~it is documented by the physician that~~ the ~~recipient~~ participant is participating in a formal toilet training program written by an Occupational Therapist, QMRP or Developmental Specialist. Documentation for toilet training program must be updated on a yearly basis. (4-5-00)(7-1-01)T

076. Program Abuse. The use or provision of DME/medical supply items to an individual other than the ~~recipient~~ participant for which such items were ordered is prohibited. The provision of DME/medical supply items that is not supported by required medical necessity documentation is prohibited and subject to recoupment. Violators are subject to penalties for program fraud and/or abuse which will be enforced by the Department. The Department shall have no obligation to repair or replace any piece of durable medical equipment that has been damaged, defaced, lost or destroyed as a result of neglect, abuse, or misuse of the equipment. ~~Recipients~~ Participants suspected of the same shall be reported to the SUR/S committee. (7-1-99)(7-1-01)T

087. Billing Procedures. The Department will provide billing instructions to providers of DME/medical supplies. When prior authorization by the Department or its designee is required, the authorization number must be included on the claim form. (7-1-99)

098. Fees And Upper Limits. The Department will reimburse according to Subsection 060.04 Individual Provider Fees. (12-31-91)

~~109.~~ **Date Of Service.** Unless specifically authorized by the Department or its designee the date of services for durable medical equipment and supplies is the date of delivery of the equipment and/or supply(s). The date of service cannot be prior to the vendor receiving all medical necessity documentation. (7-1-99)

~~110.~~ **Notice Of Decision.** A Notice of Decision approving or denying a requested item will be issued to the client participant by the Department. The client has thirty (30) days from the date of the denial to request an administrative hearing on the decision. Hearings will be conducted to IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 300, and IDAPA 16.05.03, "Rules Governing Contested Cases and Declaratory Rulings". ~~(4-5-00)(7-1-01)T~~

107. OXYGEN AND RELATED EQUIPMENT.

MA Medicaid will provide payment for oxygen and oxygen-related equipment based upon the Department's fee schedule. Such services are considered reasonable and necessary only for recipients participants with significant hypoxemia and certain related conditions. In addition, providers must be eligible for Medicare program participation prior to the issuance of a Medicaid provider number. ~~(7-1-99)(7-1-01)T~~

01. Medical Necessity Documentation. Oxygen and related equipment are provided only upon the written order of a physician that includes the following information medical necessity documentation listed in the Medicare DMERC Supplier Manual, with the following exceptions: ~~(7-1-99)(7-1-01)T~~

- ~~a. A diagnosis of the disease requiring home oxygen use; and (11-1-86)~~
- ~~b. The flow rate and oxygen concentration; and (11-1-86)~~
- ~~c. An estimate of the frequency and duration of use. A prescription of "oxygen PRN" or "oxygen as needed" is not acceptable; and (7-1-99)~~
- ~~d. The laboratory or other evidence prescribed in Subsection 107.02; and (7-1-99)~~
- ~~e. The type of system(s) needed. A portable oxygen system may be covered to complement a stationary system if necessary, or by itself, to provide oxygen for use during exercise by a recipient with exercise-induced hypoxemia. To be considered, a request for a portable oxygen system must include: (7-1-99)~~
 - ~~i. A description of the activities or exercise routine that a recipient undertakes on a regular basis which requires a portable oxygen system; and (7-1-99)~~
 - ~~ii. A description of the medically therapeutic purpose to be served by the portable system that cannot be served by a stationary system; and (11-1-86)~~
 - ~~iii. Documentation that the use of the portable system results in clinical improvement in the recipient's condition. (11-1-86)~~

~~02. Laboratory Evidence.~~ *Because of the potential for conflict of interest, the results of arterial blood gas and/or oxygen saturation tests conducted by the oxygen supplier cannot be used to establish the recipient's need for home oxygen. This restriction applies to the supplier's employee, its corporate officers, or any associated or related organization. The results must come from tests conducted by a provider who will not benefit financially from a finding of coverage for home oxygen services, and initial claims for oxygen therapy must include:* ~~(7-1-99)~~

- ~~a. The results of a blood gas study as evidence of the need for administration of oxygen in the home. This may be either a measurement of the partial pressure of oxygen (PO2) in arterial blood or a measurement of arterial oxygen saturation obtained by oximetry; and (7-1-99)~~
- ~~b. The condition under which the studies are performed must be stated, i.e., at rest, while sleeping, while exercising, on room air, or if while on oxygen the amount, body position during testing, and similar information necessary for interpreting the evidence; and (11-1-86)~~

~~e. Laboratory evidence of the need for oxygen therapy due to significant hypoxemia will be considered to exist in the following circumstances; (5-1-92)~~

~~i. An arterial PO₂ at or below fifty five (55) mmHg or an arterial oxygen saturation at or below ninety percent (90%), taken at rest, breathing room air; or (7-1-99)~~

~~ii. An arterial PO₂ at or below fifty five (55) mmHg or an arterial oxygen saturation at or below ninety percent (90%) taken during sleep for a patient who demonstrates an arterial PO₂ at or above fifty five (55) mmHg, or an arterial oxygen saturation at or above ninety percent (90%) while awake or greater than normal fall in oxygen level during sleep; or (7-1-99)~~

~~iii. If during exercise it is demonstrated that the oxygen saturation level falls below ninety percent (90%), supplemental oxygen will be provided during exercise if there is evidence that the use of oxygen improves the hypoxemia that was demonstrated during exercise when the patient was breathing room air. (7-1-99)~~

~~d. Coverage is provided for patients whose arterial PO₂ is at or above fifty five (55) mmHg or whose arterial blood oxygen saturation is at or above ninety percent (90%) if there is: (7-1-99)~~

~~i. Dependent edema suggesting congestive heart failure; or (11-1-86)~~

~~ii. "P" pulmonale on EKG (P wave greater than three (3) mm in standard leads II, III, or AVF); or (7-1-97)~~

~~iii. Erthrocythemia with a hematocrit greater than fifty-six percent (56%); or (7-1-99)~~

~~iv.a. A diagnosis of cluster headaches which has not responded to medications and there is documentation of successful treatment on a trial basis in the emergency room or physician's office. (7-1-99)~~

~~v.b. Lab studies are not required for recipients age zero (0) to six (6) months. (7-1-99)~~

~~032. Prior Authorization. Prior authorization for oxygen is required by the Department or its designee for the following: (7-1-99)~~

~~a. Recipients Participants age seven (7) months to twenty (20) years of age if there is a physician's order but lab study requirements of Subsection 107.02 are not met. (7-1-99)(7-1-01)T~~

~~b. When the diagnosis is cluster headaches or other condition listed is Subsection 107.02.d. (7-1-99)(7-1-01)T~~

~~04. Service Exclusions. Payment is excluded in the following circumstances: (11-1-86)~~

~~a. Recipients with angina pectoris in the absence of hypoxemia; and (11-1-86)~~

~~b. Recipients who experience breathlessness without cor pulmonale or evidence of hypoxemia; and (11-1-86)~~

~~e. Recipients with severe peripheral vascular disease resulting in clinically evident desaturation in one (1) or more extremities; and (7-1-97)~~

~~d. Recipients with terminal illnesses that do not affect the lungs. (11-1-86)~~

~~05. Recertification. The Department will continue to pay for existing oxygen services according to the following guidelines: (7-1-99)~~

~~a. Recertification is required at least every twelve (12) months. If the physician's initial estimate of length of need is less than one (1) year, then recertification is required after the initial certification based on the physician's order. (7-1-99)~~

b. ~~An annual recertification for oxygen is not required once it has been established that in chronic cases the duration of use is lifetime. The physician's order must indicate the length of need is lifetime to meet this requirement. However, recertification is required if there is a change in the flow rate that increases the amount of oxygen that may be billed. Documentation of a decrease in blood gas levels or atrial oxygen saturation by oximetry must be attached to the claim;~~ (7-1-99)

e. ~~If recertification is required, laboratory requirement in Subsection 107.02 must be met.~~ (7-1-99)

d. ~~The Department may require subsequent recertification in individual cases.~~ (7-1-97)

~~06. **Cost Considerations.** The Department will work with the physician, provider, and recipient to provide payment for the most cost-effective oxygen system that will meet the recipient's needs.~~ (11-1-86)

108. **AUDIOLOGY SERVICES.**

The Department will pay for audiometric services and supplies in accordance with the following guidelines and limitations: (10-1-91)

01. Audiology Examinations. When specifically ordered by a physician, all ~~recipients~~ participants are eligible for audiometric examination and testing once in each calendar year. Basic audiometric testing by certified audiologists ~~and~~ or licensed physicians will be covered without prior approval. (10-1-91)(7-1-01)T

02. Additional Testing. Any hearing testing beyond the basic comprehensive audiometry and impedance testing must be ordered in writing before the testing is done and kept on file by the provider. (7-1-99)

03. Hearing Aids. The Department will cover the purchase of one (1) hearing aid per ~~recipient~~ participant per lifetime with the following requirements and limitations: (7-1-99)(7-1-01)T

a. The following information must be documented and kept on file with the provider: the ~~recipient's~~ participant's diagnosis, ~~prognosis~~, the results of the basic comprehensive audiometric exam which includes pure tone, air and bone conduction, speech reception threshold, most comfortable loudness, discrimination and impedance testing, the brand name and model type needed. However, the Department will allow medical doctors to forego the impedance test based on their documented judgement. (7-1-99)(7-1-01)T

b. Covered services included with the purchase of the hearing aid include proper fitting and refitting of the ear mold and/or aid during the first year, instructions related to the aid's use, and extended insurance coverage for two (2) years. (10-22-93)

c. The following services may be covered in addition to the purchase of the hearing aid: batteries purchased on a monthly basis, follow-up testing, necessary repairs resulting from normal use after the second year and the refitting of the hearing aid or additional ear molds no more often than forty-eight (48) months from the last fitting. (7-1-99)

d. Lost, misplaced, stolen or destroyed hearing aids shall be the responsibility of the ~~recipient~~ participant. The Department shall have no responsibility for the replacement of any hearing aid. In addition, the Department shall have no responsibility for the repair of hearing aids that have been damaged as a result of neglect, abuse or use of the aid in a manner for which it was not intended. (7-1-97)(7-1-01)T

04. Payment Procedures. The following procedures shall be followed when billing the Department: (10-1-91)

a. The Department will only pay the hearing aid provider for an eligible Medicaid ~~recipient~~ participant if a properly completed claim is submitted to the Department within the one (1) year billing limitation. (10-22-93)(7-1-01)T

b. Payment will be based upon the Department's fee schedule (See Subsections 060.04 and 060.05). (12-31-91)

05. Limitations. The following limitations shall apply to audiometric services and supplies: (10-1-91)

a. Hearing aid selection is restricted to the most cost-effective type and model which meets the ~~recipient's~~ participant's medical needs. ~~(7-1-99)~~(7-1-01)T

b. Follow-up services are included in the purchase of the hearing aid for the first two (2) years including, but not limited to, repair, servicing and refitting of ear molds. (7-1-97)

c. Providers are required to maintain warranty and insurance information on file on each hearing aid purchased from them by the Department and are responsible for exercising the use of the warranty or insurance during the first year following the purchase of the hearing aid. (7-1-97)

d. Providers shall not bill ~~recipients~~ participants for charges in excess of the fees allowed by the Department for materials and services. ~~(7-1-97)~~(7-1-01)T

e. Audiology services will be a benefit for EPSDT eligible ~~recipients~~ participants under the age of twenty-one (21) (See Section 100). ~~(12-31-91)~~(7-1-01)T

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

DOCKET NO. 16-0309-0111

NOTICE OF TEMPORARY RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: Adds Licensed Marriage and Family Therapist to the qualified providers under rules for Psychosocial Rehabilitation services. Senate Bill 1039 provided for licensure of Marriage and Family Therapists. This amended Title 54, Chapter 34, Idaho Code to include Licensed Marriage and Family Therapist.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(l)(b) and 67-5226(l)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: to comply with deadlines in amendments to governing law and to confer a benefit to the public.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rules, contact Jack Weinberg at (208) 334-5795.

DATED this 22nd day of August, 2001.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
450 West State Street, 10th Floor
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(208) 334-5564 phone; (208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0111

452. SERVICE DESCRIPTIONS.

A PSR shall consist of the following services:

(3-30-01)

01. Comprehensive Assessment. A comprehensive assessment shall be completed for each recipient of PSR services which addresses the recipient's assets, deficits and needs directed towards formulation of a written diagnosis and treatment plan. Assessment is an interactive process with the maximum feasible involvement of the recipient and is directly related to individual's mental illness. The assessment, with supplemental psychiatric, psychological, or specialty evaluations and tests, must be in written form, dated and signed. They must be retained in the recipient's file for documentation purposes. Should the assessment reveal that the person does not need rehabilitative services, appropriate referrals shall be made to meet other needs of the recipient. The assessment is reimbursable if conducted by a qualified provider, in accordance with Section 454 of these rules. All the following areas must be evaluated and addressed: ~~(3-30-01)~~(7-1-01)T

a. Psychiatric history and current mental status which includes at a minimum, age at onset, childhood history of physical or sexual abuse, number of hospitalizations, precursors of hospitalizations, symptoms of

decompensation that the recipient manifests, the recipient's ability to identify his symptoms, medication history, substance abuse history, history of mental illness in the family, current mental status observation, any other information that contributes to the recipient's current psychiatric status and must contain the diagnosis documented by a licensed physician or other licensed practitioner of the healing arts within the scope of his practice under state law; and (3-30-01)

b. Medical history and current medical status which includes at a minimum, history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems/needs, current medications, name of current physician; and (7-1-94)

c. Vocational/Educational status which includes at a minimum, current and past job status, level of satisfaction with the vocation, educational level, military status, strengths and barriers to employment; and (7-1-94)

d. Financial status which includes at a minimum, adequacy and stability of the recipient's financial status, difficulties the recipient perceives with it, resources available, recipient's ability to manage personal finances; and (7-1-94)

e. Social relationships/support which includes, at a minimum, recipient's ability to establish/maintain personal support systems or relationships and recipient's ability to acquire leisure, recreational, or social interests; and (7-1-94)

f. Family status which includes, at a minimum, the recipient's ability or desire to carry out family roles, recipient's perception of the support he receives from his family, and the role the family plays in the recipient's mental illness; and (7-1-94)

g. Basic living skills which includes at a minimum, recipient's ability to meet basic living needs, what the recipient wants to accomplish in this area; and (7-1-94)

h. Housing which includes at a minimum, current living situation and level of satisfaction with the arrangement, present situation as appropriate to the recipient's needs; and (7-1-94)

i. Community/Legal status which includes at a minimum, legal history with law enforcement, transportation needs, supports the recipient has in the community, daily living skills necessary for community living. (7-1-94)

02. Written Service Plan. A written service plan shall be developed and implemented for each recipient of PSR services as a vehicle to address the rehabilitative needs of the recipient. To the maximum extent possible, the development of a service plan shall be a collaborative process involving the recipient, his family and other support systems. The written service plan shall be developed within thirty (30) calendar days from the date of application and be signed by a licensed physician. Service planning is reimbursable if conducted by a qualified provider, in accordance with Subsections 454.01 through 454.09 of these rules. Task planning may be done by a qualified provider in accordance with Section 454 of these rules. The service plan must include, at a minimum:

~~(3-30-01)~~(7-1-01)T

a. A list of focus problems identified during the assessment; and (7-1-94)

b. Concrete, measurable goals to be achieved, including time frames for achievement; and (7-1-94)

c. Specific objectives directed toward the achievement of each one of the goals; and (7-1-94)

d. Documentation of participants in the service planning; the recipient, if possible, must be a participant. The recipient or the recipient's legal guardian must sign the service plan or documentation must be provided why this was not possible. A copy of the plan must be given to the recipient; and (7-1-94)

e. Reference to any formal services arranged, including specific providers where applicable; and (7-1-94)

- f. Planned frequency of services initiated. (7-1-94)
- 03. Psychotherapy.** Individual, group and family psychotherapy shall be provided in accordance with the objectives specified in the written service plan. (3-30-01)
- a. These services are reimbursable if provided by a qualified professional who must have, at a minimum, one (1) or more of the following degrees: (3-30-01)
- i. Psychiatrist, M.D.; or (3-30-01)
- ii. Physician, M.D.; or (3-30-01)
- iii. Licensed Psychologist; or (3-30-01)
- iv. Psychologist extender, registered with the Bureau of Occupational Licenses; or (3-30-01)
- v. Licensed Certified Social Worker or Licensed Certified Social Worker - Private practice; or (3-30-01)
- vi. Licensed Professional Counselor - Private Practice Licensure; or (3-30-01)
- vii. Licensed Marriage and Family Therapists; or (7-1-01)T
- viii. A licensed social worker who was employed by the clinic prior to February 27, 1998; or (3-30-01)
- ~~viii~~. Certified Psychiatric Nurse, R.N. as described in Subsection 454.02 of these rules; or ~~(3-30-01)~~(7-1-01)T
- ix. A Registered Nurse, R.N., who was employed by the clinic prior to February 27, 1998. (3-30-01)
- b. Family psychotherapy must include the recipient and at least one (1) family member at any given time and must be delivered in accordance with objectives as specified in the written service plan. (7-1-94)
- 04. Pharmacologic Management.** Pharmacologic management services shall be provided in accordance with the service plan. The telephoning of prescriptions to the pharmacy is not a billable service. Medication prescription must be done by a licensed physician or licensed nurse practitioner in direct contact with the recipient. (3-30-01)
- 05. Administration Of Medication.** Licensed and qualified nursing personnel can supervise, monitor, or administer medications within the limits of the Nurse Practice Act, Section 54-1402 (d), Idaho Code. Other PSR providers, included in Section 454 of these rules, may assist in "self" administration by verbal prompts and must include assessment of current mental status. ~~(3-30-01)~~(7-1-01)T
- 06. Individual Psychosocial Rehabilitation.** Individual Psychosocial Rehabilitation shall be provided in accordance with the objectives specified in the service plan. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Individual psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for PSR services and if the employee is a qualified provider, in accordance with Section 454 of these rules. This service includes one (1) or more of the following: ~~(3-30-01)~~(7-1-01)T
- a. Assistance in gaining and utilizing skills necessary to undertake school or employment. This includes helping the recipient learn personal hygiene and grooming, securing appropriate clothing, time management and other skills related to recipient's psychosocial condition. (7-1-94)

b. Ongoing, on-site assessment/evaluation/feedback sessions to identify symptoms or behaviors and to develop interventions with the recipient and employer or teacher. (7-1-94)

c. Individual interventions in social skill training to improve communication skills and facilitate appropriate interpersonal behavior directly related to the individuals mental illness. (3-30-01)

d. Problem solving, support, and supervision related to activities of daily living to assist recipients to gain and utilize skills including, but not limited to, personal hygiene, household tasks, transportation utilization, and money management. (7-1-94)

e. To assist the acquisition of necessary services when recipients are unable to obtain them by escorting them to Medicaid reimbursable appointments. (7-1-94)

f. Medication education may be provided by a licensed physician or licensed nurse focusing on educating the recipient about the role and effects of medications in treating symptoms of mental illness. (2-6-95)

07. Group Psychosocial Rehabilitation. Group psychosocial rehabilitation shall be provided in accordance with the objectives specified in the service plan. This is a service to two or more individuals, at least one of whom is a recipient. The service plan goal is to aid recipients in work, school or other problems related to their mental illness, in obtaining skills to live independently or in preventing movement to a more restrictive living situation. Group psychosocial rehabilitation is reimbursable if provided by personnel of the region or an agency contracting with the region for PSR services and if the employee is a qualified provider, in accordance with Section 454 of these rules. This service includes one (1) or more of the following: ~~(3-30-01)~~(7-1-01)T

a. Medication education groups provided by a licensed physician or licensed nurse focusing on educating recipients about the role and effects of medications in treating symptoms of mental illness. These groups must not be used solely for the purpose of group prescription writing. (7-1-94)

b. Employment or school related groups to focus on symptom management on the job or in school, anxiety reduction, and education about appropriate job or school related behaviors. (7-1-94)

c. Groups in communication and interpersonal skills, the goals of which are to improve communication skill and facilitate appropriate interpersonal behavior. The client must be present. (3-30-01)

d. Symptom management groups to identify symptoms of mental illnesses which are barriers to successful community integration, crisis prevention, identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons. (7-1-94)

e. Groups on activities of daily living which help recipients learn skills related to, but not limited to, personal hygiene and grooming, household tasks, transportation utilization and money management. (7-1-94)

08. Community Crisis Support. Community crisis support which includes intervention for recipients in crisis situations to ensure the health and safety or to prevent hospitalization or incarceration of a recipient. (3-30-01)

a. A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. (7-1-94)

b. Community crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service, even if it is not in the service plan. (7-1-94)

c. Community crisis support is reimbursable if provided by personnel of the region or an agency contracting with the region for PSR services and if the employee is a qualified provider, in accordance with Section 454 of these rules. ~~(3-30-01)~~(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

454. PSYCHOSOCIAL REHABILITATION PROGRAM PROVIDER STAFF QUALIFICATIONS.

All individual providers must be employees of the State Mental Health Authority in each region or employees of an agency contracting with the Department to provide psychosocial rehabilitation services. Individuals in Subsections 454.08 through 454.11, of these rules, must be supervised by individuals in Subsections 454.01 through 454.07, of these rules. The employing entity shall supervise individual PSR providers and assure that the following qualifications are met for each individual provider: (3-30-01)

01. Physician Or Psychiatrist. A physician or psychiatrist shall be licensed in accordance with Title 54, Chapter 18, Idaho Code, to practice medicine; (3-30-01)

02. Certified Psychiatric Nurse. A certified psychiatric nurse, Clinical Nurse Specialist or Psychiatric Nurse Practitioner, shall be licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization; (3-30-01)

03. Psychologist. A psychologist shall be licensed in accordance with Title 54, Chapter 23, Idaho Code; (3-30-01)

04. Psychologist Extender. A psychologist extender who is registered with the Bureau of Occupational Licenses; (3-30-01)

05. Clinician. A clinician shall be employed by a state agency and meet the minimum standards established by the Division of Human Resources and the Personnel Commission. (3-30-01)

06. Licensed Professional Counselor - Private Practice. A Licensed Professional Counselor -Private Practice Licensure who is licensed in accordance with Section 54-3404(10), Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Counselor Licensing Board," Section 225; (3-30-01)

07. Licensed Marriage And Family Therapist. A Marriage and Family Therapist shall be licensed in accordance with Section 54-3405c., Idaho Code; (7-1-01)T

~~078.~~ **Certified Social Worker.** A certified social worker or Certified Social Worker, Private/Independent Practice, shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; (3-30-01)

~~089.~~ **Social Worker.** A social worker shall hold a license in accordance with Title 54, Chapter 32, Idaho Code; (3-30-01)

~~0910.~~ **Registered Nurse.** A registered nurse, R.N., shall be licensed in accordance with Title 54, Chapter 14, Idaho Code. (3-30-01)

~~101.~~ **Psychosocial Rehabilitation Specialist.** A psychosocial rehabilitation specialist shall hold a bachelor's degree in a behavioral science such as social work, psychology, marriage and family counseling, psychosocial rehabilitation, or a closely related field; (3-30-01)

~~112.~~ **Occupational Therapist.** An occupational therapist shall be licensed in accordance with Chapter 54, Idaho Code. (3-30-01)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0112
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is 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 October 17, 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: IDAPA 16.03.09.135 is amended to allow twenty-four (24) chiropractic manipulation services per calendar year. The previous limitation of two (2) visits per calendar month was often not adequate to treat injuries and acute conditions of the client.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking changes is at the request of the industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Arla Farmer at (208) 364-1958.

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 October 24, 2001.

DATED this 17th day of August, 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. 16-0309-0112

135. CHIROPRACTIC SERVICES.

The Department will pay for a total of ~~two~~ twenty-four (24) manipulation visits during any calendar month year for remedial care by a chiropractor but only for treatment involving manipulation of the spine to correct a subluxation condition. (3-30-01)(7-1-01)T

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

DOCKET NO. 16-0309-0113

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is effective September 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 October 17, 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 Senate Bill 1274, legislative intent language, the Department is submitting the rule addition for return drugs. This rule would require pharmacy providers to credit the Department for returned "Unit Dose" packaged medications defined as single unit of use, blister packaging, or unused injectable vials and ampules dispensed for inpatients of licensed skilled nursing facilities. Idaho Board of Pharmacy rule (IDAPA 27.01.01.156.05) authorizes such returns to the dispensing pharmacy.

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 or federal programs.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is to comply with legislative intent in Senate Bill 1274.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Gary Duerr at (208) 364-1829.

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 October 24, 2001.

DATED this 17th day of August, 2001.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
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(208) 334-5564 phone
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0113

817. PAYMENT PROCEDURES.

The following protocol shall be followed for proper reimbursement. (4-5-00)

01. Filing Claims. Pharmacists shall file claims electronically with Department approved software or by submitting the appropriate claim form to the fiscal contractor. Upon request, the contractor will provide pharmacies with a supply of claim forms. The form shall include information described in the pharmacy guidelines issued by the Department. (4-5-00)

02. Claim Form Review. Each claim form may be subject to review by a contract claim examiner, a pharmaceutical consultant, or a medical consultant. (3-30-01)

03. Billed Charges. A pharmacy's billed charges are not to exceed the usual and customary charges defined as the lowest charge by the provider to the general public for the same service including advertised specials. (4-5-00)

04. Reimbursement. Reimbursement to pharmacies shall be limited to the lowest of the following: (4-5-00)

a. Federal Upper Limit (FUL), as established by the Health Care Financing Administration (HCFA), of the U.S. Department of Health and Human Services, plus the dispensing fee assigned by the Department; (4-5-00)

b. State Maximum Allowable Cost (SMAC), as established by the Department, plus the assigned dispensing fee; (4-5-00)

c. Estimated Acquisition Cost (EAC), as established by the Department following negotiations with representatives of the Idaho pharmacy profession defined as an approximation of the net cost of the drug and a reasonable operating margin, plus the assigned dispensing fee; or (4-5-00)

d. The pharmacy's usual and customary charge to the general public as defined in Subsection 817.03. (4-5-00)

05. Dispensing Fees. Only one (1) dispensing fee per month will be allowed for the dispensing of each maintenance drug to any recipient as an outpatient or a resident in a care facility except: (4-5-00)

a. Multiple dispensing of topical and injectable medication when dispensed in manufacturer's original package sizes, unless evidence exists, as determined by the Department, that the quantity dispensed does not relate to the prescriber's order; (4-5-00)

b. Multiple dispensing of oral liquid maintenance medication if a reasonable quantity, as determined by the Department, is dispensed at each filling; (4-5-00)

c. Multiple dispensing of tablets or capsules if the quantity needed for a thirty-four (34) day supply is excessively large or unduly expensive, in the judgment of the Department; or (4-5-00)

d. When the dose is being titrated for maximum therapeutic response with a minimum of adverse effects. (4-5-00)

06. Remittance Advice. Claims are processed by computer, and payments are made directly to the pharmacy or its designated bank through electronic claims transfer. A remittance advice with detailed information of each claim transaction will accompany each payment made by the Department. (4-5-00)

07. Return Of Drugs. Drugs dispensed in unit dose packaging as defined by IDAPA 27.01.01, "Rules

of the Idaho State Board of Pharmacy.” Subsection 156.05, shall be returned to the dispensing pharmacy when the client no longer uses the medication as follows: (9-1-01)T

a. A pharmacy provider using unit dose packaging must comply with IDAPA 27.01.01, “Rules of the Idaho State Board of Pharmacy.” Subsection 156.05. (9-1-01)T

b. A licensed skilled nursing care facility must return unused drug dispensed in unit dose packaging to the pharmacy provider that dispensed the medication. (9-1-01)T

c. The pharmacy provider that receives the returned drugs must credit the Department the amount billed for the cost of the drug less the dispensing fee. (9-1-01)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0114
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is 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 October 17, 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:

Adds Licensed Marriage and Family Therapist to the qualified providers under Mental Health Clinic rules. Senate Bill 1039 provided for licensure of Marriage and Family Therapists. This amended Idaho Code Title 54, Chapter 34 to include Licensed Marriage and Family Therapist.

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 or 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, Senate Bill 1039, and to confer a benefit to the public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Jack Weinberg at (208) 334-5795.

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 October 24, 2001.

DATED this 15th day of August, 2001.

Sherri Kovach
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450 West State Street, 10th Floor
P.O. Box 83720
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(208) 334-5564 phone, (208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0114

466. CARE AND SERVICES PROVIDED.

01. Plan Of Care. Services must be provided specifically in conjunction with a medically ordered plan of care signed by a physician when delivered by licensed, qualified professionals employed full or part-time within a clinic. (3-30-01)

02. Assessment. All treatment must be based on an individualized assessment of the patient's needs, and provided under the direction of a licensed physician. (3-30-01)

03. Care Plans. All medical care plans must: (3-30-01)

a. Be dated and fully signed with title identification by both the prime therapist(s) and licensed physician; and (11-10-81)

b. Contain the diagnosis documented by an examination and by a licensed physician or other licensed practitioner of the healing arts within the scope of his practice under state law; including signature, problem list, type, frequency, and duration of treatment; and (3-30-01)

c. Be reviewed and authorized and signed within thirty (30) days of implementation; and (11-10-81)

d. Be reviewed within one hundred twenty (120) days and every one hundred twenty (120) days thereafter; and (11-10-81)

e. Be completely rewritten and authorized annually. (11-10-81)

04. Provider Qualifications. Licensed, qualified professionals providing clinic services to eligible MA recipients must have, at a minimum, one (1) or more of the following qualifications: (3-30-01)

a. Psychiatrist, M.D.; or (11-10-81)

b. Physician, M.D.; or (11-10-81)

c. Licensed Psychologist; or (7-1-99)

d. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)

e. Licensed Certified Social Workers, or Licensed Certified Social Workers, Private/Independent Practice; or (7-1-99)

f. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (7-1-99)

~~g.~~ Licensed Marriage and Family Therapist; or (7-1-01)T

~~h.~~ Certified Psychiatric Nurse, R.N., as described in Subsection 454.02 of these rules; or ~~(3-30-01)~~(7-1-01)T

~~i.~~ Licensed Social Workers; or (4-5-00)

~~j.~~ Licensed Registered Nurse, R.N.; or (4-5-00)

~~k.~~ Registered Occupational Therapist, O.T.R. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

468. EVALUATION AND DIAGNOSTIC SERVICES.

01. Medical Psychosocial Histories. Medical psychosocial intake histories must be contained in all case files. (3-30-01)

02. Diagnosis And Treatment Plan. Information gathered will be used for establishing a recipient data base used in part to formulate the diagnosis and treatment plan. (3-30-01)

03. Qualified Therapist. The medical psychosocial intake and plan development is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following qualifications: (3-30-01)

- a. Licensed Psychologist; or (7-1-99)
- b. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)
- c. Licensed Certified Social Worker, or Licensed Certified Social Worker, Private/Independent Practice; Licensed Social Worker; or (7-1-99)
- d. Certified Psychiatric Nurse, R.N.; or (7-1-99)
- e. Licensed Professional Counselor - Private Practice Licensure (LPC-P); or (7-1-99)
- f. Licensed Physician, M.D., or Psychiatrist, M.D.; or (7-1-99)
- g. Licensed Social Worker (not to include plan development, unless employed by the clinic prior to February 27, 1998); or (3-30-01)
- h. Licensed Marriage and Family Therapist; or (7-1-01)T
- ~~h~~i. Registered Nurse (not to include plan development, unless employed by the clinic prior to February 27, 1998). (3-30-01)

04. Intake Assessment. If an individual who is not eligible for MA receives intake services from any staff not having the required degree(s) as provided in Subsection 468.03 of these rules, and later becomes eligible for MA, a new intake assessment and treatment plan will be required which must be developed by a qualified staff person and authorized prior to any reimbursement. (~~3-30-01~~)(7-1-01)T

05. Non-Qualified Providers. Any provider of evaluation, diagnostic service, or treatment designed by any person other than a person designated as qualified by these rules, is not eligible for reimbursement under the MA Program. (3-30-01)

06. Psychiatric Or Psychological Testing. Psychiatric or psychological testing may be provided in conjunction with the medical psychosocial intake history as a reimbursable service when provided by those persons with qualifications listed in Subsections 469.06.a. through 469.06.d. (3-30-01)

07. Evaluations Performed By Occupational Therapists. Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with the development of a medical care treatment plan are reimbursable. (3-30-01)

08. Documentation. All intake histories, psychiatric evaluations, psychological testing, or specialty evaluations must be in written form, dated, and fully signed to certify when completed and by whom, and retained in the recipient's file for documentation purposes. (3-30-01)

09. Data. All data gathered must be directed towards formulation of a written diagnosis, problem list, and treatment plan which specifies the type, frequency, and anticipated duration of treatment. (3-30-01)

10. Limitations. A total of twelve (12) hours is the maximum time allowed for a combination of any evaluative or diagnostic services and care plan development provided to an eligible recipient in a calendar year. (3-30-01)

469. TREATMENT SERVICES.

01. Psychotherapy. Individual and group psychotherapy must be provided in accordance with the goals specified in the written medical treatment plan. (3-30-01)

02. Family Centered Services. Family-centered psychosocial services must include at least two (2) family members and must be delivered in accordance with the goals of treatment as specified in the medical treatment plan. (3-30-01)

03. Emergency Services. Individual emergency psychotherapy services can be provided by qualified clinic staff at any time. (3-30-01)

a. Emergency services provided to an eligible recipient prior to intake and evaluation is a reimbursable service but must be fully documented in the recipient's record; and (11-10-81)

b. Each emergency service will be counted as a unit of service and part of the allowable limit per recipient unless the contact results in hospitalization. (11-10-81)

04. Collateral/Contact Consultation. Collateral contact may be provided if face to face, and included on care plan and is necessary to gather information from an individual having a primary relationship to the client. (3-30-01)

05. Nursing Facility. Psychotherapy services may be provided to recipients residing in a nursing facility if the following criteria are met: (3-30-01)

a. The recipient has been identified through the PASARR Level II screening process as requiring psychotherapy as a specialized service; and (11-29-91)

b. The service is provided outside the nursing facility at a clinic location; and (3-30-01)

c. Services provided are: (11-29-91)

i. Supported by the independent evaluations completed and approved by the Mental Health Authority; and (11-29-91)

ii. Incorporated into the recipient's medical care plan; and (11-29-91)

iii. Directed toward the achievement of specific measurable objectives which include target dates for completion. (11-29-91)

06. Provider Qualifications. Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 469.01 through 469.04 of these rules must have, at a minimum, one (1) or more of the following degrees: ~~(3-30-01)~~(7-1-01)T

a. Psychiatrist, M.D.; or (11-29-91)

b. Physician, M.D.; or (11-10-81)

c. Licensed Psychologist; or (7-1-99)

- d. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-99)
- e. Licensed Certified Social Worker or Licensed Certified Social Worker - Private Practice; or (7-1-99)
- f. Licensed Professional Counselor - Private Practice Licensure; or (7-1-99)
- g. Licensed Marriage and Family Therapist; or (7-1-01)T
- gh. A licensed social worker who was employed by the clinic prior to February 27, 1998; or (7-1-99)
- hi. Certified Psychiatric Nurse, R.N. as described in Subsection 454.02 of these rules; or ~~(7-1-99)~~(7-1-01)T
- ij. A Registered Nurse, R.N., who was employed by the clinic prior to February 27, 1998. (7-1-99)

07. Psychotherapy Limitations. Psychotherapy services as set forth in Subsections 469.01 through 469.03 of these rules are limited to forty-five (45) hours per calendar year. ~~(3-30-01)~~(7-1-01)T

08. Chemotherapy. Chemotherapy consultations must be provided by a physician or ~~licensed nurse~~ other practitioner of the healing arts within the scope of practice defined in their license in direct contact with the recipient. ~~(3-30-01)~~(7-1-01)T

a. Consultation must be for the purpose of prescribing, monitoring, and/or administering medication as part of the treatment plan; and (11-10-81)

b. Chemotherapy treatment can be part of the medical care plan and frequency and duration of the treatment must be specified. (11-10-81)

09. Nursing Services. Nursing services, when physician ordered and supervised, can be part of the recipient's medical care plan. (3-30-01)

a. Licensed and qualified nursing personnel can supervise, monitor, and/or administer medication within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code; and (11-10-81)

b. Such treatment can be part of the recipient's medical care plan and frequency and duration of the treatment must be specified. (11-10-81)

10. Partial Care. Partial care services will be a structured program and will be directed toward the maintenance of socio-emotional levels, reduction of psychosocial dysfunctioning, and the promotion of psychosocial levels of functioning insuring the optimal level of function and independence. (3-30-01)

a. To qualify as a partial care service it must include an individual treatment plan based on concrete measurable goals and outcomes. The service must be offered a minimum of three (3) continuous hours daily, four (4) days per week; and (3-30-01)

b. Treatment will be limited to fifty-six (56) hours per week per eligible recipient; and (7-8-90)

c. Partial care services offered on an extension basis less than this standard are allowable when such services are directly affiliated with a partial care service that meets this standard; and (11-10-81)

d. Partial care services will be part of the recipient's medical care plan which must specify the amount, frequency, and expected duration of treatment; and (11-10-81)

e. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the qualifications listed in Subsection 466.04 of these rules. ~~(3-30-01)~~(7-1-01)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO
DOCKET NO. 16-0310-0102
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

EFFECTIVE DATE: The temporary rule is effective September 5, 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 October 17, 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 rulemaking adds the special rate calculation methodologies for nursing Facilities under the prospective payment system.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with the Idaho Medical Association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Judith Shipley at (208) 334-5744.

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 October 24, 2001.

DATED this 2nd day of August, 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
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(208) 332-7347 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0310-0102

310. SPECIAL RATES.

Section 56-117, Idaho Code, provides authority for the Director to pay facilities a special rate for care given to patients who have long term care needs beyond the normal scope of facility services. These patients must have needs which are not adequately reflected in the rates calculated pursuant to the principles set forth in Section 56-102, Idaho Code. The payment for such specialized care will be in addition to any payments made in accordance with other provisions of this chapter. The incremental cost to a facility that exceeds the rate for services provided pursuant to the provisions of this section will be excluded from the computation of payments or rates under other provisions of Section 56-102, Idaho Code, and these rules. (4-5-00)

01. Determinations. A determination to approve or not approve a special rate will be made on a patient-by-patient basis. No rate will be allowed if reimbursement for these needs is available from a non-Medicaid source. A special rate request will be for an expected condition that will be on-going for a period of greater than two (2) weeks. (4-5-00)

02. Application. Until the facility applies for a special rate, patients with such needs will be included in the computation of the facility's rates following the principles described in Section 56-102, Idaho Code. (4-5-00)

03. Approval. Approved special rates will become effective on the date the application is received, but no earlier than the first day of the month in which the application for a special rate was received. (4-5-00)

04. Reporting. Costs equivalent to payments at the special rate will be removed from the cost components subject to limits, and will be reported separately. (4-5-00)

05. Limitation. The reimbursement rate paid will not exceed the provider's charges to other patients for similar services. (4-5-00)

06. Prospective Rate Treatment. Prospective treatment of special rates became effective July 1, 2000. Subsections 310.07 through 310.09 of these rules provide clarification of how special rates will be handled under the prospective payment system. (9-5-01)T

07. Residents Qualifying. Special rates are intended for residents who have long term care needs beyond the normal scope of facility services, and whose needs are not adequately reflected in the rates set pursuant to Section 56-102, Idaho Code. (9-5-01)T

08. Determination Of Payment For Qualifying Residents. Special rates shall be reimbursed in one (1) of the methods described in Subsections 810.08.a. through 810.08.d. of these rules. (9-5-01)T

a. Special Rate Units. If a facility operates a special rate unit; i.e., behavioral unit, or a Traumatic Brain Injury (TBI) unit, etc., the following reimbursement methods will apply under the circumstances described Subsections 810.08.a.i. through 810.08.a.vi. of these rules. (9-5-01)T

i. Facility is Under the Direct Care Limit - If the facility operates a special rate unit, the costs of which do not exceed the direct care limit, with all direct care costs included in the rate calculation, no special rate shall be paid for the unit. (9-5-01)T

ii. Facility is Over the Direct Care Limit - If the facility operates a special rate unit, the costs of which exceed the direct care limit, with all direct care costs included in the rate calculation, the special rate for the unit will be equal to the lesser of the per diem amount by which direct care costs exceed the limit, or the special rate add-on calculated as follows: each Medicaid resident approved for a special rate is classified using Medicare's grouper (currently RUG's III v.5.12 44 Group) and is assigned a total rate equal to the applicable Medicare price that would be paid if the resident were Medicare eligible. The special rate "add-on" to the facility rate is calculated by subtracting the resident-specific Medicaid rate (based on each resident's Medicaid CMI) from the Medicare price. The average of the special rate add-on amounts calculated using this methodology shall be compared to the amount the provider is over the limit. The lesser amount is allowed as a special rate. (9-5-01)T

iii. New Unit Added Before July 1, 2000 - A unit added before July 1, 2000 that does not have sufficient historical cost data in the cost report used to set the rate shall receive the same rate that would have been set

under the retrospective system until a cost report with sufficient cost detail is filed. (9-5-01)T

iv. New Unit Added After July 1, 2000 - To qualify for special rates, new units, or increases to the number of licensed beds in an existing unit must first receive Departmental approval. Since a new unit will not have the cost history of an existing unit, the provider's relationship to the cap will not be considered in qualifying for a special rate. Those residents who are approved for special rates will have their special rate calculated as the difference between the applicable Medicare price under PPS, and the Medicaid rate for that individual resident as explained in Section 310.08.a.ii. of these rules. However, the amount would not be limited to the amount the provider is over the limit, as the costs of the unit are not in the rate calculation. (9-5-01)T

v. One Hundred Percent (100%) Special Care Facility in Existence as of July 1, 2000 - If at July 1, 2000 an entire facility is devoted to caring for "special rate" residents, including Medicaid residents approved for special rates as well as private pay and other residents who would qualify for special rates if they were Medicaid eligible, the facility's allowable reimbursement will be calculated as follows. The costs of the direct care component will not be subject to the cost limit. However, those costs will still be case-mix adjusted based on the ratio of the Medicaid case-mix to the facility-wide case-mix index. (9-5-01)T

vi. Customary Charge - If the cost to operate a special rate unit is being included in a facility's rate calculation process, the facility must report its usual and customary charge for that unit on the quarterly reporting form. A weighted customary charge shall be computed by taking the number of Medicaid days approved for special rates times the usual and customary charge for private pay individuals in that unit, plus the Medicaid days not in the special rate unit times the usual and customary charge for that portion of the facility. (9-5-01)T

b. Equipment/Non-Therapy Supplies. Equipment and non-therapy supplies not adequately addressed in the current RUG's system shall be reimbursed at invoice cost as an add-on to the facility's rate for the resident receiving the equipment or supplies. The facility need not exceed the direct care limit to receive a special rate for such services. Items that qualify for such treatment include but are not limited to the following: air fluidized beds, overlay mattresses, TPN supplies and VAC wound care. (9-5-01)T

c. Ventilator Dependent Residents And Residents Receiving Tracheotomy Care. In the case of ventilator dependent and tracheotomy residents, a two (2) step approach shall be taken to establish the special rate. The facility need not exceed the direct care limit to receive a special rate for ventilator care and tracheotomy care. The first step is the calculation of a staffing add-on for the cost, if any, of additional direct care staff required to meet the exceptional needs of these residents. The add-on shall be calculated following the provisions set forth in Subsection 310.08.d. of these rules. The second step shall be an equipment and/or supply add-on to be added to the rate up to the invoice cost or rental amount. The combined amount of these two (2) components shall be considered the special rate. (9-5-01)T

d. Residents Who Do Not Reside in a Special Rate Unit Requiring One-to-One Staffing Ratios. Facilities that do not have established units with a cost history built into their cost reports and rates may at times have residents who require unusual levels of staffing; such as, one-to-one staffing ratios. If the resident qualifies for a special rate, the additional reimbursement will be allowed as follows:

Example Using Sixteen (16) Hours of One-To-One Care	
Total hours per day:	24.0
Less minimum staff level required:	(2.0)
Net special rate hours allowed:	22.0
Average wage rate of CNA's per WAHR survey:	\$7.53
Plus Benefits at Thirty percent (30%):	\$2.26
Allowed wages and Benefits	\$9.79

Example Using Sixteen (16) Hours of One-To-One Care	
Allowable daily special rate add-on:	\$215.38
Divided by total hours:	24.0
Calculated hourly rate:	\$8.97
One to one hours approved:	16.0
Sixteen (16) hours of one to one add-on:	\$143.53

(9-5-01)T

e. For differing levels of one-to-one care; i.e., eight (8) hours or twenty-four (24) hours, only the total hours of one-to-one care approved would be changed in Subsection 310.08.d. The WAHR CNA wage rate as described in IDAPA 16.03.09, "Rules Governing Medical Assistance," Section 148 will be updated prior to the July 1st rate setting each year. Should the WAHRS survey be discontinued, prior amounts may be indexed forward, or a comparable survey may be conducted. (9-5-01)T

09. Treatment Of The Special Rate Cost For Future Rate Setting Periods. Special rates shall be established on a prospective basis similar to the overall facility rate. When a cost report is used to set a prospective rate contains special rate cost, an adjustment shall be made to "offset," or remove, the amount received for the special rates from the calculation of costs. The amount received shall be calculated by multiplying the special rate paid for each qualifying resident by the number of days that were paid. The case-mix index for each resident shall be left in the facility-wide average and the Medicaid average for rate setting purposes, as the offset would only be for the incremental portion of the rate, above what Medicaid would have paid. (9-5-01)T

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 RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is December 1, 2000. This pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-1004(1), Idaho Code.

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

Section 151 was amended by adding to Subsection 01, Income Not Counted, in regards to determining LIHEAP eligibility or benefit level; the "Sale of real property, if the funds are reinvested within three (3) calendar months" to the text. Also, removed from Subsection 01, are references to the IRA lump sum payments, income from capital gains and Tribal bonuses statement from the rule.

The proposed rule has been amended in response to public comment to make transcriptional corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions that have been made to the proposed rule.

The original text of the proposed rules was published in the July 4, 2001 Administrative Bulletin, Volume 01-7, pages 67 through 74.

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

DATED this 2nd day of August, 2001.

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

IDAPA 16, TITLE 04, Chapter 14

RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 00-7, July 4, 2001, pages 67 through 74.

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

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

151. INCOME ELIGIBILITY REQUIREMENTS.

Assistance under this program is limited to participant households with countable income at or below one hundred fifty percent (150%) of the Poverty Guidelines 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. (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. (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, if the funds are reinvested within three (3) calendar months. ~~(4-5-00)~~(12-1-00)T
- e. ~~IRA and other retirement plan lump sum payments.~~ (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)
- ig. Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (4-5-00)
- jh. Interest income of thirty dollars (\$30) or less received during the three (3) month period before

- application for LIHEAP. (4-5-00)
- ~~k~~i. Legal fees or settlements from Workman's Compensation paid in a lump sum. (4-5-00)
 - ~~j~~i. Monies received for educational purposes from NSDL, College work-study programs, State Student Incentive grants, SEOG, Pell, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (12-1-00)T
 - ~~m~~k. Monies from VA-GI Bill for Education. (4-5-00)
 - ~~n~~l. Department of Health and Welfare Adoption subsidies. (4-5-00)
 - ~~o~~m. 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~~n. 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~~o. Value of food stamps or donated food to household. (4-5-00)
 - ~~r~~p. Utility allowance. (4-5-00)
 - ~~s~~q. TAFI lump sum payments. (12-1-00)T
 - ~~t~~r. Tribal crop or land payments. (12-1-00)T
 - ~~u~~r. ~~Tribal bonuses.~~ (~~12-1-00~~)T
 - ~~v~~s. 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 Undocumented Resident Income.** If a household includes eligible and ineligible undocumented resident participants, and one (1) or more of the ineligible participants had income during the reporting period, count the ineligible participants' income and exclude the undocumented resident from the household count. (12-1-00)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-1111, 39-1208, 39-1209, 39-1210, 39-1211, 39-1213 and 56-1005(8), Idaho Code.

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

October 10, 2001, at 7p.m. - 9:00p.m.
Coeur d'Alene Inn, Hayden Room
414 West Appleway Ave.
Coeur d'Alene, Idaho

October 11, 2001, at 7p.m. - 9:00p.m.
Ameritel Inn/Spectrum, Arrowrock South Room
7499 W. Overland
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, to the agency address below.

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

Family and Children's Services undertook a large scale public participation/negotiated rulemaking process in 2000 to rewrite Licensing IDAPA 16.06.02, "Rules Governing Standards for Child Care Rules". These were adopted in the 2001 Legislative session and they included provisions for Section 605 "Service Worker" position to work in children's agency programs if they had a bachelor's degree from an accredited college or university with a major in human behavioral science. Public opposition to the Service Worker position at public hearings and legislative hearings included comments the educational requirements were too broad and should identify specific degrees that would be acceptable and also include training requirements. The new proposal in Section 605 seeks to resolve that issue pursuant to an agreement between Senate and House Health and Welfare Committee members and the Department to include more specific requirements.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted as previously stated in the Descriptive Summary of this Notice.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ed Van Dusen at (208) 334-5702.

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 October 24, 2001

DATED this 22nd day of August, 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. 16-0602-0102

605. SERVICE WORKER POSITION AND QUALIFICATIONS.

A children's agency may employ or contract for a service worker ~~who shall possess at least a bachelor's degree from an accredited college or university with a major in a human behavioral science.~~ (3-30-01)()

01. Qualification. Qualifications of the service worker shall be verified through written documentation of work experience and education. The service worker shall have at least: ()

a. A bachelor's degree in a behavioral science such as social work, psychology, marriage and family counseling; or

b. A closely related field. A closely related field will have at least twenty-one (21) semester credit hours (equivalent to a minor degree) in a human services field such as psychology, social work, counseling, or marriage and family counseling; and either: ()

i. Twenty (20) hours of completed training in adoption or foster care services specific to the assigned duties; or ()

ii. One (1) year of full-time paid experience in adoption or foster care services specific to assigned duties. ()

02. Training. Service Workers must document twenty (20) hours of completed training every four (4) years in adoption or foster care services specific to the assigned duties. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0102

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 39-1111, 39-1209, 39-1210, 39-1211, 39-1213 and 56-1005(8), Idaho Code.

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

October 10, 2001, at 7:00 p.m.
Coeur d'Alene Inn, Hayden Room
414 West Appleway Ave.
Coeur d'Alene, Idaho

October 11, 2001, at 7:00 p.m.
Ameritel Inn/Spectrum, Arrowrock South Room
7499 W. Overland Road
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, to the agency address below.

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

Family and Community Services undertook a large scale public participation/negotiated rulemaking process to rewrite IDAPA 16.06.02, Rules Governing Standards for Childcare Licensing pertaining to child placements and adoptions, and licensure of agencies performing those functions, Foster Care, and Residential Care for Children. Those rules were approved by the Legislature in 2001. As part of the initial process, rules were developed for children placed in therapeutic outdoor camps not previously covered under the childcare licensing rules. However, since there were no previous rules for children's therapeutic outdoor programs the decision was made to gather additional public input before submission. The addition of these rules will complete the project.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with private providers, parent groups, 4H, and the Boy Scouts and Girl Scouts of America.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Jim Puett or Edward Van Dusen at (208) 334-5700.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 24, 2001.

DATED this 21st day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0602-0102

001. TITLE AND SCOPE.

01. Scope. The rules contained in this chapter establish standards and procedures for the licensure or certification of foster homes, children's agencies, and children's residential care facilities, including non-accredited residential schools, children's camps providing child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period, children's therapeutic outdoor programs, alcohol-drug abuse treatment facilities and facilities specializing in maternity care to minors, day care centers and group day care facilities. Also included are standards and procedures for voluntary compliance for licensing of group day care facilities and family day care homes. (3-30-01)(____)

02. Title. These rules are to be cited in full as the Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing". (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

006. DEFINITIONS.

For the purposes of the rules contained in this Chapter, the following terms are used as defined below: (3-30-01)

01. Accredited Residential School. A residential school for any number of children subject to the jurisdiction of the Idaho Department of Education that has been certified as accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious accrediting association recognized by the Idaho Department of Education. (3-30-01)

02. Alcohol-Drug Abuse Treatment Facility. A children's residential care facility specializing in providing programs of treatment for children whose primary problem is alcohol or drug abuse. (3-30-01)

03. Board. The Idaho State Board of Health and Welfare. (3-30-01)

04. Child. An individual less than eighteen (18) years of age, synonymous with juvenile or minor. (3-30-01)

05. Child Care. The care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care. (3-30-01)

06. Children's Agency. A person who operates a business for the placement of children in foster homes, children's residential care facilities or for adoption in a permanent home and who does not provide child care as part of that business. A children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. (3-30-01)

07. Children's Camp. A program of child care at a location away from the child's home, which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child. A children's camp which only provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period shall be exempt from the licensure and disclosure provisions of this chapter. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period shall constitute a children's residential care facility. (3-30-01)

08. Children's Institution. A person defined herein, who operates a residential facility for unrelated children, for the purpose of providing child care. Children's institutions include foster homes, children's residential care facilities, maternity homes, therapeutic outdoor programs, or any residential facility providing treatment, therapy

or rehabilitation for children.

~~(3-30-01)~~()

09. Children's Residential Care Facility. A facility that provides residential child care, excluding foster homes, residential schools, juvenile detention centers and children's camps that: (3-30-01)

a. Seeks, receives or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision; (3-30-01)

b. Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; or (3-30-01)

c. Represents to the payor of the child care services provided by the children's facility that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services; and ~~(3-30-01)~~()

d. May include a children's therapeutic outdoor program whether or not that program operates out of a permanent structure. ()

10. Children's Therapeutic Outdoor Program. A program of a licensed children's residential care facility which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting and serves either adjudicated or non-adjudicated youth; may or may not limit a child's access to parents or guardians; restricts a minor's ability to leave the program at any time of his own free will; and does not apply to outdoor programs for minors that are primarily designed to be educational or recreational that may include Boy Scouts, Girl Scouts, 4-H and other youth organizations. ()

101. Continued Care. The ongoing placement of an individual in a foster home, children's residential care facility, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age. (3-30-01)

~~112.~~ **Contraband.** Goods or merchandise, the possession of which is prohibited, such as weapons and drugs. (3-30-01)

~~123.~~ **Day Care.** The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-30-01)

~~134.~~ **Day Care Center.** A place or facility providing day care for compensation for thirteen (13) or more children. (3-30-01)

~~145.~~ **Department.** The Idaho Department of Health and Welfare. (3-30-01)

~~156.~~ **Direct Care Staff.** An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. (3-30-01)

~~167.~~ **Director.** Director of the Idaho Department of Health and Welfare or designee. (3-30-01)

~~178.~~ **Family Day Care Home.** A home, place, or facility providing day care for six (6) or fewer children during part of a twenty-four (24) hour day. (3-30-01)

~~189.~~ **Foster Care.** The twenty-four (24) hour substitute care of children, by persons who may or may not be related to a child, in lieu of parental care in a foster home. (3-30-01)

~~1920.~~ **Foster Home.** The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute care to six (6) or fewer children. (3-30-01)

- 201.** **Foster Parent.** A person or persons residing in a private home under their direct control to whom a foster care license or certification has been issued. (3-30-01)
- 212.** **Group Day Care Facility.** A home, place, or facility providing day care for seven (7) to twelve (12) children. (3-30-01)
- 223.** **Inter-Country Adoption.** The placement of a child from one (1) country to another for the purpose of adoption. (3-30-01)
- 234.** **Mechanical Restraint.** Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. (3-30-01)
- 245.** **Medical Professionals.** Persons who have received a degree in nursing or medicine and registered nurse, nurse practitioner, physician's assistant and medical doctor. (3-30-01)
- 256.** **Member Of The Household.** Any person, other than a foster child, who resides in, or on the property of, a foster home. (3-30-01)
- 267.** **Nonaccredited Residential School.** A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. (3-30-01)
- 278.** **Non-Compliance.** Violation of, or inability to meet the requirements of, the act or a rule promulgated under the act, or terms of licensure. (3-30-01)
- 28.** **Organization.** A children's agency or a children's residential care facility. (3-30-01)
- 2930.** **Person.** Any individual, group of individuals, associations, partnerships or corporations. (3-30-01)
- 301.** **Physical Intervention.** Physical restraint utilized to control the range and motion of an individual. (3-30-01)
- 312.** **Placement.** The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. (3-30-01)
- 323.** **Plan Of Correction.** The detailed procedures and activities developed between the licensing authority and caregiver required to bring a foster family, facility, or children's agency into conformity with these licensing rules. (3-30-01)
- 334.** **Relative.** Individuals related to a child by blood, marriage or adoption. (3-30-01)
- 345.** **Representative.** An employee of the Department of Health and Welfare. (3-30-01)
- 356.** **Residential School.** A residential facility for any number of children which: (3-30-01)
- a. Provides a planned, scheduled, regular, academic or vocational program for students in the elementary, middle or secondary grades as defined in Section 33-1001, Idaho Code; and (3-30-01)
 - b. Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and (3-30-01)
 - c. Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and (3-30-01)
 - d. Does not receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental

- retardation; and (3-30-01)
- e. Does not represent to the payor of childcare services provided that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. (3-30-01)
- ~~367.~~ **Restraint.** Interventions to control the range and motion of a child. (3-30-01)
- ~~378.~~ **Seclusion.** A room within a facility designed to temporarily isolate an individual in order to gain emotional or physical control by means of structure and minimal stimulation. (3-30-01)
- ~~389.~~ **Secure.** A physically restrictive setting, as in a locked or guarded residential facility. (3-30-01)
- ~~3940.~~ **Security Risk.** An individual who presents the possibility by actions, behavior or emotional reaction that may result in harm to self or others, or escape from physical control. (3-30-01)
- ~~401.~~ **Shelter Care.** The temporary or emergency out-of-home care of children in a foster home or residential facility. (3-30-01)
- ~~412.~~ **Soft Restraints.** Mechanical restraints made of leather, cloth or other combinations of fibers, utilized to control the range of motion of an individual. (3-30-01)
- ~~423.~~ **Time-Out.** Separation of a child from group activity as a means of behavior management. (3-30-01)
- ~~434.~~ **Training.** The preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a foster parent, agency and residential care facility staff or volunteers. (3-30-01)
- ~~445.~~ **Transitional Living.** Living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation. (3-30-01)
- ~~456.~~ **Variance.** The means of complying with the intent and purpose of a child care licensing rule in a manner other than that specifically prescribed in the rule. (3-30-01)
- ~~467.~~ **Waiver.** The non-application of a child care licensing rule, except those related to safety, extended to a relative foster home which serves to promote child health, well-being, and permanence while not compromising safety. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

503. NOTIFICATION TO THE LICENSING AUTHORITY.

An organization shall notify the Department as soon as possible but no later than thirty (30) days before a change in the name of the organization, type of service, type of children being served, an increase in licensed capacity of a child care facility or children's residential care facility, or the facility organization closes, moves or changes ownership. (3-30-01)()

(BREAK IN CONTINUITY OF SECTIONS)

701. -- 7043. (RESERVED).

704. A CHILDREN'S THERAPEUTIC OUTDOOR PROGRAM.

A licensed Children's Residential Care Facility that only operates a Children's Therapeutic Outdoor Program shall comply with the licensing standards set forth in Sections 500 through 599 and Section 800 through 899 of these rules. ()

(BREAK IN CONTINUITY OF SECTIONS)

794. -- ~~996799~~. (RESERVED).

ADDITIONAL STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS
(See also Sections 800 through 899)

800. ADDITIONAL STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.

A children's therapeutic outdoor program is one designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting. These rules set forth minimum standards and requirements for children's therapeutic outdoor programs. Each program is at all times responsible for the health, safety and well being of the children in its program and may choose to go beyond these minimum requirements. (See also Sections 500 through 599, General Standards for Organizations known as Children's Agencies and Children's Residential Care Facilities.)

()

801. PROGRAM DESCRIPTION. Every children's therapeutic outdoor program shall have a detailed, written description of the services and activities provided. All written descriptions shall be factual and accurate and be provided to the parent(s) or guardian(s) of the child prior to entrance into the program. Any program that advertises their children's therapeutic outdoors program in any manner shall ensure that the advertisement is factual and accurate in its statements and representations.

()

802. -- 803. (RESERVED).

804. POLICIES AND PROCEDURES.

In addition to the requirements for policies in Sections 500 - 599 of these rules, a children's therapeutic outdoor program shall have policies and procedures in place addressing the licensing standards set forth in Sections 800 through 899 of these rules.

()

805. BASE OF OPERATIONS REQUIRED.

01. Base Camp. A children's therapeutic outdoor program shall have a base camp or field office in Idaho, here after referred to as a base camp. Base camp at a minimum shall:

()

a. Be staffed and monitored twenty-four (24) hours a day when there are children in care; ()

b. Have current staff personnel files; ()

c. Have a current list of the names of staff and children in each field group; ()

d. Have a master map of all activity areas used by the program; ()

e. Have copies of each group's expeditionary route with its schedule and itinerary, copies of which shall be sent to the Department and local law enforcement when requested; ()

f. Maintain current logs of communications with each field group away from the base camp; and ()

g. Have an emergency response plan that is reviewed annually. ()

02. Participant File Requirements. The base camp shall have program participant files, which include: ()

a. Demographics; ()

- b. Eligibility criteria; ()
- c. Medical forms; and ()
- d. Medical treatment authorization. ()

03. Proof of Compliance. A children's therapeutic outdoor program which operates in Idaho shall comply with the federal, state and local regulations in each state and shall maintain proof of compliance at the base camp. ()

806. HIGH ADVENTURE ACTIVITIES WRITTEN STATEMENTS.

High adventure activity means an outdoor activity, which requires specially trained staff or special safety precautions to reduce the possibility of an accident or injury. ()

01. High Adventure Activities. High adventure activities may include the following: ()

- a. Target sports; ()
- b. Aquatics; ()
- c. Hiking; ()
- d. Adventure challenge courses; ()
- e. Climbing and rappelling; ()
- f. Winter camping; ()
- g. Soloing; ()
- h. Spelunking; ()
- i. Expeditioning; ()
- j. River and stream swimming; ()
- k. White water activities; and ()
- l. Animal related activities. ()

02. High Adventure Activity Policy And Procedures. For high adventure activities identified in Subsection 801.01, and for any activity identified by the children's therapeutic outdoor program or the Department as a high adventure activity, there shall be a written policy and procedures, which are followed, including: ()

- a. Activity leader training and experience qualifications; ()
- b. Specific staff-to-participant ratios appropriate to the activity; ()
- c. Classification and limitations for each child's participation; ()
- d. Arrangement, maintenance, and inspection of the activity area; ()
- e. Appropriate equipment and the inspection and maintenance of the equipment; and ()
- f. Safety precautions. ()

03. High Adventure Activities Leader. An activity leader who is at least twenty-one (21) years of age and who has documented training and experience in conducting the activity shall conduct high adventure activities. ()

807. -- 809. (RESERVED).

810. STAFF QUALIFICATIONS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS. Qualifications of staff, interns, and volunteers shall be verified through written documentation of completion of a criminal history check, as required by Section 39-1211, Idaho Code, work experience, education and classroom instruction. A program, which provides children's therapeutic outdoor programs shall have the following staff: ()

01. Chief Administrator. The chief administrator may also function as the field director. The chief administrator shall have the responsibility of ensuring that the program is at all times in compliance with applicable licensing rules and that staff are familiar with all program policies and procedures. The chief administrator shall: ()

- a. Be at least twenty-five (25) years of age; ()
- b. Have two (2) years experience working with children and three (3) years experience in staff supervision and administration; and either ()
 - i. At the time of appointment have, at a minimum, a Bachelor's degree in a relevant discipline; or ()
 - ii. Have completed a career development program which includes work-related experience, training or college credits that provide a level of achievement equivalent to the Bachelor's degree; ()
- c. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience or one (1) year of outdoor youth program field experience; and ()
- d. Demonstrate or obtain proficiency in the required training criteria set forth in Subsection 812.02, of these rules. ()

02. Field Director Qualifications. A children's therapeutic outdoor program shall have field director who is primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director shall be responsible for compliance with applicable licensing rules and ensuring that staff are familiar with all program policies and procedures. The field director shall: ()

- a. Be at least twenty-five (25) years of age; ()
- b. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience or one (1) year of outdoor youth program field experience; and ()
- c. Demonstrate or obtain proficiency in the required training criteria, set forth in Subsection 812.02 of these rules, within ninety (90) days of assuming administrative responsibilities and prior to any provision of direct care to children. ()

03. Senior Field Staff Qualifications. A children's therapeutic outdoor program shall have a senior field staff working directly with each group of program participants. Senior field staff shall: ()

- a. Be at least twenty-one (21) years of age; ()
- b. Have an associate degree or high school diploma or equivalent with thirty (30) semester hours or forty-five (45) quarter hours of education and training or comparable experience and training in a field related to recreation and adventure activities; ()

c. Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in his personnel file; and ()

d. Demonstrate or obtain proficiency in the required training criteria set forth in Subsection 812.02, of these rules prior to assuming direct care responsibilities. ()

04. Field Staff. Each field staff shall: ()

a. Be at least twenty-one (21) years of age; ()

b. Have a high school diploma or equivalent; ()

c. Have completed staff training and field course work as required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and ()

d. Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. ()

05. Multi-Disciplinary Team. A children's therapeutic outdoor program shall have a multi-disciplinary team of staff or consultants that have knowledge of the physical and emotional demands of the program and be available to program participants upon the recommendation of the field director or senior staff field staff. At a minimum the team shall consist of: ()

a. A licensed physician; and ()

b. A treatment professional who is a licensed or certified psychologist, clinical social worker, marriage and family counselor, or professional counselor. ()

06. Use Of Interns. An outdoor program may have interns who: ()

a. Are in a learning program to meet personal educational goals; ()

b. Are at least nineteen (19) years of age; ()

c. Have at least a high school diploma or its equivalent; ()

d. Have completed staff training and field course work, as required by Subsection 812.02 of these rules, prior to assuming direct care responsibilities; ()

e. Are under the supervision of a licensed therapist if they are in a clinical internship pursuing a professional degree or license; and ()

f. Do not solely supervise program participants at any time. ()

07. Volunteer Requirements. Volunteers shall: ()

a. Be at least eighteen (18) years of age; ()

b. Be under the direct, constant supervision of qualified staff; ()

c. Have completed the staff training and course work required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and ()

d. Do not solely supervise program participants at any time. ()

811. STAFF HEALTH REQUIREMENTS.

Prior to engaging in any field activities with children, staff, interns, and volunteers shall have a written statement from a licensed physician, physician's assistant, or nurse practitioner signifying they are physically fit to perform the duties

of the job. A new written statement shall be obtained at least every three (3) years. The medical professional who provides the written statement shall be provided a form to use which clearly describes the physical demands and the environment the person being evaluated is required to be able to meet. The administrator or designee shall review the form and maintain it in the individual's personnel file. At no time while on duty shall staff be under the influence of an intoxicating or illegal substance, or any other substance that impairs their ability to function and ensure the health and safety of the children in the program. ()

812. TRAINING.

Training for each staff, intern and volunteer shall be documented and kept on file at the base camp. ()

01. Skills. Each staff shall demonstrate specific skills to the administrator or designee, prior to assuming field supervision. The skill assessment procedures shall be approved by the Department and results of the assessment shall be documented and kept on file at the base camp. ()

02. Training. Training must supplement any deficiencies. The criteria shall include at a minimum:

- a. Four (4) days of practicum field training; ()
- b. Supervision of program participants; ()
- c. Water, food, and shelter procurement, preparation and conservation; ()
- d. Low-impact wilderness expedition and environmental conservation skills and procedures; ()
- e. Child management; containment, control, safety, conflict resolution, and behavior management; ()
- f. Instruction in safety procedures and safe equipment use of, fuel, fire, and life protection; ()
- g. Sanitation procedures related to food, water, and waste; ()
- h. Special instruction for staff who conduct and staff who supervise high adventure activities; ()
- i. Wilderness medicine, including health issues related to acclimation, exposure to the environment and environmental elements; ()
- j. First aid kit contents and use; ()
- k. Navigation skills including map and compass use, contour and celestial navigation, and Global Positioning System (GPS); ()
- l. Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations; ()
- m. Report writing, including development and maintenance of logs and journals; ()
- n. Federal, state, local regulations including, but not limited to, Idaho State Department of Health and Welfare, Idaho State Department of Fish and Game, Idaho Outfitters and Guides, and State and Federal land use agencies; and ()
- o. On going training for direct care staff to upgrade their skills, including mandatory training to maintain skills and certifications. ()

813. STAFF RATIOS AND GROUP SIZE.

01. Group Size. For an expedition group, the number of participants shall not exceed fifteen (15) children. ()

02. Staffing Ratio. Each group of children shall be staffed as follows: ()

a. One (1) staff for every four (4) children or fraction thereof, but where there are less than four (4) children there shall be at least two (2) staff; ()

b. Where the gender of a group is mixed, there shall be at least one (1) female staff and one (1) male staff member; and ()

c. Interns and volunteers may not be counted in the staff ratio. ()

03. Wilderness First Responder (W.F.R.). At least one (1) staff member per group shall have a current Wilderness First Responder (W.F.R.) Certificate. ()

814. -- 820. (RESERVED).

821. SCREENING.

Pre-admission and subsequent screenings shall be performed on each child. ()

01. Admission Screening. Admission screening shall be done for each child by a qualified treatment professional familiar with the children's therapeutic outdoor program prior to enrollment. This shall include a review of the child's social and psychological history. ()

02. Subsequent Screenings. Subsequent screening shall be done before the child leaves for the adventure portion of the program away from the main base of operations. The screening shall include: ()

a. An interview with the child prior to entrance into the field by the senior field staff assigned to the child's field experience shall conduct; and ()

b. The medically trained field staff assigned to the child's field experience shall conduct a review of the child's health history and physical examination. ()

03. Psychological Problems. For a child with a history of psychological problems, a psychological evaluation shall be obtained and reviewed by the multi-disciplinary team prior to the child's entrance into the field portion of the program. ()

822. PHYSICAL EXAMINATION AND EVALUATION.

A child shall have a physical examination within thirty (30) days prior to entrance into the field program. ()

01. Physical Examination Requirements. The result of the physical exam shall be recorded on a form provided by the program. The form shall clearly document the type and extent of physical activity in which the child will be engaged. The exam shall be done by a licensed physician, physician's assistant or nurse practitioner, who signs the form, and shall include: ()

a. A CBC, blood count; ()

b. A urinalysis for possible infections; ()

c. A SMA-6, Electrolyte screen; ()

d. For a female participant, include a pregnancy test; ()

e. A physical assessment based on the climate and temperature in which the child will be participating in, given the participant's age, weight, and physical condition; ()

f. A determination by the medical professional performing the exam whether detoxification is indicated for the child prior to entrance into the field portion of the program; ()

g. A physical examination for a child who is coming into a children's therapeutic outdoor program directly from residential care facility may be utilized provided the physical examination is current, and meets the criteria set forth in this subsection for the physical examination as required for participants, prior to entrance into the field, and includes new CBCs and SMA-6 tests: ()

h. If a child is currently taking or has been receiving prescribed medication within the past six (6) months, a specific notation must be made on the physical examination form by the medical professional, which must include approval for participation in an outdoor, high impact environment and a description of any possible special needs due to use of medication in said environment; and ()

i. If a child is in a risk group for Sickle Cell Anemia or Thalassemia, written approval must be noted on the physical examination form, stating that the child can participate in activities, which may occur in altitudes over five thousand (5000) feet, include strenuous exercise or expose the child to cold temperatures. ()

02. Physical Examination Availability. The physical examination shall be copied and the original maintained at the base camp and the copy carried by staff in a waterproof container when the child is away from the base of operations. The physical examination form shall be maintained in a manner that assures the confidentiality of all medical and identifying information. ()

823. AGE GROUPING.

Children shall be grouped according to age and ability. ()

01. Age. A program participant shall be at least eleven (11) years of age and less than eighteen (18) years of age. ()

02. Placement. A licensed treatment professional familiar with the children's therapeutic outdoor program shall determine whether children eleven (11) years of age through thirteen (13) years of age are to be placed in a younger program group or in an older program group. The decision shall be based upon the child's needs and level of maturity, both physical and mental. The basis for the decision shall be documented in the child's record. ()

824. EXPEDITIONS.

Expeditions include any excursion that will take the children away from the base camp. ()

01. Written Description. There shall be a written description of expedition programming, approved by the organization's governing body and provided to the Department. The plan shall not expose children to unreasonable risk. ()

02. Staff Briefing. Staff shall be briefed prior to any expedition. The briefing at a minimum shall include: ()

a. The expedition route, terrain, time schedule, weather forecast and any potential hazards; ()

b. Any procedures unique to that expedition; and ()

c. Participant backgrounds and any potential problems. ()

03. Expedition Evaluations. Each expedition shall be evaluated at least every seven (7) days, either in person or through Department approved procedures by a field director. If the expedition is longer in duration than three (3) weeks, on-site visits by a field director must occur at minimum increments of three (3) weeks. ()

04. Staff De-Briefing. Staff shall be de-briefed after returning from any expedition. ()

05. Participant De-Briefing. Children shall be de-briefed after returning from any expedition. The de-briefing shall at a minimum: ()

- a. Include a written summary of the child's participation and progress achieved; ()
- b. Be provided in written form to the child's parents or guardian; and ()
- c. Parents or guardians and children shall be given the opportunity and encouraged to submit a written evaluation of the therapeutic outdoor experience. ()

06. Documentation. Results of the evaluation of the conditions of the children, interactions of children and staff, briefings, de-briefings, and compliance with program policies and procedures shall be documented. ()

07. Evaluations. Evaluations of the child shall be retained in the child's record. ()

825. SAFETY.

Each children's therapeutic outdoor program shall have appropriate safety procedures and equipment. ()

01. Environmental Hazards. Each program participant shall have instruction on environmental hazards and precautions. ()

02. First Aid. There shall be a first aid kit with sufficient supplies available at all times. The first aid kit shall: ()

- a. Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used; ()
- b. Be reviewed with new staff for contents and use; ()
- c. Be reviewed at least annually with all staff for contents and use; and ()
- d. Be inventoried after each expedition and restocked as needed. ()

03. Global Positioning System (GPS). Each program shall be equipped with a GPS system for use on all expeditions. ()

826. COMMUNICATION.

01. Communication Support System. There shall be a communication system that includes: ()

- a. Reliable two (2) way radio communication with extra charged battery packs for each group away from the base camp; and ()
- b. A back up plan for re-establishing communication will be implemented in the event regular communication fails. ()

02. Communication Requirements. There shall be verbal communication between each field group and the field office daily unless alternative arrangements have been made and documented in a communications log maintained at the field office and shall never exceed seventy-two (72) hours. ()

03. Emergencies. The base camp support personnel shall have immediate access to emergency telephone numbers, contact personnel, and procedures for an emergency evacuation or field incident requiring emergency medical support. ()

827. EMERGENCY PLAN.

A children's therapeutic outdoor program shall have and follow a written emergency plan and procedures for evacuations, disasters, medical emergencies, hostage situations, casualties, and missing children. ()

01. Written Plan. The plan shall at a minimum include: ()

- a. Designation of authority and staff assignments: ()
 - b. Transportation and relocation of program participants when necessary: ()
 - c. Instruction to all participants on how to respond in the event of an emergency: ()
 - d. Notification to the base camp of the nature of the emergency and an accounting of each participant's location and status: ()
 - e. Supervision of program participants after an evacuation or a relocation: and ()
 - f. Arrangements for medical care and notification of a child's physician and identified relative or guardian. ()
- 02. Emergency Drills.** Emergency plan drills shall be held and recorded at least annually. ()

828. OUTINGS AND HIKING LIMITS AND REQUIREMENTS.

- 01. Physical Capability.** Hiking shall not exceed the physical capability of the weakest member of the group. ()
- 02. Maximum Temperature.** There shall be no hiking when the temperature is above ninety-five (95) degrees Fahrenheit. ()
- 03. Inability Or Refusal To Hike.** When a child cannot or refuses to hike, the group shall not continue hiking unless it is necessary for obvious safety reasons, and a contingency plan, based on pre-approved polices and procedures shall be used. The plan shall ensure that if the group is split, there is proper staff coverage for each group and communication between the groups is maintained. ()
- 04. Itinerary.** Copies of map routes, anticipated schedules including arrival and departure times shall be maintained by the field staff and base camp when a group is on an outing away from the base camp. ()
- 05. Acclimation To Environment.** Staff shall closely monitor children for acclimation to the environment. ()
- 06. Log.** There shall be a common written log, which is signed and dated by the participating staff immediately following the termination of an outing away from the base camp. The log shall contain information on health problems, accidents, injuries, medications used, behavioral problems, and unusual occurrences. The log shall be recorded in permanent ink. ()

829. WATER REQUIREMENTS.

- 01. Water.** Children shall have access to potable water while engaged in hiking. At a minimum the program shall: ()
- a. Provide each child with six (6) quarts of potable water a day, unless a child's weight exceeds one-hundred-fifty (150) pounds, then one (1) quart of potable water will be provided for every twenty-five (25) pounds of body weight over one-hundred-fifty (150) pounds; and ()
 - b. Encourage each child to consume at least three (3) quarts of potable water per day. ()
- 02. Water For Cooling.** When the temperature is eighty (80) degrees Fahrenheit or higher, adequate water shall be available for coating each child's body for the purpose of cooling as needed. ()
- 03. Water Caches.** When water caches are used, each water cache shall be placed at predetermined sites prior to the day the group leaves the camp. Field staff shall verify the water cache locations before the group leaves the base camp each day. ()

04. Aerial Water Drops. An expedition group shall not depend on aerial drops for its water supply. Aerial water drops shall be used only in the case of an emergency. ()

05. Water From A Natural Source. Water from a natural source used for drinking or cooking shall be treated to eliminate health hazards. ()

06. Electrolytes. Each group shall have a supply of electrolyte replacement, quantities to be determined by group size and environment conditions. ()

830. NUTRITIONAL AND SANITARY REQUIREMENTS.

01. Menu. There shall be a written menu approved by a qualified dietitian or nutritionist with knowledge of program activity levels, listing the necessary or recommended food supplies for each group. ()

02. Calories. Each child shall be provided a least three thousand (3,000) calories a day. When heat is not available for cooking, sufficient food of sufficient caloric value, which does not require cooking, shall be provided. The food provided shall include fresh fruit and vegetables at least twice a week. ()

03. Special Needs. The program shall take into account a child's special nutritional needs, including food allergies or religious preferences. ()

04. Fasting. There shall be no imposed fasting. ()

05. Cleansing Of Hands. Cleansing of hands shall occur after each latrine use and prior to food preparation and food consumption. ()

831. -- 834. (RESERVED).

835. HEALTH CARE. First aid treatment shall be provided in as prompt a manner as the location and circumstances allow. ()

01. Field Treatment. A child with an illness or physical complaint needing care or treatment beyond what can be provided in the field, shall be immediately transported to appropriate medical care. ()

02. Documentation. Complaints or reports by a child of illness and injuries shall be documented in a daily log along with any treatment provided. ()

03. Negative Consequences. There shall be no negative consequence imposed on a child for reporting an injury or illness or for requesting to see a health care professional. ()

04. Daily Physical Assessment. On a daily basis children's hydration, skin condition, extremities, and general physical condition shall be monitored and documented by field staff. ()

05. Weekly Physical Assessment. At least every seven (7) days, each child's physical condition shall be assessed by a Wilderness First Responder (W.F.R.), an Emergency Medical Technician (E.M.T.), or qualified medical professional. The assessment shall be documented and shall at a minimum include: ()

a. Blood pressure; ()

b. Heart rate; ()

c. Check of extremities; ()

d. Condition of skin; ()

e. Hydration level; ()

- f. Allergies, if any: ()
- g. General physical condition; and ()
- h. Provision of appropriate medical treatment, if needed. ()

836. MEDICATION STORAGE AND ADMINISTRATION.

A children's therapeutic outdoor program shall have and follow policies and procedures on the storage and administration of prescription and non-prescription medication. ()

01. Medication Storage And Administration. Prescription and over-the-counter medication must be stored under lock and key safeguarded from children. For medications taken on field outings, all medication shall be in the possession of a staff member qualified to administer medications. ()

02. Trained Staff. Staff who administer and assist with self-administration of medications shall be trained by a qualified medical professional. ()

03. Psychotropic Medication. The administration of psychotropic medication shall be prohibited unless a qualified medical professional determines that the medication is clinically indicated, and under no circumstances shall psychotropic medication be administered for disciplinary purposes, for the convenience of staff or as a substitute for appropriate treatment services. ()

04. Documentation. All over the counter medication and prescription medication issued by a qualified medical professional's valid order that includes the dosage to be given, and each dose given shall be documented and include: ()

- a. The child's name: ()
- b. The date and time: ()
- c. The amount of dosage given and whether the child did not take the medication; and ()
- d. The person who administered or assisted in self-administration of the medication. ()

05. Medication Changes. Prescribed medication shall not be stopped or changed in dosage or administration without consulting with a qualified medical professional and documenting the consultation and the change. ()

06. Disposal Of Unused Medication. All unused and expired medication must be disposed of so they are not available to children. ()

837. -- 839. (RESERVED).

840. PARTICIPANT CLOTHING, EQUIPMENT AND SUPPLIES.

Each program participant shall have appropriate clothing, equipment and supplies for the types of activities and for the weather conditions likely to be encountered. ()

01. Clothing, Equipment And Supplies Requirements. Clothing, equipment and supplies shall include, at a minimum: ()

- a. Sunscreen: ()
- b. Insect repellent; ()
- c. A commercial backpack or the materials to construct a safe backpack or bedroll; ()

- d. Personal hygiene items necessary for cleansing; ()
- e. Appropriate feminine hygiene supplies; ()
- f. Wool blankets or an appropriate sleeping bag and a tarp or poncho for when the average nighttime temperature is expected to be forty (40) degrees Fahrenheit or higher; ()
- g. Shelter, appropriate sleeping bag and ground pad when the average nighttime temperature is expected to be thirty-nine (39) degrees Fahrenheit or lower; ()
- h. Clothing appropriate for the temperature changes generally expected for the area; ()
- i. Each child shall be provided a clean change of clothing at least once a week or an opportunity to wash his clothes at least once a week; and ()
- j. Each child shall be provided clean undergarments and a means to clean his body at least twice a week. Additional clean undergarments shall be provided to a child as may be needed for health or sanitary reasons. ()

02. Denial Of Clothing, Equipment, And Supplies. The appropriate clothing and equipment and supplies shall not be removed, denied, or made unavailable for any reason. ()

841. CONTRABAND.

A children's therapeutic outdoor program shall define prohibited contraband in a written policy. ()

01. Confiscation. Contraband found in the possession of children or staff shall be confiscated by staff and secured in a location inaccessible to children. ()

02. Law Enforcement Notification. Local law enforcement shall be notified in the event that illegal contraband is confiscated. ()

03. Disposal. It shall be the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the contraband policy. ()

842. SEARCHES.

If a children's therapeutic outdoor program conducts searches of children, staff or visitors, it shall have and follow written policies and procedures. Searches shall be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with Section 841 of these rules. All searches shall be documented, including the reasons for the search, the persons conducting the search and any results. The policies and procedures at a minimum shall require: ()

01. Pat Down Searches. Pat down searches of children may only be conducted when the therapeutic outdoor program feels it is necessary to discourage the introduction of contraband, or to promote the safety of staff and other children. Pat down searches are conducted as follows: ()

- a. By staff trained in proper search techniques; ()
- b. By a staff member of the same sex as the child being searched, and shall be in the presence of another staff member; ()
- c. The child is told he is about to be searched; ()
- d. The child should remove all outer clothing (gloves, coat, hat and shoes) and empty all pockets; ()
- e. The staff person shall then pat the clothing of the child using only enough contact to conduct an appropriate search; ()

f. If the staff detects anything unusual the child shall be asked to identify the item and appropriate steps should be taken to remove the item for inspection; ()

g. If the child refuses to comply, the administrator or designee will be notified immediately and responsible to resolve the matter; and ()

h. All searches shall be documented in writing. ()

02. Strip Searches. Strip searches may only be conducted after a pat down search whenever there is reason to believe that contraband may be found through additional searches. Only the administrator or his designee shall authorize strip searches. Strip searches are to be conducted as follows: ()

a. By staff trained in proper search techniques that do not touch the child; ()

b. By two (2) staff members of the same sex as the child who is searched; ()

c. Performed in an area that ensures the privacy of the child; ()

d. The child removes all clothing and moves away from the articles; ()

e. Require the child to run his hands through his hair; ()

f. Staff search the clothing and return it to the child; and ()

g. Body cavity searches are not to be conducted by children's therapeutic outdoor program staff. ()

843. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Behavior Management. A children's therapeutic outdoor program shall have and follow a behavioral management and discipline policy which identifies appropriate methods of behavioral management that ensure that any discipline is positive and consistent. Individual behavioral management shall be based on an assessment of the child's needs, stage of development and behavior to promote self-control, self-direction, self-esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy shall include the concept and application of least restrictive effective treatment and positive reinforcement and shall prohibit: ()

a. Physical force, except as permitted under Sections 573 of these rules; ()

b. Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving or pushing a child into a stationary object; ()

c. The placing of anything in or on a child's mouth; ()

d. Cruel or excessive physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort; ()

e. Verbal abuse, ridicule, humiliation, profanity and other forms of degradation directed at a child or a child's family; ()

f. Locked confinement; ()

g. Withholding of necessary food, clothing, shelter, bedding, rest, medical care, and toilet use; ()

h. Denial of visits or communication with the child's family, except as specified in the child's plan or court order; and ()

i. Disciplining a child or group of children for actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised by staff. ()

02. Documentation. An organization shall document that the policy has been provided to a child and is made available to parents, guardians, and referral sources. ()

844. TIME-OUT.

A children's therapeutic outdoor program shall have and follow written policy and procedures governing the appropriate use of time-out, which shall require: ()

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity; ()

02. Duration. Time duration shall not exceed sixty (60) consecutive minutes. ()

03. Observation. A staff has been designated to be responsible for visually observing the child at random intervals at least every fifteen (15) minutes. ()

04. Documentation. A description in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the child being placed in time-out, and staff's attempts to help the child avoid time-out, and observations. ()

05. Re-Introduction To The Group. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as control is regained. ()

06. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted by the chief administrator or designee, to determine the suitability of the child remaining in the program, whether modification to the child's plan is warranted, or whether staff need additional training in alternative therapeutic behavior management techniques, and appropriate action is taken as a result of the review. ()

845. WORK.

Children may be given non-vocational work assignment as a constructive experience, in compliance with child labor laws, which are age appropriate and within the child's capabilities. The primary purpose of work shall not be to substitute for paid labor. ()

846. ANIMALS AND PETS.

Animals and pets shall be free from disease and cared for in a safe and clean manner. All domestic animals and pets shall be vaccinated against rabies. Documentation of the vaccination against rabies shall be kept on file at the base camp. ()

847. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children in a therapeutic outdoor program shall be in a vehicle that is: ()

a. Properly registered; ()

b. Covered by insurance for personal injury and liability; ()

c. Driven by a person who has a valid driver's license for the type of vehicle being driven and who complies with all applicable traffic laws while transporting children. ()

- d. Maintained in a safe condition: ()
- e. Equipped with a red triangle reflector device for use in an emergency: ()
- g. Equipped with a fire extinguisher that is properly secured and not readily available to children. ()

02. Proper Seating Of Children And Adults. The driver and all passengers shall ride in a vehicle-manufactured seat, properly using a passenger restraint device. ()

848. FIREARMS.
Firearms shall not be allowed in children's therapeutic outdoor programs. ()

849. -- 859. (RESERVED).

ADDITIONAL STANDARDS FOR SOLO EXPERIENCES IN CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS
(See also Sections 500 through 599 and Sections 800 through 859)

860. STANDARDS FOR SOLO EXPERIENCES IN CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.

If a children's therapeutic outdoor program conducts a solo component for children as part of the therapeutic process during expeditions they shall have and follow written policies and procedures. Every children's therapeutic outdoor program that includes a solo component shall include a written description of the solo component as required in Section 528 of these rules. ()

861. PLAN.

For a children's therapeutic outdoor program that conducts a solo component as part of the therapeutic process there shall be a plan for the solo component, as well as a individual solo plan for each child. The plans shall be documented and must be approved by the senior field staff to ensure that the children are not exposed to unreasonable risks. The plans shall include: ()

01. Individual Solo Plan. The goals, methods, techniques to be used and time frames shall be listed for each participant. Each individual plan shall be reviewed with the child and signed and dated by the child and the designated staff member. ()

02. Ability. There shall be consideration of the maturity level, health and physical ability of the child. ()

03. Preparation. The child shall be instructed on the solo experience, including expectations, restrictions, communication, environment, and emergency procedures. ()

04. Back-up Plan. There shall be documented instructions for a back up plan in case the child's plan does not work. ()

05. Responsible Staff. A designated staff member shall be responsible for coordinating and implementation of the plan. ()

862. SOLO SITES.

Staff shall be familiar with the site chosen to conduct solos, this shall include: ()

01. Mapping. The site selected for the solo shall be mapped and the site coordinates shall be identified. Copies of both the map and the site coordinates shall be maintained at the base camp and the solo site. ()

02. Pre-Site Investigation. A pre-site investigation shall be conducted prior to the solo. The site shall

be checked at the time the child is placed to assure that no changes in the environment have taken place that may put the child at risk. ()

03. Terrain Selection. The terrain selected shall be appropriate for the level of participation skill of the child. ()

04. Hazardous Conditions. Any hazardous conditions are to be considered prior to selection of a solo site. ()

05. Supplies. Arrangements shall be made prior to the solo for medication, food, and water drop-offs if needed. ()

863. SUPERVISION.

Plans for supervision shall be in place during the solo, at a minimum these shall include: ()

01. Assigned Staff. The assignment of a specific staff member to be responsible for the supervision of each solo participant. ()

02. Observation. A predetermined procedure for observation, which ensures the health, safety, and well-being of the child at all times, and shall include: ()

a. Placing children at a distance from each other and the central staff site to allow for appropriate supervision and emergency communication; ()

b. Placing children requiring special attention closer to the central staff site; ()

c. Clearly defining physical boundaries and any other restrictions ()

d. Instructing children to not participate in potentially dangerous activities; ()

e. Notification and check in systems; ()

f. Visual checks; and ()

g. Checking the participant's emotional and physical condition daily. ()

864. EMERGENCY PROCEDURES.

In addition to the requirements of Section 827 of these rules, solo emergency plans shall include: ()

01. Instruction. Instructing the participant on the safety and emergency procedures, including evacuation routes. ()

02. Communication. Providing each participant with signaling capabilities, including a whistle, for emergency notification. ()

03. Participant Response. Instruction to all participants on how to respond if the emergency notification system is put into use, including each participants requirement to check-in to the central staff site. ()

04. Check-In. Provide a check-in system should an emergency occur, which includes notification to the base camp and an accounting of each participant's whereabouts and safety. ()

865. -- 869. (RESERVED).

ADDITIONAL STANDARDS FOR STATIONARY CHILDREN'S THERAPEUTIC OUTDOOR PROGRAM
(See also Sections 500 through 599 and Sections 800 through 859)

870. ADDITIONAL PROVISIONS FOR STATIONARY CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.

A children's therapeutic outdoor program that remains in a designated location for the housing of children is considered stationary and shall be subject to additional fire, health, and safety standards. ()

871. FIRE SAFETY REQUIREMENTS.

A stationary children's therapeutic outdoor camp shall be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter. A copy shall be maintained at the children's therapeutic outdoor camp. The inspection shall require: ()

01. Fire Extinguishers. One (1) 2-A-10BC type fire extinguisher shall at minimum be in each of the following locations: ()

- a. On each floor in any building that houses children; ()
- b. In any room where cooking or heating takes place; ()
- c. In a group of tents within a seventy-five (75) foot travel distance; and ()
- d. Each fire extinguisher shall be inspected annually by a fire extinguisher service agency. ()

02. Smoke Detectors. A smoke detector shall be in buildings where children sleep. ()

03. Escape Routes. A minimum of two (2) escape routes from buildings where children sleep. ()

04. Flammable Liquids. Flammable liquids shall not be used to start fires, be stored in structures that house children, or be stored near ignition sources. If generators are used, they will only be refueled when the generator is not running and cool to the touch. ()

05. Electrical. Wiring shall be properly attached and fused to prevent overloads. ()

872. HEALTH SAFETY REQUIREMENTS.

A stationary children's therapeutic outdoor camp shall be inspected by the District Health Department before being occupied and on an annual basis thereafter. A copy of the inspection shall be maintained at the site of the camp. The inspection shall require: ()

01. Food. Food be stored, prepared, and served in a manner that is protected from contamination. ()

02. Water Supply. The water supply shall be from a source that is accepted by the local health authority according to IDAPA 58.01.08, "Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses. ()

03. Sewage Disposal. Sewage shall be disposed of through a public system, or in absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules". ()

873. -- 996. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.14 - RULES GOVERNING PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS

DOCKET NO. 16-0614-0101

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is January 1, 2001. This pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-105(l) and 39-5701 et. Seq., Idaho Code.

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

In Subsection 007.06, a sentence was scrambled by its placement in the sentence, it indicates that it should modify the term "violation". This obviously is not the intent of the subsection. The phrase has been moved to be earlier in the sentence to reflect modifying "a training program".

The proposed rule has been amended in response to public comment and to make transcriptional corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions that have been made to the proposed rule.

The original text of the proposed rules was published in the June 6, 2001 Administrative Bulletin, Volume 01-6, pages 46 through 53.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Terry Pappin at (208) 334-6542.

DATED this 7th day of August, 2001.

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

IDAPA 16, TITLE 06, Chapter 14

RULES GOVERNING PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 00-6, June 6, 2001, pages 46 through 53](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0614-0101

SUBSECTION 007.06

007. DEFINITIONS.

06. Evidence of Effective Training. Documentation provided by a permittee in response to a violation of this chapter clearly identifying that the permittee had a training program meeting the definition for effective training in place at the time of the violation ~~meeting the definition for effective training~~ and had on file a form signed by the employee prior to the violation stating understanding of the tobacco laws dealing with minors and the unlawful purchase of tobacco. ~~(1-1-01)T(1-1-01)T~~

IDAPA 17 - INDUSTRIAL COMMISSION
17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION
DOCKET NO. 17-0602-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 72-508, 72-720, and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 proposed rule adopts the latest national safety standards for boilers and pressure vessels, adds a section providing the location at which the standards may be reviewed, and provides for the testing and inspection of certain pressure vessels by a professional testing laboratory and the American Petroleum Institute standards those pressure vessels must comply with.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the national safety standards are consensus standards adopted by the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), and the American Petroleum Institute (API).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mike Poulin, Industrial Safety Supervisor, Division of Building Safety, Statehouse Mail, Boise, Idaho 83720.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 8th day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0602-0101

011. INCORPORATION BY REFERENCE.

The following safety standards are incorporated by reference. These standards are available for review at the Division of Building Safety, 1090 Watertower, Meridian, Idaho, between the hours of 8 a.m. and 5 p.m., except Saturday, Sunday, and legal holidays. ()

01. National Board Inspection Code. The National Board Inspection Code ~~1998~~ 2001; parts RA, RB, RC, RD; Mandatory Appendices 1, 2, 3, 4, 5, 6, 7; and Non-mandatory Appendices A, B, C, D, E, F, and G; ~~latest addenda; and interpretations~~ are adopted for use in Idaho in all matters dealing with boilers, pressure vessels, and nuclear components. (4-5-00)()

02. ASME Boiler And Pressure Vessel Code. The ASME Boiler and Pressure Vessel Code ~~1998~~ 2001; Sections I, II, III, IV, V, VI, VII, VIII, IX, X, and XI; ~~latest addenda; and code cases~~ are adopted for use in Idaho in all matters dealing with boilers, pressure vessels, and nuclear components. (4-5-00)()

03. ASME CSD-1. The ASME CSD-1 1997, Controls and Safety Devices for Automatically Fired Boilers. (4-5-00)

04. ASME B31.1. The ASME B31.1 1997, Power Piping Standard (As it applies directly to boilers). (4-5-00)

05. API 510. The API 510 2000, Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration. ()

06. API RP 572. The API RP 572 2001, Inspection of Pressure Vessels. ()

07. API RP 576. The API RP 576 2000, Inspection of Pressure-Relieving Devices. ()

(BREAK IN CONTINUITY OF SECTIONS)

015. INSPECTION.

01. Inspection By A Person Holding A Certificate Of Competency. All boilers, pressure vessels, water heaters, hot water storage tanks, and nuclear components installed or operated in the state of Idaho shall have an inspection conducted by a person holding a certificate of competency and an Idaho Commission, in accordance with IDAPA 17.06.03, "Boiler and Pressure Vessel Safety Rules - Inspections," Subsection 011.06, which must result in the issuance of a certificate of inspection before such vessel is placed into operation. Only if the boiler, pressure vessel, water heater, hot water tank, or nuclear component is safe in the judgment of the boiler and pressure vessel inspector, following a thorough inspection may a certificate of inspection be issued. If in the opinion of the inspector the boiler, pressure vessel, or nuclear component is unsafe, the inspector shall prohibit the use of the boiler, pressure vessel, or nuclear component until it is made safe. (4-5-00)()

02. Inspection Of Non ASME Vessels. Any non ASME pressure vessel not exempted by these rules shall be inspected and tested under the provisions of API 510 standards. These inspections and tests shall be accomplished every three (3) years unless the inspector, the Idaho Industrial Commission or its designated representative deems that more frequent testing is needed. Inspections and tests shall be accomplished by a testing laboratory approved by the Idaho Industrial Commission or its designated representative. ()

IDAPA 17 - INDUSTRIAL COMMISSION
17.07.01 - SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS
DOCKET NO. 17-0701-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 72-508, 72-720, and 72-721, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 amendments are proposed to update the state's safety standards for elevators, escalators, and moving walks to comply with updates in the national elevator safety standards published by the American National Standards Institute and the American Society of Mechanical Engineers, which are adopted by reference in IDAPA 17.07.01.004.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this is an update of standards already adopted by the Idaho legislature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mike Poulin, Industrial Safety Supervisor, Division of Building Safety, 1090 Watertower, Meridian, Idaho, telephone (208) 334-2131.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 8th day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0701-0101

004. INCORPORATION BY REFERENCE.

01. ANSI/ASME A17.1. - ~~1996~~ 2000 edition ~~with addenda~~, Safety Code for Elevators and Escalators. ~~(3-30-01)~~()

02. ANSI/ASME A17.2.1. - 1996 edition ~~with addenda~~, Inspector's Manual for Electric Elevators.

- (3-30-01)(____)
03. ANSI/ASME A17.2.2. - 1997 edition ~~with addenda~~, Inspector's Manual for Hydraulic Elevators. (3-30-01)(____)
04. ANSI/ASME A17.2.3. - ~~1994~~ 2000 edition ~~with addenda~~, Inspector's Manual for Escalators and Moving Walks. (3-30-01)(____)
05. ANSI/ASME A17.3. - ~~1996~~ 2000 edition ~~with addenda~~, Existing Elevators and Escalators. (3-30-01)(____)
06. ANSI/ASME A17.4. - ~~1991~~ 2000 edition, Emergency Evacuation of Passengers from Elevators. (3-30-01)(____)
07. ANSI/ASME A17.5. - 1996 edition, Standard for Elevator and Escalator Electrical Equipment. (3-30-01)
08. ANSI/ASME A10.4. - 1990 edition, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition of Operations. (3-30-01)
09. ANSI A117.1, Section 407. - 1998 edition, Accessible and Usable Buildings and Facilities, Elevators. (3-30-01)
10. ANSI A18.1. - ~~1999~~ 2001 edition, Safety Standards for Platform Lifts and Stairway Chairlifts. (3-30-01)(____)

005. OFFICE ADDRESS AND HOURS.

The standards incorporated by reference herein are available for review at the Division of Building Safety, ~~277 North Sixth Street, Boise~~ 1090 Watertower, Meridian, Idaho, between the hours of 8 a.m. and 5 p.m., except Saturday, Sunday and legal holidays. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

023. EMERGENCY EVACUATION OF PASSENGERS FROM ELEVATORS.

01. **Guide For Training And Performing Emergency Evacuation.** ANSI/ASME A17.4 - ~~1994~~9, Emergency Evacuation of Passengers from Elevators, shall be used as a guide for conducting training and performing emergency evacuation of passengers from an elevator. (3-30-01)(____)
02. **Supervision.** Whenever possible the evacuation of passengers from an elevator car shall be conducted under the direct supervision of elevator personnel. (3-30-01)
03. **Training Required.** Only trained personnel shall attempt emergency evacuation of passengers from an elevator. (3-30-01)
04. **Elevator Owner's Responsibility.** The owner of an elevator shall ensure that there are properly trained personnel capable of performing emergency evacuation of passengers from an elevator. (3-30-01)
05. **Equipment For Rescue Personnel.** Rescue personnel shall have the proper tools and equipment ready for use prior to attempting emergency evacuation of passengers from an elevator. (3-30-01)
06. **Elevator Door Keys.** Specialized elevator door keys shall be used by and available to properly trained personnel. (3-30-01)

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

DOCKET NO. 18-0154-0101

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 3, 2001 Idaho Administrative Bulletin, Volume 01-1, pages 173 to 184.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4250.

DATED this 20th day of August, 2001.

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

IDAPA 18, TITLE 01, Chapter 54

RULES TO IMPLEMENT THE NAIC MEDICARE SUPPLEMENTAL
INSURANCE MINIMUM STANDARDS MODEL ACT

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-1, January 3, 2001, pages 172 through 184.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.69 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT
DOCKET NO. 18-0169-0101
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2000. This pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The proposed rule has been amended to add a specific code reference to Section 41-4703(17)(d) and (e), Idaho Code in Subsection 046.05. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revision that was made to the proposed rule.

Only the section that has changes is printed in this bulletin. The original text of the proposed rule was published in the January 3, 2001 Idaho Administrative Bulletin, Volume 01-1, pages 187 through 198.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4250.

DATED this 20th day of August, 2001.

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

IDAPA 18, TITLE 01, Chapter 69

**RULES TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT**

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-1, January 3, 2001, pages 186 through 198](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 18-0169-0101

SUBSECTION 046.05

046. REQUIREMENT TO INSURE ENTIRE GROUPS.

05. Waiver For Documentation Of Coverage. A small employer carrier shall secure a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer. The waiver shall be signed by the eligible employee (on behalf of such employee or the dependent of such employee) and shall certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form shall require that the reason for declining coverage be stated on the form, and shall include a statement informing the eligible employee of the special enrollment rights provided within the [Section 41-4703\(17\)\(d\) and \(e\), Idaho Code](#), and shall include a written warning of the penalties imposed on late enrollees. Waivers shall be maintained by the small employer carrier for a period of six (6) years. ~~(7-1-00)F(7-1-00)T~~

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

DOCKET NO. 18-0170-0101

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 3, 2001 Idaho Administrative Bulletin, Volume 01-1, pages 199 through 202.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4250.

DATED this 31st day of July, 2001.

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

IDAPA 18, TITLE 01, Chapter 70

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

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-1, January 3, 2001, pages 199 through 202.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

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

DOCKET NO. 18-0172-0101

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 3, 2001 Idaho Administrative Bulletin, Volume 01-1, pages 203 through 212.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4250.

DATED this 31st day of July, 2001.

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

IDAPA 18, TITLE 01, Chapter 72

RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE
AVAILABILITY ACT

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-1, January 3, 2001, pages 203 through 212.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.73 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE
AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0173-0101

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 3, 2001 Idaho Administrative Bulletin, Volume 01-1, pages 213 through 222.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4250.

DATED this 31st day of July, 2001.

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

IDAPA 18, TITLE 01, Chapter 73

RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE
AVAILABILITY ACT PLAN DESIGN

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-1, January 3, 2001, pages 213 through 222.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

IDAPA 19 - BOARD OF DENTISTRY
19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY
DOCKET NO. 19-0101-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-912, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2001.

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

This rulemaking will update the Incorporations by Reference section; change anesthesia permit renewals to coincide with the evaluation process and add the requirement of Advanced Cardiac Life Support certification for conscious sedation permit holders.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. Notice of discussion regarding proposed rule changes was sent to interested parties prior to Board meetings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For Assistance on technical questions concerning the proposed rule, contact Sylvia C. Boyle, Executive Director, at (208) 334-2369.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 20th day of August, 2001.

Sylvia C. Boyle
Executive Director
Idaho State Board of Dentistry
708 ½ W. Franklin St.
Boise, Idaho 83702
(208)334-2369 (telephone)
(208)334-3247 (facsimile)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 19-0101-0101

003. ADMINISTRATIVE APPEALS (Rule 3).

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General" and the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code.
(7-1-93)(_____)

OLD SECTION 004 HAS BEEN RENUMBERED AND MOVED TO SECTION 009.

0064. INCORPORATION BY REFERENCE (Rule 6).

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents: (7-1-93)

01. Documents. (7-1-93)

a. American Association of Oral and Maxillofacial Surgeons, Office Anesthesia Evaluation Manual, 56th Edition, ~~1995~~ 2000. (3-18-99)()

b. American Dental Association, Council on Dental Education, Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, ~~1992~~ October 2000. (3-18-99)()

c. American Dental Association, Council on Dental Education, Guidelines for Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists, October 2000. ()

d. American Dental Association, Infection Control Recommendations for the Dental Office and the Dental Laboratory, JADA, August 1992. (7-1-93)

e. Centers for Disease Control, Recommended Infection Control Practice for Dentistry, 1993. (3-18-99)

02. Availability. These documents are available for public review at the Idaho State Board of Dentistry, 708 1/2 West Franklin Street, Boise, Idaho 83720, or the Idaho State Law Library, Supreme Court Building, 451 W. State Street, Boise, Idaho 83720. (3-18-99)()

005. (~~RESERVED~~) OFFICE INFORMATION (Rule 5).

The Board of Dentistry office is located at 708 1/2 W. Franklin Street, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0021. The telephone number of the Board is (208) 334-2369, the fax number is (208) 334-3247. ()

006. PUBLIC RECORDS ACT COMPLIANCE (Rule 6).

Board of Dentistry records are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 0098. (RESERVED).

0049. DEFINITIONS (Rule 49).

For the purposes of these rules, the following terms will be used, as defined below: (7-1-93)

01. Methods Of Anxiety And Pain Control. (3-18-99)

a. Local anesthesia. The elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. (3-18-99)

b. General anesthesia. An induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof. (3-18-99)

c. Deep sedation. An induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof. (3-18-99)

d. Conscious sedation. A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or non-pharmacological method or a combination thereof. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough

to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation. (3-18-99)

02. Routes Of Administration. (3-18-99)

a. Enteral. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual). (3-18-99)

b. Parenteral. A technique of administration in which the drug bypasses the gastrointestinal (GI) tract (i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC), intraocular (IO)). (3-18-99)

c. Transdermal/transmucosal. A technique of administration in which the drug is administered by patch or iontophoresis. (3-18-99)

(BREAK IN CONTINUITY OF SECTIONS)

055. GENERAL ANESTHESIA AND DEEP SEDATION (Rule 55).

Dentists licensed in the state of Idaho cannot use general anesthesia or deep sedation techniques in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry by conforming with the following conditions: (10-1-87)

01. General Requirements. A dentist applying for a permit to administer general anesthesia and deep sedation shall provide proof that the dentist: (10-1-87)

a. Has completed a minimum of one (1) year of advance training in anesthesiology and related academic subjects beyond the undergraduate dental school level. This training is described in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as referred to in Subsection 006.01.b., or (4-5-00)

b. Is a diplomate of the American Board of Oral and Maxillofacial Surgery; or (10-1-87)

c. Is a member of the American Association of Oral and Maxillofacial Surgeons; or (10-1-87)

d. Is a Fellow of the American Dental Society of Anesthesiology; and (4-5-00)

e. Has current Certification of Advanced Cardiac Life Support Training or its equivalent; and ~~(4-5-00)~~(____)

f. Has an established protocol or admission to a recognized hospital. (3-18-99)

02. Facility Requirements. The dentist must have a properly equipped facility for the administration of general anesthesia, staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team will be determined by evaluators appointed by the Board. The Board adopts the standards regarding approval of equipment within the facility as set forth by the American Association of Oral and Maxillofacial Surgeons in their office anesthesia evaluation manual (see Subsection 0064.01.a.). ~~(3-18-99)~~(____)

03. Personnel. For general anesthesia and deep sedation techniques, the minimum number of personnel shall be three (3) including: (10-1-87)

a. A qualified person to direct the sedation as described in Subsections 055.01.a. through 055.01.f.; and (3-18-99)

b. A qualified person whose primary responsibilities are observation and monitoring of the patient and who has documented current CPR certification; and (3-18-99)

c. An assistant for the operator who has documented current CPR certification. (3-18-99)

04. Conscious Sedation. A dentist holding a permit to administer general anesthesia under this rule may also administer conscious sedation. (3-18-99)

05. Permit Renewal. Renewal of the permit will be required every ~~three~~ five (~~35~~) years in conjunction with the routine dental licensure renewal. Proof of a minimum of ~~fifteen~~ twenty-five (~~125~~) credit hours of continuing education in general anesthesia and deep sedation techniques will be required to renew a permit. A fee may be assessed to cover administrative costs. (~~3-18-99~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

060. ADMINISTRATION OF CONSCIOUS SEDATION (Rule 60).

Dentists licensed in the state of Idaho cannot use conscious sedation in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry by conforming with the following conditions: (4-5-00)

01. General Requirements. A dentist applying for a permit to administer conscious sedation shall provide proof that the dentist has received formal training and certification in the use of conscious sedation drugs as described in the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as referred to in Subsection 0064.01.b. published by the American Dental Association. The formal training program shall: (~~3-18-99~~)(____)

a. Be sponsored by or affiliated with a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or a teaching hospital or facility approved by the Board of Dentistry; and (4-5-00)

b. Consist of a minimum of sixty (60) hours didactic education and twenty (20) hours patient contact. Patient contact includes the administration of the intravenous (IV) sedation and management by the participant from induction through emergence. (3-18-99)

c. Include the issuance of a certificate of successful completion that indicates the type, number of hours, and length of training received. (3-18-99)

d. In addition, the dentist must show proof of current certification of Advanced Cardiac Life Support training or its equivalent. (____)

02. Facility Requirements. The dentist must have a properly equipped facility for the administration of conscious sedation staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team will be determined by evaluators appointed by the Idaho State Board of Dentistry. (3-18-99)

03. Personnel. For conscious sedation, the minimum number of personnel shall be two (2) including: (10-1-87)

a. The operator; and (10-1-87)

b. An assistant trained to monitor appropriate physiologic parameters and assist in any support or resuscitation measures required. (10-1-87)

c. Auxiliary personnel must have documented training in basic life support, shall have specific

assignments, and shall have current knowledge of the emergency cart inventory. The practitioner and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (3-18-99)

~~**04. Grandfather Clause.** *A licensed dentist who has been using conscious sedation on an out-patient basis in a competent manner in the three (3) years preceding the effective date of this rule (October 1, 1987), but has not had the benefit of formal training as outlined, may continue such use provided he fulfills the provisions set forth in Section 050 and Subsections 060.02 and 060.03, and obtains a permit from the Board.* (3-18-99)~~

054. Permit Renewal. Renewal of the permit will be required every ~~three~~ five (35) years in conjunction with the routine dental licensure renewal. Proof of a minimum of ~~fifteen~~ twenty-five (+25) credit hours continuing education in conscious sedation will be required to renew a permit. A fee may be assessed to cover administrative costs. (3-18-99)(____)

IDAPA 20 - DEPARTMENT OF LANDS
20.03.14 - GRAZING LEASES AND CROPLAND LEASES
DOCKET NO. 20-0314-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 58-104, Idaho Code.

PUBLIC HEARING SCHEDULE: The Idaho Department of Lands has scheduled a Public Meeting to be held on Thursday,

October 18, 2001, 9:00 a.m.
East Conference Room, Joe R. Williams Building
700 West State Street
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, to the agency address below.

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

The Idaho Department of Lands is updating the rules to better reflect changes in Idaho State Board of Land Commissioners' policy and court decisions effecting management of endowment lands classified for grazing and cropping purposes. The amendments include, but are not limited to: the appeal process, the reclassification of land use, the lease application and cancellation process, the lease adjustment process and grazing management plans.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 58-104, Idaho Code.

The grazing leases and cropland leases miscellaneous fee structure is being deleted. The Idaho State Board of Land Commissioners will periodically set the miscellaneous fees for lease administration in the following areas: Lease applications, full lease assignment, partial lease assignment, mortgage agreement, subleases, late rental payment, lease reinstatement, minimal lease fee, lease payment extension request, and request for reclassification of land use.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 6, 2000 Idaho Administrative Bulletin, Volume 01-6, page 76.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Tracy Behrens, Range Management Specialist at (208) 334-0200.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

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

FOLLOWING IS THE TEXT OF DOCKET NO. 20-0314-0101

IDAPA 20
TITLE 03
Chapter 14

RULES GOVERNING GRAZING LEASES AND CROPLAND LEASES

~~000.---002.~~ (~~RESERVED~~).

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to Section 58-104, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 20.03.14, "Rules Governing Grazing Leases and Cropland Leases". ()

02. Scope. These rules constitute the Idaho Department of Lands' administrative procedures for leasing of state endowment land that is classified as grazing land or cropland. These rules shall be construed in a manner consistent with the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Title 58, Chapter 3, Idaho Code; Article 9, Sections 3, 7 and 8, of the Idaho Constitution; and Section 5 of the Idaho Admission Bill. ()

002. WRITTEN INTERPRETATIONS.

The Board does not rely on any written interpretive statements concerning these rules. ()

003. ADMINISTRATIVE APPEALS.

01. Board Appeal. All decisions of the #Director are appealable to the Board. An aggrieved party desiring to make such an appeal shall, within twenty (20) days after receiving notice of the final decision, which is being appealed or in case of a conflict auction within twenty (20) days after the auction is held, file with the #Director a written notice of appeal setting forth the basis for the appeal. The Board has the discretion to accept or reject any timely appeal. In the event that the Board rejects hearing the appeal, the decision of the Director will be deemed final. (6-14-88)()

02. Board Decision. The Board shall hear the appeal. In the event the Board hears an appeal, it will do so at the earliest practical time or, in its discretion, appoint a Board sub-committee or a hearing officer to hear the appeal. The Board sub-committee or hearing officer will make findings and conclusions which the Board shall accept, reject or modify. The decision of the Board after a hearing, or upon a ruling concerning the Board sub-committee or hearing officer's findings and conclusions, shall be final. (6-14-88)()

03. Judicial Review. Judicial review of the final decision of the Board shall be in accord with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (6-14-88)

004. INCORPORATION BY REFERENCE.

The Board does not rely upon any documents that are incorporated herein by reference. ()

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

Idaho Department of Lands, 954 W. Jefferson, Boise, Idaho 83720; office hours are 8 a.m. to 5 p.m. (MST); mailing address is Idaho Department of Lands, PO Box 83720, Boise, Idaho 83720-0050. ()

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. ()

007. STATEMENT OF PURPOSE.

These rules apply to the lease of state lands for grazing of domestic livestock and for cropping purposes. The leasing of state lands designated by the Department as grazing and/or cropping lands, for purposes other than grazing and/or cropping, are governed by Section 030 of these rules. ()

0048. -- 009. (RESERVED).

010. DEFINITIONS.

01. Amortization. The purchase of Department authorized, lessee installed, lease improvements by the ~~#~~Department through allowance of credit to the lessee's annual lease payments. (6-14-88)()

02. Animal Unit Month (AUM). The amount of #forage necessary to feed a one (1) cow or one (1) cow with one (1) calf under six (6) months of age or one (1) bull or seven-tenths (.7) of a yearling for one (1) month. Five (5) head of sheep, or five (5) ewes with lambs are appraised as considered one (1) AUM, and a One (1) horse is appraised as considered one and one-half (1 1/2) AUMs. (6-14-88)()

03. Appraisal. A determination of value in dollars using established procedures. The act or process of estimating the value of Department authorized improvements associated with a lease. (6-14-88)()

04. Assignment. The Department approved transfer of all, or a portion of, a lessee's rights to another person wherein the second person assumes the lease contract with the ~~lessor~~ Department. (6-14-88)()

05. Board. The Idaho State Board of Land Commissioners or such representatives as may be designated by the board. (6-14-88)()

06. Conflict Applicant. An application for a lease filed with the department prior to September 30 of the year of lease expiration by other than the present lessee. The application must be postmarked or received by the department by the deadline date. The application must be accompanied by the application fee and one (1) year advance rental. A timely application to lease state land for grazing or cropland purposes and that is submitted by someone other than the current/former lessee, or, in the case of unleased land, a situation when more than one (1) application is submitted for the same parcel and use of the state land. (6-14-88)()

07. Department. The Idaho Department of Lands. (6-14-88)

08. Director. The Director of the Department of Lands, or such representative as may be designated by the ~~#~~Director. (6-14-88)()

09. Extension. An approved delay in the due date of the rental owed on ~~the~~ a cropland lease without risk of ~~penalties or~~ loss of the lease. (6-14-88)()

10. Grazing. The consumption of forage by domestic livestock. ()

101. ~~Grazing Management Contract Or~~ Grazing Management Plan ~~(hereinafter management plan).~~
A written agreement between the lessee and the ~~#~~Department, ~~of lands~~ or between the lessee and another public agency and approved by the ~~director~~ Department, designed to protect, maintain, or improve the natural resources and the associated improvements on the leased land meet the resource objectives identified by the Department. (6-14-88)()

11. ~~Inventoried Carrying Capacity.~~ ~~The estimated available forage in AUMs determined by department personnel.~~ (6-14-88)

12. Lease. A legal instrument recognized by Idaho law conveying the right to use property for a specific

~~purpose under conditions specified in the instrument.~~ **Herd Stock.** Livestock leased or managed, but not owned, by the lessee. (6-14-88)()

13. Lessee. ~~The person to whom a lease is issued.~~ **Lease Application.** An application to lease endowment land for grazing or cropping purposes. (6-14-88)()

~~**14. Lessor.** The property owner conveying a specific use to another person for compensation represented here by the state of Idaho acting through the State Board of Land Commissioners. (6-14-88)~~

154. Manageable Unit. ~~A logical parcel of state land separated by topographic features, fences, land ownerships, or~~ unit of land designated by the Department, geographically configured and sufficiently large to efficiently graze livestock or ~~as may be designated by the director~~ raise crops. (6-14-88)()

15. Mortgage Agreement. Department authorization for the lessee to obtain a mortgage on a state grazing or cropland lease. ()

16. Person. An individual, partnership, association, ~~or~~ corporation or any other entity qualified to do business in the state of Idaho and any federal, state, county or local unit of government. (6-14-88)()

~~**17. Standard Application.** A lease application for a renewal lease and lease application for unleased lands. (6-14-88)~~

~~**187. Sublease.** The transfer of part of lessee rights to another lessee wherein the first lessee assumes the role of sub-lessor.~~ An agreement in which the state lease holder conveys the right of use and occupancy of the property to another party on a temporary basis. (6-14-88)()

~~**19. Unleased Lands.** Lands not currently under lease for grazing, farming purposes, or leased for other purposes that would preclude grazing or farming. (6-14-88)~~

~~**20. Voluntary Non-Use** (hereinafter non-use). A condition where the state grazing lessee elects to utilize less than eighty percent (80%) of the inventoried carrying capacity. (6-14-88)~~

~~**011. PURPOSE.**
These rules set forth the procedures for leasing of state owned grazing land and cropland. These rules shall be construed in a manner consistent with the duties and responsibilities of the Board of Land Commissioners set forth in Title 58, Chapter 3, Idaho Code; Article 9, Sections 3, 7, and 8, of the Idaho Constitution; and Section 5 of the Idaho Admission Bill. (6-14-88)~~

~~0121. -- 0198. (RESERVED).~~

019. LESSEE MAILING ADDRESS.
Unless otherwise notified by the lessee, all lease correspondence from the Department shall be sent to the name and address as it appears on the lease application. It is the lessee's duty to notify the Department, in writing, of any change in mailing address. ()

020. APPLICATIONS AND PROCESSING.

01. Forms. ~~All applications for a state cropland or grazing lease shall be signed and submitted on an appropriate department form for each separate lease. Standard lease applications include renewal applications for expiring leases and applications for unleased land.~~ **Eligible Applicant.** Any person may submit an application to lease state owned endowment land provided he has reached his eighteenth birthday, or if not eighteen (18) is married, is a citizen of the United States or has declared his intentions to become such, and is not indebted to the state of Idaho or delinquent on any payments to the state of Idaho. To be eligible for a grazing or cropland lease, an applicant must intend to use the land for domestic livestock grazing or for cropping purposes, and must certify such. (6-14-88)()

02. Application Process. All applications for a state cropland or grazing lease must be submitted to the

Department on the appropriate Department form. The applications must be signed by the applicant, must be submitted in such manner as determined by the Department, and must meet the following criteria: ()

~~02~~a. Non-Refundable Fee. Each application for a lease shall be accompanied by a non-refundable application fee in the amount specified by the Board. (6-14-88)()

b. Application Deadline. The deadline to apply to lease a parcel of endowment land already covered by a lease shall be as established by the Department for the year the existing lease expires. Applications to lease unleased land may be submitted at any time, or at such time as designated by the Department. Applications will be accepted for unleased land when there is no disruption of other designated uses or the Department's long-term management objectives. ()

c. Legal Description On Application. All applications must include a legal description of the land applied on. The Department reserves the right to require an amendment of the legal description of lands identified in a lease application to ensure the parcel is a manageable unit or for any other reason deemed appropriate by the Department. If the applicant fails to provide an amended application, referencing a manageable unit as designated by the Department, within thirty (30) days after mailing such notice, the application shall be considered invalid. ()

d. Management Proposal. All applicants for state grazing leases must submit a grazing management proposal, which addresses Department identified resource concerns, within thirty (30) days of the deadline to apply for the lease. ()

03. Manageable Units. ~~If the application does not cover a manageable unit the applicant shall be notified in writing that an amended application will be required on a manageable unit. If the applicant fails to provide an amended application covering the manageable unit as designated by the department within thirty (30) days after mailing such notice, the application shall be considered invalid.~~ **Applications For Lands Included In A Cancelled Land Sale Certificate.** The prior land sale certificate holder will be given the first option to obtain a lease for those lands covered by the cancelled land sale certificate. If the previous certificate holder is indebted to the state of Idaho, the debt must be satisfied before the certificate holder is eligible to lease the land. If the previous certificate holder declines the opportunity to lease the land, the Department may solicit other applications. The initial lease offered on lands covered under a cancelled land sale certificate must be limited to two (2) years to coincide with the contract reinstatement period. (6-14-88)()

04. Renewals. Lease renewal applications will be mailed by the ~~Department~~ to all holders of expiring leases ~~on or before September 1st of the year the lease expires~~ no less than thirty (30) days prior to the application deadline. Signed ~~lease~~ renewal applications and ~~charge~~ the application fee must be returned to the ~~Department~~ by ~~September 30~~ the established deadline or postmarked no later than midnight of that date ~~to protect against subsequent conflict applications~~. It shall be the lessee's responsibility to insure applications are delivered or postmarked by the deadline. (6-14-88)()

05. Unleased Lands. ~~Unleased land includes lands from cancelled leases, cancelled land sale certificates, lands acquired through land exchange and all other state lands not currently under lease for grazing and farming purposes. Applications will be accepted for unleased lands when there is no disruption of other designated uses or the department's long term management objectives. The prior land sale certificate holder will be given first option to make lease application for those lands covered by the cancelled land sale certificate. If the previous certificate holder is indebted to the state, the debt will be satisfied before becoming eligible to lease the land. If the previous certificate holder refuses this option then the department may solicit other applications. The federal permittee will be given preference to make application for a lease on newly acquired lands from the federal government.~~ **Rental Deposit.** (6-14-88)()

a. Existing Lessee. An existing lessee is the current lessee of the expiring lease. If the existing lessee is the sole applicant, the existing lessee may submit the rental deposit at the normal due date. If a conflict application is also filed on the expiring lease, and the existing lessee places the highest bid at auction, the existing lessee must deposit, with the Department, the estimated first year's rental for the lease by the conclusion of the auction. ()

b. New Applicant. A new applicant is one who submits an application, but does not hold the current lease. All applicants for unleased land are deemed new applicants. New applicants for expiring leases must submit,

with the Department, the estimated first year's rental at the time of application. If an applicant for unleased land is the sole applicant, the applicant may submit the rental deposit at the normal billing cycle, unless the time of application and desired time of use do not coincide with the normal billing cycle, in which case payment must be rendered at the direction of the Department. When more than one (1) application is received for unleased land, the applicants must deposit, with the Department, the estimated first year's rental for the lease prior to auction. ()

~~06. **Conflict Applications.** Whenever more than one (1) application is submitted on unleased lands or lands covered by expiring leases those applications shall be considered conflict applications. Deadline for submitting conflict applications on lands covered by expiring leases shall be September 30. It is the applicants responsibility to insure the application is delivered to the department or if mailed postmarked no later than midnight of that date.~~ (6-14-88)

~~07. **Rental Deposit.** At time of application all applicants other than the existing lessee shall deposit the estimated first years rental for the lease. To qualify to bid, the existing lessee shall also deposit one (1) year's rental prior to the auction.~~ (6-14-88)

~~08. **Applicant Identity.** The identity of conflicting applicants shall remain confidential until the time of the conflict auction.~~ (6-14-88)

~~09. **Processing Conflicts.** Processing of conflict applications shall be in accordance with Subsections 105.02 and 020.03.~~ (6-14-88)

~~10. **Appearances.** Failure to appear at a scheduled lease auction or to notify the department prior to scheduling an auction will result in forfeiture of funds deposited.~~ (6-14-88)

021. RIGHTS RESERVED TO LESSOR THE DEPARTMENT.

The lessor Department expressly reserves the following rights: (6-14-88)()

01. Reservations. To All mining rights, timber rights, water rights, easements and rights of way, and the fee title to the leased land. (6-14-88)()

02. Other Leases. To maintain present, and to issue future mineral, oil and gas, geothermal and other subsurface leases as provided by Title 47, Idaho Code. Annual rental may be adjusted to reflect any utility loss to the lessee from such activities. (6-14-88)()

03. Grazing Restrictions. To restrict or prohibit grazing use on all, or portions of, the leased land leased for timber to accommodate other resource management purposes objectives. The lessee will be given one hundred eighty (180) days written notice, prior to turn out of livestock on the lands leased, of any such restrictions or termination of grazing use together with a map of the restricted area. The lessor Department will work with lessee to find alternate forage sources off forage on endowment lands to minimize the financial impacts on livestock operator to the endowment. When reductions are necessary notice will be sent to the post address last provided by the lessee. Annual rental will be adjusted to reflect any utility loss to the lessee from such activities should alternate sources of forage not be found. (6-14-88)()

04. Seed Harvest. To harvest seed from plants on land not under a cropland lease. Lessor The Department will coordinate harvesting activities with lessee to minimize impacts on livestock operations. If loss of use occurs from harvesting activities the rental will be adjusted in the amount of lost use. (6-14-88)()

05. Entry. To enter upon and inspect the lands leased at any reasonable time to insure protection of the lessor's Department's interest. (6-14-88)()

06. Easements. To grant easements and rights of way across or upon the lands leased. The lessor Department shall coordinate with the lessee before processing any easement applications on the leased land. Annual rental will be adjusted to reflect any utility loss to the lessee from any such easements or rights of way. Acreage of the lands described within the lease may be adjusted to reflect any such easements or rights of way that permanently remove such lands from grazing use. (6-14-88)()

07. Public Access. ~~To allow the general public the right to use the lands described in the lease for outdoor recreation. To exclusively regulate public access on state lands.~~ Grazing or cropland leases will not be considered exclusive use leases as described under ~~36-1603~~ Title 36, Chapter 16, Idaho Code. ~~However, nothing in~~ These rules do not authorize or purports to authorize trespass on private lands to reach state-owned lands. Use of state lands shall not be restricted without prior written approval of the ~~lessor~~ Department. (6-14-88)()

08. Water Rights. ~~To establish any water right or rights developed on the lands described in the lease in the name of the lessor and no claim thereto shall be made by the lessee. The lessee shall not cause any water to be conveyed off state land without prior written approval of the director. Any rights from livestock watering on state land shall become appurtenant to the land. To all water rights appurtenant to state lands. Lessees may not appropriate any water rights that are appurtenant to state lands, including instream livestock use or stock watering rights. Any water right appropriated on state land shall be appropriated in the name of the state of Idaho.~~ (6-14-88)()

09. Road Closures. To close roads for road protection, wildlife protection or administrative purposes. Planned road closures will be reviewed with the lessee prior to action. The ~~Lessee~~ will have the right of due process ~~in case of when~~ decisions affecting ~~his~~ the lessee's use of the lease. (6-14-88)()

10. Special Leases. To grant special leases upon the lands described in the grazing lease. If the special lease conflicts with the grazing use or makes consumptive use of forages, the grazing rental will be adjusted to reflect such loss of use. (6-14-88)

11. Permanent Improvements. To claim all permanent improvements placed upon the land remaining after six (6) months in cases of abandonment by the lessee or to take possession immediately in cases of cancellation upon breach of any of the conditions of the lease. No improvements will be disposed of by the department until all appeals have ~~become final~~ been exhausted. (6-14-88)()

~~022. QUALIFIED APPLICANTS.~~

~~Any person may make application to lease state owned endowment land provided they have reached their eighteenth (18th) birthday or if not eighteen (18) are married, they are a citizen of the United States or have declared their intentions to become such, and they are not indebted to the state for delinquent rentals on state land or other state contracts. For an applicant other than the former lessee see Subsection 080.06.~~ (6-14-88)

~~0232. LENGTH OF LEASE TERM.~~

~~The Department may issue a lease for any period of time up to that provided by law.~~ ()

~~01. Ten Year Lease.~~ ~~A grazing or cropland lease in accordance with 58-307 Idaho Code shall not exceed a ten (10) year period.~~ (6-14-88)

~~02. Shorter Lease Terms.~~ ~~The department may issue a lease for less than a ten (10) year term for administrative and/or management purposes except for lands covered by a federal land exchange agreement.~~ (6-14-88)

~~0243. - 029. (RESERVED).~~

030. RECLASSIFICATION OF LAND USE.

~~At the sole discretion of the lessor, leases issued subsequent to effective date of these rules~~ The Director may be reclassified any state land, in whole or in part, for ~~agricultural, commercial, homesite, or other desired purposes that would result in increased rentals to the lessor. For uses other than cropland or grazing the lands affected will be dropped from the lease~~ other uses that will better achieve the objectives of the Board. (6-14-88)()

01. Termination Of Existing Lease. In case of reclassification, the existing lease may be terminated, in whole or in part, upon one hundred eighty (180) days written notice to the lessee. If a lease is terminated due to reclassification, improvement credit will be addressed in accordance with these rules. ()

02. Petition. Any party may petition the Department to change the designated primary use of the endowment land. The petition shall detail the reasons such a change would be in the best long-term interest of the endowed institution and shall include an accurate legal description of the petitioned lands. The Department will

consider such petition, along with supplementary information the Department deems appropriate, and revise the designation, if it believes such redesignation is in the best interest of the beneficiary institution. During the period a petition for redesignation is under consideration, the designated uses of the endowment land will continue. ()

(BREAK IN CONTINUITY OF SECTIONS)

040. RENTAL.

01. Rental Rates. ~~The rental rates shall be set determined by the Board. The rental rate for livestock grazing leases shall be based on the number of allowable AUMs. The rental rate for cropland leases shall be based on the number of acres used for crop production.~~ (6-14-88)()

~~**02. Grazing Fee.** A minimum fee established by the board will be charged for a grazing or cropland lease.~~ (6-14-88)

03. Special Uses. Fees for special uses requested by the lessee and approved by the Department, including, but not limited to, concentrated feeding areas or structures/buildings enhancing management of the land, shall be determined by the Department. (6-14-88)()

~~**04. AUM's.** The number of AUMs used in determining the rental is based on the average use during the lease term.~~ (6-14-88)

05. Rental Due Date. Cropland lease rentals are due on or before January 1 and grazing lease rentals are due as stated in the lease but not later than on or before May 1. Leases with both types of uses will be assigned a single due date by the department. (6-14-88)()

041. CHANGE OF RENTAL.

The ~~lessor~~ Department reserves the right to increase the annual lease rental. Notice of ~~such~~ any increase will be provided according to 58-307 Idaho Code. Said notice will be mailed to the post office address last provided by the lessee in writing to the lessee at least one hundred eighty (180) days prior to the lease rental due date. (6-14-88)()

042. LATE PAYMENTS.

Rental not paid by the due date shall be considered late. ~~Penalty interest from the due date shall be added to the rental amount. The penalty interest shall be one percent (1%) for each calendar month or fraction thereof. Late payment charges from the due date forward shall be added to the rental amount. Late payment charges shall be determined by the Board.~~ (6-14-88)()

043. -- 0498. (RESERVED).

049. BREACH.

01. Non-Compliance. A lessee is in breach if the lessee's use is not in compliance with the provisions of the lease. This includes, but is not limited to, unauthorized variance in the season of use, in the numbers or class of livestock, in pasture rotation, in improvement construction/ maintenance, or in agricultural use. ()

02. Damages For Breach. A lessee is responsible for all damages resulting from breach and other damages as provided by law. ()

050. LEASE CANCELLATION.

Leases may be cancelled by the Director for the following reasons: ()

01. Cancellation. ~~Leases may be cancelled by the director for non-payment of rental or non-compliance with the covenants, terms or conditions of the lease.~~ **Non-Payment Of Rental.** If the rental is not paid by

the due date, the Department shall notify the lessee in writing of the non-payment. Leases not paid within thirty (30) days of the due date may be cancelled without further notice. (6-14-88)()

02. Notification. ~~If the rental is not paid by the due date the department shall notify the lessee of non-payment. Leases not paid within thirty (30) days of the due date shall be cancelled without further notice.~~ **Non-Compliance.** If the lessee is not complying with the lease provisions or management plan provisions or if resource damage attributable to the lessee's management is occurring to state land within a lease, the lessee shall be provided written notification of the violation by regular and certified mail. The letter shall set forth the reasons for the Department's cancellation of the lease and shall provide the lessee thirty (30) days notice of the cancellation. (6-14-88)()

03. Resource Damage. ~~If resource damage is occurring to state land within a lease or the lessee is not complying with the lease provisions or management plan provisions, the lessee shall be provided written notification of the violation by regular mail and certified mail. The letter shall specify the violation, corrective action needed and the time action must be completed. If the deadline is not met the lease will be cancelled. If the lessee is violating the non-use rules the lease will be cancelled according to Subsection 085.06. Refusal to accept regular mail or certified mail shall not work to stop cancellation.~~ (6-14-88)

043. Reclassification. A lease may be cancelled in whole or in part upon one hundred eighty (180) days written notice by the Department if the lands ~~is~~ are reclassified for ~~agricultural, commercial, urban or other higher use.~~ Notice will be provided as outlined in Subsection 050.03 any other use as designated by the Board or the Department. In the event of early cancellation due to reclassification, the lessee will be entitled to prorata refund of the premium bid for a conflicted lease. (6-14-88)()

054. Land Sales. The ~~lessor~~ Department reserves the right to sell lands covered under the lease. The lessee will be notified that the lands are being considered for sale prior to submitting the ~~annual~~ sales plan to the Board for approval. The lessee will also be notified of a scheduled sale at least thirty (30) days prior to sale ~~date.~~ In the event of early cancellation due to land sale, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (6-14-88)()

05. Mutual Agreement. Leases may be cancelled by mutual agreement between the Department and the lessee. ()

051. LEASE REINSTATEMENT.

01. Thirty-Day Reinstatement After Cancellation For Non-Payment. A lease may be reinstated within thirty (30) days after cancellation for non-payment ~~by paying when~~ the rental, ~~plus interest, plus~~ late payment charges, and a reinstatement fee ~~have been paid.~~ If not reinstated within the time specified the lease may be offered to ~~another person~~ other parties. (6-14-88)()

02. After Cancellation For Other Causes. Leases cancelled for violation of lease terms or for resource damage may be reinstated by the Department provided the former lessee submits a written request for reinstatement and identifies management actions that will address the resource management concerns and mitigate damages that may have occurred, as determined by the Department. ()

023. One-Year Reinstatement. Leases cancelled for non-payment may be reinstated within one (1) year of cancellation if the lands are still unleased and the lessee pays reinstatement fees, plus back rental and interest. (6-14-88)()

052. LEASE ADJUSTMENTS.

01. Authorized Changes. ~~Authorized changes in lease conditions shall be executed on forms provided by the department which shall then become a part of the lease.~~ **Department Required.** The Department may make adjustments to the lease for resource protection or resource improvement. (6-14-88)()

02. Prior Approval. ~~Prior approval from the department must be obtained to delete lands from a lease to insure that the lands retained and the deleted lands break on a logical grazing unit boundary.~~ **Lessee Requested.**

Lessee requested changes in lease conditions must be submitted in writing and must receive written approval from the Department before implementation. (6-14-88)()

~~03. **Abnormal Conditions.** Adjustments may be made by the department to improve the range resource or reduce use because of abnormal conditions such as drought or fire rehabilitation.~~ (6-14-88)

053. EXTENSIONS OF ANNUAL CROPLAND LEASE PAYMENT.

01. Cropland Extensions. ~~Extensions may be granted~~ An extension of the annual lease payment may be approved for cropland leases only. Each lessee lease is limited to no more than two (2) successive or five (5) total extensions during any ten (10) year lease period. Requests for extensions must be submitted in writing and must include the extension fee determined by the Board. The lessee must provide a written statement from a financial institution verifying that money is not available for the current year's farming operations. (6-14-88)()

~~02. **Forms And Fees.** Lessees must request extensions on forms supplied by the lessor and pay a fifty dollar (\$50) extension fee. The lessee must also provide a statement from his banker verifying that money is not available for the current years farming operations.~~ (6-14-88)

~~032. **Liens.** If~~ When an extension is approved, the Department will file a lien in the county where crops are grown against the crops produced on the state land on the lessee's pertinent crop in a manner provided by Idaho Code. If the subject land is covered under a Conservation Reserve Program contract with the federal government, the lessee must sign a transfer of payment, or a similar form provided by the federal government, transferring the federal payment to the Department if the rental payment is not received by the newly established deadline. (6-14-88)()

~~043. **Due Date.** Rental plus interest at a rate established by the Board will be due not later than November 1 of the rental year the extension is granted.~~ (6-14-88)()

054. CROPLAND LEASE HARDSHIP CLAIMS.

01. Crop Loss. Adjustments in rental may be made because of unusual crop loss that occurs through no fault of the lessee. ~~Unseasonable frost, hail or other uncontrollable~~ Such losses must be thoroughly substantiated by the lessee. (6-14-88)()

02. Conditions To Meet. To qualify for a hardship claim the following conditions must be met: (6-14-88)()

a. All requests for hardship claims must be submitted to the Department in writing immediately after the damage has occurred. ()

~~a~~b. Claims will be considered for the current growing season only. (6-14-88)

~~b~~c. Any adjustments will be credited to next year's rental. (6-14-88)()

~~c~~d. Claims will only be approved for losses beyond the control of the lessee. (6-14-88)()

~~d~~e. The lessee will only receive a reduction in rental for yield losses that occur beyond the normal variation expected ~~in the situated county~~ for similar land in the situated county. Normal variation will be calculated from the Idaho Statistical Reporting Service records. (6-14-88)()

~~e~~f. Average yields used to calculate the rental on the subject lands will be used to determine any lease rental adjustments for this purpose. The lease rental will only be adjusted for losses that exceed thirty-five percent (35%) of the average crop yield. (6-14-88)()

~~f~~g. Adjustments will not be made for losses if lessee is compensated through another government program or crop insurance. (6-14-88)

~~03. **Procedure.** The lessee must provide a request to the department according to the following~~

- procedure.* (6-14-88)
- a. *The lessee must notify the department immediately after damage occurs.* (6-14-88)
 - b. *Damage areas are to be harvested separately from undamaged fields to accurately evaluate yields.* (6-14-88)
 - e. *Photographs, Agricultural Stabilization and Conservation Service payment receipts, elevator load slips, and any other supporting data available must be provided to document losses.* (6-14-88)
 - d. *An adjustment will be considered if the damaged land exceeds the normal county production variation.* (6-14-88)
- 04. Lease Adjustment.** *A lease adjustment will be executed for any approved claims.* (6-14-88)

(BREAK IN CONTINUITY OF SECTIONS)

060. FEES.

Miscellaneous fees for lease administration will be periodically set by the ~~b~~Board *from time to time* and must be paid in full before a transaction can occur. All lease administration fees are non refundable. The Board shall have the authority to set fees in the following areas:

GRAZING LEASES AND CROPLAND LEASES FEE STRUCTURE	
Current Fees	
<i>Lease Applications</i>	<i>\$10.00</i>
<i>Total Lease Assignments</i>	<i>\$25.00</i>
<i>Partial Lease Assignment</i>	<i>\$35.00 (including issuance of new lease for portion assigned)</i>
<i>Mortgage Agreement</i>	<i>\$25.00</i>
<i>Subleases</i>	<i>\$50.00 per lease</i>
<i>Late Payment</i>	<i>1% per month, but not less than \$25.00</i>
<i>Reinstatement</i>	<i>\$50.00 plus interest at 1% per month</i>
<i>Minimum Rental</i>	<i>1988 \$25.00</i>
	<i>1989 \$31.25</i>
	<i>1990 \$37.50</i>
	<i>1991 \$43.75</i>
	<i>1992 \$50.00</i>
<i>Extension Request</i>	<i>\$50.00</i>

(7-1-93)()

01. Lease Applications.

()

- 02. Full Lease Assignment. ()
- 03. Partial Lease Assignment. ()
- 04. Mortgage Agreement. ()
- 05. Subleases. ()
- 06. Late Rental Payment. ()
- 07. Lease Reinstatement. ()
- 08. Minimum Lease Fee. ()
- 09. Lease Payment Extension Request. ()
- 10. Request For Reclassification Of Land Use. ()

(BREAK IN CONTINUITY OF SECTIONS)

070. SUBLEASING.

~~01. **Prior Approval.** A lessee shall not authorize another person to farm or ~~run~~ graze livestock on his lease state land without prior written approval from the Department. When a lessee conveys the right of use and occupancy of his state leased land to another he must first obtain written consent from the director via a sublease agreement and pay an established fee. Before an agreement will be approved ~~†~~The lessee must provide the name and address of sublessee, purpose of sublease, and a copy of the proposed sublease agreement. The sublease must be consistent with the Department resource objectives for the land and will only be approved on an annual basis. Lessee controlled Herd Stock does not require sublease approval. (6-14-88)()~~

~~02. **Taking In Of Stock.** Taking in of herd stock is not considered subleasing as long as the lessee maintains control and management of the state lease. The lessee must manage operations of livestock as if animals were his own. (6-14-88)~~

071. ASSIGNMENTS.

The lessee shall not assign a lease, or any part thereof, without prior written approval of the Department. ()

~~01. **Applications By Lessee.** Assignment applications must be signed by the same person whose signatures appear on the lease or be conveyed by court decree. (6-14-88)~~

~~02. **Lease In Good Standing.** All leases to be assigned must be current and in good standing. (6-14-88)~~

~~03. **Forms.** Assignment requests must be on forms provided by the department. (6-14-88)~~

~~04. **Notarization.** All signatures must be NOTARIZED. (6-14-88)~~

~~05. **Improvements.** If the lease includes improvements and/or personal property, a statement shall be provided by the lessee and attached stating the value, location, and description of such property transferred with the lease. The ownership of all privately owned improvements must be transferred with the lease. (6-14-88)~~

~~06. **Copies.** Two (2) copies of the assignment must be provided to the department along with the following items: (6-14-88)~~

- a. ~~Original lease, or in the event of loss, an affidavit of loss. (6-14-88)~~
- b. ~~Proper documentation, if any, of court action. (6-14-88)~~
- c. ~~A formal release of any mortgage or other encumbrance affecting the lease. (6-14-88)~~
- d. ~~If assignment includes only part of the lease, an application to lease state land form must accompany the assignment request. (6-14-88)~~
- 07. ~~Approval. An assignment is not valid until approved by the Director. (6-14-88)~~

072. MORTGAGE AGREEMENTS.

~~Mortgage agreements are for the convenience of the lessee. The department may accept a mortgage agreement upon request. A lease will not be assigned without the approval of the mortgage holder. A mortgage agreement must be signed by the lessee and the mortgage holder. A request for a mortgage agreement must be submitted on forms prepared by the department (or on forms approved in advance by the department) and be accompanied by the appropriate The lessee shall not enter into a mortgage agreement that involves a state grazing or cropland lease without prior written approval of the Department. The lessee must submit the required filing fee. The term of a mortgage agreement shall not exceed the lease term. The agreement may be renewed upon fulfilling the requirements specified above. (6-14-88)(____)~~

(BREAK IN CONTINUITY OF SECTIONS)

080. GRAZING MANAGEMENT PLANS.

~~Prior to issuance of a lease, the lessee and the Department must agree to a written grazing management plan. (____)~~

~~01. **Contents Of Plan.** All grazing management plans must include the following: **Federal Plan.** When state land is managed in conjunction with federal land, the management plan prepared for the federal land may be deemed by the Department, at its discretion, to satisfy the requirements of a management plan. (6-14-88)(____)~~

- a. ~~Lease number(s), name, and address of lessee. (6-14-88)~~
- b. ~~A map of the leasehold area. (6-14-88)~~
- c. ~~Goals and objectives. (6-14-88)~~
- d. ~~A description of land sub-units if the land has been so divided. (6-14-88)~~
- e. ~~Grazing periods including the number of AUMs per unit. (6-14-88)~~
- f. ~~Provisions concerning water. (6-14-88)~~
- g. ~~Requirements for improvements including construction schedule of new improvements and maintenance responsibilities for new and existing improvements. (6-14-88)~~
- h. ~~Date and signatures of participating parties. (6-14-88)~~

~~02. **Optional Elements.** Upon mutual agreement of the parties involved, a management plan may include the following: **Modification Of Plan.** The Department may review and modify any grazing management plan upon changes in conditions, laws, or regulations, provided that the Department shall give the lessee thirty (30) days notice of any such modifications prior to the effective date thereof. Modifications mutually agreeable to both the Department and lessee may be made at any time. (6-14-88)(____)~~

- a. ~~A statement concerning the history of the leasehold area. (6-14-88)~~

b. ~~Information concerning geography, terrain, climatic conditions, vegetation, soil, and wildlife.~~ (6-14-88)

e. ~~Other special conditions.~~ (6-14-88)

~~03. **Time For Completion Of Plan.** A management plan, to meet the provisions of Section 58-310 Idaho Code, shall be approved by the director and shall be made a part of the lease at least two (2) years prior to lease expiration except that for purposes of determining a qualified conflict application, the department will recognize that part of a management plan in existence for at least two (2) years previously agreed to between the department and the lessee which is consistent with Subsection 080.01 and included as part of the lease.~~ (6-14-88)

~~04. **New Plans.** New plans may be made part of an existing lease by lease adjustment and shall be made a part of a new or renewal lease by specific reference.~~ (6-14-88)

~~05. **Modification Of Plan.** The department may review and modify any grazing management plan upon changes in conditions, laws, or regulations, provided that the department shall give the lessee thirty (30) days notice of any such modifications prior to the effective date thereof. Modifications mutually agreeable to both the department and lessee may be made at any time.~~ (6-14-88)

~~06. **Conflict Applicant.** An applicant, if not the current lessee, applying for lands with a department approved management plan meeting the requirements of Section 58-310 Idaho Code, must be provided a copy of the plan. Within thirty (30) days after receipt of the plan the applicant shall file with the department a signed notarized affidavit stating that he or she has reviewed the plan and will comply with the plan. Failure by the applicant to file the affidavit within the specified time shall disqualify the applicant.~~ (6-14-88)

~~07. **Cancellation Of Lease For Non-Compliance.** If a lessee fails to comply with management plan provisions the lease will be cancelled according to Subsection 050.03.~~ (6-14-88)

~~081.—084. (RESERVED).~~

~~085. **VOLUNTARY NON USE; REQUIREMENTS.**~~

~~01. **Written Request.** To allow time for review, a request for non-use must be submitted in writing to the department by the lessee at least sixty (60) days prior to scheduled turnout but no later than April 1.~~ (6-14-88)

~~02. **Finding Livestock.** A lessee must make a diligent effort to find livestock to graze the parcel. If the department determines that the lessee has not advertised sufficiently, the lessee may be required to pay cost of advertising up to one hundred fifty dollars (\$150) for the department to solicit other operators. The lessee shall not charge another user more than one and one half (1 1/2) times the department rental rate unless documented management costs can be provided to justify a higher fee.~~ (6-14-88)

~~03. **Approval.** Prior approval from the department must be obtained to drop lands from a lease. This procedure will insure that the lands retained and the unleased lands break on a logical management unit boundary.~~ (6-14-88)

~~04. **Decision.** The department will notify the lessee in writing of the decision to accept or reject the request for non-use within sixty (60) days after receiving the request for non-use.~~ (6-14-88)

~~05. **Signatures.** A lease adjustment shall be completed and signed by both the lessee and the department to implement terms of any non-use approved by the director.~~ (6-14-88)

~~06. **Compliance With Adjustment.** A lessee who receives non-use shall not graze more AUMs than approved in the lease adjustment. If the lessee is able to utilize more AUMs during the non-use period, he shall notify the department of the expected increase prior to turnout of the additional livestock. If the lessee knowingly grazes more AUMs than specified in the agreement without notifying the department in advance, he will be assessed triple the rental rate for the unauthorized AUMs as trespass charges. If the lessee fails to pay the charges within thirty (30)~~

~~days, the department may give final notice by certified mail to the lessee that the lease will be cancelled in thirty (30) days from the date the final notice is mailed. (6-14-88)~~

~~07. **Limitation.** The department shall not grant more than two (2) years consecutive non-use. (6-14-88)~~

~~08. **Maintenance Of Improvements.** The lessee shall maintain improvements during the period of authorized non-use. (6-14-88)~~

~~09. **Contents Of Application.** An application for non-use must include the following: (6-14-88)~~

~~a. Lease number(s), name, and address of lessee. (6-14-88)~~

~~b. Number of AUMs requested for non-use. (6-14-88)~~

~~c. Reason the lessee is not able to graze livestock i.e. reasons for unexpected economic hardship. (6-14-88)~~

~~d. Actions lessee has taken to obtain herd stock or sublease parcel. (6-14-88)~~

~~e. Estimated time before range will be restocked. (6-14-88)~~

~~f. Date and signature of lessee. (6-14-88)~~

~~0861. -- 089. (RESERVED).~~

090. TRESPASS.

01. Loss Or Waste. The lessee shall use the property ~~under his~~ within the lease in such manner as will best protect the state of Idaho against loss or waste. Unauthorized activities occurring on state land shall be considered trespass; these include dumping of garbage, constructing improvements without a permit, and other unauthorized actions ~~that may or may not be detrimental to the land.~~ (6-14-88)(____)

02. Civil Action By Lessee. The lessee is encouraged to take civil action against owners of trespass livestock on state lands to recover damages ~~for~~ to the lessee for lost forage or other values incurred by the lessee. (6-14-88)(____)

03. Continuing Trespass. When continued trespass causes resource damage, the ~~State, as landowners,~~ Department will initiate proceedings to restrict further trespass and recover damages as necessary. (6-14-88)(____)

04. Trespass Claims. Trespass claims initiated by the ~~state~~ Department will be assessed as triple the current State AUM rate for forage taken. (6-14-88)(____)

(BREAK IN CONTINUITY OF SECTIONS)

100. CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS.

01. Prior Written Approval. ~~In the event~~ ~~†~~ ~~The lessee desires to make range improvements, construct buildings, or clear land, he~~ must secure the written approval of the ~~lessor~~ prior to making such improvements Department prior to constructing any improvements or buildings, or clearing any land. Any arrangement for cost sharing or improvement crediting will be expressly stated in the improvement permit. Routine farming practices identified in a farm plan will not require prior approval. ~~Failure to secure such written approval shall constitute a forfeiture of the value of such improvements and may, at the discretion of the lessor, result in the cancellation of the lease. If the land use changes to reduce the utility value to a purchaser or another lessee, lessor may disallow improvement credit.~~ (6-14-88)(____)

~~042.~~ **Maintenance.** ~~Any~~ All authorized improvements ~~on state land required for management purposes~~ shall be maintained in functional condition by the lessee ~~in good usable condition~~. The lessee may be required to remove or reconstruct improvements in poor or non-serviceable condition. Existing maintenance agreements on lands acquired from the federal government shall remain in effect until ~~changed~~ amended by the parties involved. If maintenance is not being accomplished, the Department shall provide a certified letter to the lessee informing the lessee of the rule violation. If work is not begun within thirty (30) days, the Department may contract repairs and add the amount to the annual rental. (6-14-88)(____)

~~023.~~ **Bond.** If there is a risk of damage to state lands, the ~~lessor~~ department may require the lessee to furnish a bond prior to constructing improvements. (6-14-88)(____)

~~03.~~ **Purchase.** ~~If the lessee is not the successful bidder at the expiration of a lease or upon sale of part of the lands under a lease, then the appraised value of authorized improvements, as determined by the lessor, shall be paid by the successful bidder to the lessee. Should a lessee owe delinquent rental, the amount owed will be deducted by the lessor from any improvement credit in accord with 58-313, Idaho Code.~~ (6-14-88)

~~05.~~ **Maintenance Costs.** ~~Maintenance of improvements will be considered a normal cost of doing business. No improvement credit will be allowed for maintenance. The lessor will provide materials as needed for state owned improvements. If maintenance is not being accomplished lessor shall provide a certified letter to lessee informing him of the rule violation. If work not begun within thirty (30) days lessor may contract repairs and add amount to rental.~~ (6-14-88)

101. APPRAISAL OF IMPROVEMENTS CREDIT.

~~01.~~ **Appraisal.** ~~For the purpose of land sale, conflict lease auction, or land exchange, improvements approved according to the established criteria will be valued on the basis of current new replacement cost including labor, equipment and materials less actual depreciation. Such depreciation is to be based on actual loss of utility value and the cost of labor, equipment and materials necessary to replace the improvement with one in new condition having the same utility. Any amortization or value limitations established will be considered in determining a final value.~~ **Sale or Auction.** In the event of sale of the lands covered under the lease or if the existing lessee is not the successful bidder at the auction of the lease, the appraised and creditable value of authorized improvements, as determined by the Department, shall be paid to the former lessee. (6-14-88)(____)

~~02.~~ **Risks.** ~~The lessee assumes any risk of successfully completing the project when authorized to construct improvements. Improvements cannot be appraised higher than current market value regardless of lessee's cost.~~ **Exchange.** If the existing lessee has creditable improvements on the land being considered for exchange, the acquiring party, if other than the existing lessee, will be required to enter into agreement with the existing lessee to equitably recognize the value of the improvements. (6-14-88)(____)

~~03.~~ **Cost Sharing.** ~~Any federal or state cost sharing shall not be included in the improvement value.~~ **Crediting.** Improvement credit may be allowed if the improvement would be of value to anyone who might lease or purchase the land in the future and use it for the purpose for which the land is classified at the time improvements are placed on the land and the Department wants the improvement to remain for management purpose. (6-14-88)(____)

~~04.~~ **Ownership Of Fences.** ~~The ownership of fences will normally be determined on the basis of Idaho's fencing laws covered in Chapter 35, Section 1 Idaho Code. If the neighbor is required by statute to participate in fence construction the value will be decreased accordingly to recognize that participation.~~ **Value Only To Lessee.** Where improvements are approved, but due to their nature, are not acceptable to receive improvement credit because no value exists for a future lessee, a notation shall be made in the permit, "For lessee's benefit only". If the succeeding lessee or assignee chooses not to purchase the non-creditable improvements, the former lessee will be required to remove them. (6-14-88)(____)

~~05.~~ **Maintenance Costs.** Maintenance of improvements will be considered a normal cost of doing business and no improvement credit will be allowed, except that, with prior written approval from the Department, improvement crediting may be allowed for materials used for the maintenance of Department-funded improvements. (____)

06. **Unauthorized Improvements.** No credit will be allowed for unauthorized improvements. At the discretion of the Department, the lessee may be required to remove unauthorized improvements. ()

07. **Cost Sharing.** Federal or state cost-share amounts shall not be included in the allowable improvement credit. ()

102. APPRAISAL OF IMPROVEMENTS CREDIT.

Credited improvements will be valued on the basis of replacement cost, including lessee provided labor, equipment and materials, less depreciation based on loss of utility. Improvements cannot be appraised higher than current market value, regardless of lessee's cost. Any improvement amortization or cost limitations identified by the Department will be considered in determining a final value. ()

~~01. **Criteria.** The criteria for establishing improvement credit is: Would it be of value to anyone who might lease or purchase the land in the future and use it for the purpose for which the land is classified at the time improvements are placed on the land?~~ (6-14-88)

~~02. **Payments.** If approved improvements have been made on land while under lease, the creditable value of such improvements shall be paid to the former lessee in case of sale or loss through conflict auction.~~ (6-14-88)

~~03. **Temporary Improvement.** Any improvement which, due to its location, nature or design, has only temporary value or is limited in value or use to only the present lessee, shall not qualify for improvement credit.~~ (6-14-88)

~~04. **Value Only To Lessee.** Where improvements are approved, but due to their nature, are not acceptable to receive improvement credit because of no value to a future lessee, a notation shall be made in the permit, "For the lessee's benefit only". If the purchaser or succeeding lessee or assignee chooses not to purchase subject improvements, it shall be the lessee's responsibility to remove them from the land within six (6) months after notice has been given for removal or they become the property of the state.~~ (6-14-88)

~~05. **Unauthorized Improvements.** All unauthorized improvements automatically become the property of the lessor. However, the director may allow sale or removal of those improvements not considered to be of value to the State.~~ (6-14-88)

(BREAK IN CONTINUITY OF SECTIONS)

105. CONFLICT AUCTIONS.

01. **Two Or More Applicants.** ~~Where~~ When two (2) or more eligible applicants, ~~meeting the requirements of Sections 020 and 021, have applied for a lease, a conflict auction will be held at a place and time specified by the department. The applicants will be notified by certified letter mailed to the name and address on the application at least fourteen (14) days in advance of the time scheduled for the auction. Any person not present or represented to bid at the time and place specified shall lose all rights or interest in leasing the parcel~~ apply to lease the same endowment land that is currently classified for grazing or cropland use, the Department shall hold an auction. (6-14-88)()

02. **Time Limits.** A time limit between bids will be established by the auctioneer. No further bids will be accepted after the time limit has expired. The auctioneers' decision will be final. **Applicant Notification.** At least fourteen (14) days prior to the date of such auction, the Department shall give notice by letter, which notice shall be sent in the course of certified mail to each of the applicants for the lease, notifying them of the time and place such auction is to be held. The notice shall be sent to the name and address as it is given in the application. (6-14-88)()

03. ~~Recess.~~ ~~A reasonable recess may be allowed for a bidder to discuss the auction with members of his own party. The auction may be cancelled if in the opinion of the auctioneer there is collusion, fraud, threats, or for any other reason considered in the States best interest.~~ **Auction Bidding.** Each applicant who appears in person or by proxy at the time and place so designated in said notice and bids for the lease shall be deemed to have participated in the auction. A proxy must be authorized by the lease applicant in writing prior to the start of the auction.

(6-14-88)()

04. Appearance. Failure to appear at a scheduled lease auction or to notify the Department of an intent to withdraw from an auction at least three (3) working days prior to a scheduled auction will result in forfeiture of funds deposited, absent extraordinary circumstances. Any applicant not present or represented to bid at the time and place specified shall lose all rights or interest in leasing the parcel.

()

05. Auction Procedures. The Department shall establish procedures for conducting grazing and cropland lease auctions.

()

106. BOARD REVIEW OF AUCTION.

The Board may review all bids submitted at a lease auction and shall have the power to reject any and all bids made at such auctions when, in their judgement:

()

01. Fraud Or Collusion. There has been fraud or collusion. ()

02. Other Reasons. There are other reasons that justify the rejection of said bids. ()

1067. -- 10910. (RESERVED).

~~110. USE OF LAND—GRAZING REGULATIONS.~~

~~**01. Specified Use Only.** The lands under lease shall not be used for any purpose other than those specified in the lease agreement without the written consent of the director.~~ (6-14-88)

~~**02. Grazing Period.** The grazing period on leased lands and the number of stock to be grazed thereon may be determined and fixed by the director.~~ (6-14-88)

~~**03. Information.** The lessee may be required to furnish to the lessor information needed for determination of proper management.~~ (6-14-88)

~~**04. Sheep Bedding.** Where sheep are grazed on land included in a lease they shall not be bedded more than two (2) nights on the same bedding ground.~~ (6-14-88)

~~**05. Management Plans.** A lessee may be required by lessor to participate in a resource management plan which includes all or part of the leased lands described therein.~~ (6-14-88)

~~**06. Condition Of Lease.** Any written agreement concerning a management plan will become a condition of the lease.~~ (6-14-88)

111. NOXIOUS WEED CONTROL.

01. Weed Control. The lessee shall cooperate with the Department, or any other authorized agency, to undertake programs for control or eradication of noxious weeds on state land. The lessee shall take measures to control noxious weeds on the leased land in accordance with Title 22, Chapter 24, Idaho Code, except those resulting from activities beyond his the lessee's control. (6-14-88)()

02. Responsibility. The lessee will not be held responsible for the control of noxious weeds resulting from other land management activities such as temporary permits, easements, special leases and timber sales. Control of noxious weeds on state grazing lands shall be shared equally by the lessee and lessor Department, with the lessor's Department's share subject to funds appropriated for that purpose. (6-14-88)()

(BREAK IN CONTINUITY OF SECTIONS)

113. ANIMAL DAMAGE CONTROL.

The lessee may request the services of USDA Animal ~~Damage Control~~ and Plant and Health Inspection Service-Wildlife Services to remove animals ~~damaging the lessee's crops~~ causing crop damage or harassing/killing the lessee's livestock. The ~~lessor~~ Department shall not be liable for any consequence from any animal control actions ~~taken to control the target species.~~ (6-14-88)(____)

114. LIABILITY (INDEMNITY).

A ~~The~~ lessee shall indemnify and hold harmless the ~~lessors~~ state of Idaho, its departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased premises, or the occupation of the leased premises by any of the lessee's agents or by any person occupying the same with the lessee's permission. (6-14-88)(____)

115. RULES AND LAWS OF THE STATE.

The lessee shall comply with all applicable rules, regulations and laws of the state of Idaho and the United States insofar as they affect the use of the lands described in the lease. (6-14-88)(____)

~~**116. BINDING ON HEIRS.**~~

~~All of the terms covenants and conditions in a state lease shall be binding upon the heirs, executors and assigns of the lessee.~~ (6-14-88)

~~1176.~~ -- 999. (RESERVED).

IDAPA 21 - DIVISION OF VETERANS SERVICES
21.01.01 - RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE
CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF
VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s)65-202, 65-204, and 66-907, Idaho Code.

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

Thursday, October 11, 2001, 7:00 p.m. to 9:00 p.m.
West Conference Room, J.R. Williams Building
700 West State Street, Boise, Idaho

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

This chapter must be amended to clarify certain admissions requirements, to accommodate Office of the Rules Coordinator (OAR) formatting requirements, to incorporate Center for Medicare/Medicaid Services (CMS) requirements and recommendations by the House Health and Welfare Committee, and to further facilitate the State Veterans Homes' change to Medicaid-certified facilities.

FEE SUMMARY: Currently, IDAPA 21.01.01.915.06 states that "maintenance charges are due the first of each month for the preceding month and must be paid in full by the resident or guardian on or before the tenth (10th) day of the month". Since nursing care residents enrolled in the Medicaid program are required to pay monthly charges in advance, the rules need to be amended to reflect this change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes to this rule are nonsubstantive in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tina Basel at (208)334-3513.

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

DATED this 15th day of August, 2001.

Gary Bermeosolo, Administrator
Idaho Division of Veterans Services
320 Collins Road
Boise, Idaho 83702
Phone: (208)334-3513
Fax: (208)334-2627

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0101-0101

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

The principal place of business of the Office of the Idaho Division of Veterans Services is in Boise, Idaho. The office is located at 320 Collins Road, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: 320 Collins Road, Boise, Idaho, 83702. The telephone number of the office is (208)334-3513. The facsimile number of the office is (208)334-2627. ()

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. ()

007. -- 009. (RESERVED).

00510. DEFINITIONS AND ABBREVIATIONS.

For the purposes of the rules contained in this Chapter, the following terms are used as defined: (~~3-30-01~~)()

01. Applicant. A person who has expressed interest in applying for residency in an Idaho State Veterans Home. (3-30-01)

02. Bona Fide Resident. A person who maintains a principal or primary home or place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after any period of absence pursuant to Section 66-901, Idaho Code. (3-30-01)

03. Commission. The Idaho Veterans Affairs Commission. (3-30-01)

04. County Service Officer. A person appointed by the county to provide assistance to veterans in accordance with Section 65-601, Idaho Code. (3-30-01)

05. Department. The Idaho Department of Self Governing Agencies. (3-30-01)

06. Division. Division of Veterans Services in the Idaho Department of Self Governing Agencies. (3-30-01)

07. Division Administrator. The Administrator of the Division of Veterans Services in the Department of Self Governing Agencies, or his designee. The chief officer of the Division of Veterans Services. (3-30-01)

08. Home Administrator. Administrator of an Idaho State Veterans Home. The chief officer of each respective Veterans Home. (3-30-01)

09. Home. An Idaho State Veterans Home. (3-30-01)

10. Idaho State Veterans Home. Pursuant to Section 66-901, Idaho Code, a Home for eligible veterans. (3-30-01)

11. Legal Dependents. The mother, father, spouse, or minor children of an applicant/resident who, by reason of insufficient financial resources, or non-minor children who because of disease, handicap or disability, must have financial support from the applicant/resident in order to maintain themselves. (3-30-01)

12. Liquid Assets. Those assets which can be liquidated for cash within a reasonable period of time including, but not limited to, money market certificates, certificates of deposit, stocks and bonds, and some tax shelter investments. (3-30-01)

13. Maintenance Charge. A charge made for care and residence at an Idaho State Veterans Home, based upon the current established rate. (3-30-01)

14. Net Income. That income used to compute charges after allowable deductions have been made. (3-30-01)

15. **Resident.** A veteran who is a resident of an Idaho State Veterans Home. (3-30-01)
16. **VA.** United States Department of Veterans Affairs. (3-30-01)
17. **Veteran.** Shall have the meaning established in Section 65-203, Idaho Code. (3-30-01)
- ~~006~~11. -- 049. **(RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

100. ELIGIBILITY REQUIREMENTS.

An applicant/resident must be a veteran of the armed forces and must satisfy the following requirements, pursuant to Sections 66-901 and 66-907, Idaho Code: (3-30-01)

01. Idaho Residency. The applicant must be a bona fide resident of the state of Idaho at the time of admission to a Home. (3-30-01)

02. Incompetent Applicants. Applicants who are considered incompetent must provide copies of guardianship or power of attorney. (3-30-01)

03. Necessity Of Required Services. Applicants must meet the requirements for the level of care for which they apply. (3-30-01)

a. **Nursing care.** To be eligible to receive nursing care in a state veterans home, applicants must be referred by a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-30-01)

b. **Residential care.** Each applicant must submit to a physical examination performed at the VA Medical Center or by the clinical specialist assigned to a Home and meet the physical limitation requirements for residential care. The applicant must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each residential care resident must ambulate independently or with the aid of a wheelchair, walker, or similar device and be capable of performing at the time of admission, and for the duration of his residency, all of the following with minimal assistance: (3-30-01)

- i. Making his bed daily; (3-30-01)
- ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)
- iii. Keeping all clothing clean through proper laundering; (3-30-01)
- iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)
- v. Bathing or showering frequently; (3-30-01)
- vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)
- vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)
- viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)
- ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)

- x. Making rational decisions as to his desire to remain or leave the Home. (3-30-01)
- c. Domiciliary care. Each applicant must submit to a physical examination performed at the VA Medical Center or by the clinical specialist assigned to a Home and meet the physical limitation requirements for domiciliary care. The applicant must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each domiciliary care resident must be able to ambulate independently and must be capable of performing at the time of admission, and for the duration of his residency, all of the following without assistance: (3-30-01)
 - i. Making his bed daily; (3-30-01)
 - ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)
 - iii. Keeping all clothing clean through proper laundering; (3-30-01)
 - iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)
 - v. Bathing or showering frequently; (3-30-01)
 - vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)
 - vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)
 - viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)
 - ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)
 - x. Making rational and competent decisions as to his desire to remain or leave the Home. (3-30-01)
- 04. Placement Restriction.** A Home shall not accept applicants or continue to extend care to residents for whom the facility does not have the capability or services to provide an appropriate level of care. (3-30-01)
- 05. Financial Statement.** Each applicant must file a signed, dated statement with the Home Administrator containing a report of income from all sources and a report of all liquid assets which will be used to determine the amount of the maintenance charge which is required in accordance with Section 66-907, Idaho Code, and IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure". (3-30-01)
- 06. Social Security Benefits.** If eligible for Social Security benefits, the applicant/resident and spouse must apply for those benefits unless waived by the Home Administrator. (3-30-01)
- 07. Medicare Coverage.** If eligible for Medicare parts "A" and "B," the applicant/resident must elect to participate, unless participation is waived by the Home Administrator. (3-30-01)
- 08. Income Limitation.** (3-30-01)
 - a. Nursing Care. None. (3-30-01)
 - b. Residential and Domiciliary Care. An applicant whose total monthly net income, at the time of his application for residency, exceeds the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) cannot be admitted unless granted a waiver by the Home Administrator. This waiver must include a statement from a VA Medical Center physician indicating the veteran is in "need of continuing medical care". (3-30-01)
- 09. VA Pension - Nursing Care.** Unless waived by the Home Administrator, a nursing care applicant/resident must be eligible for, apply for, and/or be in receipt of a VA disability pension in accordance with Public Law

95-588. Such waivers may be considered only when the applicant/resident has signed a statement indicating he is unable to defray the necessary expenses of the medical care for which he is applying and arrangements are made to secure medical services not provided by VA. (3-30-01)

10. Agreements For Behavior And Care Needs. The Idaho State Veterans Homes may require that applicants or residents enter into agreements concerning the applicant or resident's behavior and/or care needs while residing in the Home. The resident's failure to perform these agreements is a basis for discharge from the Home. ()

(BREAK IN CONTINUITY OF SECTIONS)

851. AVAILABLE SERVICES.

The Division of Veterans Services will ~~attempt to~~ make available the following services. (~~3-30-01~~)()

01. Nursing Care. The Division of Veterans Services will ~~attempt to~~ make available the services listed below for nursing care residents: (~~3-30-01~~)()

- a. Barber/Beauty Shop. (3-30-01)
- b. Chaplain. (3-30-01)
- c. Dental Hygiene. (3-30-01)
- d. Dietitianary. (~~3-30-01~~)()
- e. ~~Financial Counseling.~~ (~~3-30-01~~)
- f. Lab. (3-30-01)
- g. Laundry. (3-30-01)
- h. Nursing. (3-30-01)
- i. Pharmaceutical. (3-30-01)
- j. Physical Therapy. (3-30-01)
- k. Physician. (3-30-01)
- l. Referral. (3-30-01)
- m. ~~Respiratory Therapy.~~ (~~3-30-01~~)
- n. ~~Security.~~ (~~3-30-01~~)
- o. Social Work. (3-30-01)
- p. Speech Therapy. (3-30-01)
- q. Therapeutic Recreation. (3-30-01)
- r. Limited Transportation. (~~3-30-01~~)()
- s. ~~Volunteer Support.~~ (~~3-30-01~~)

~~¶~~p. X-Ray. (3-30-01)

02. Residential And Domiciliary Care. The Division of Veterans Services will ~~attempt to~~ make available the services listed below for residential and domiciliary care residents: ~~(3-30-01)(_____)~~

a. Barber/Beauty Shop. (3-30-01)

b. Chaplain. (3-30-01)

c. Dietitianary. ~~(3-30-01)(_____)~~

~~d. Financial Counseling. (3-30-01)~~

~~e~~d. Laundry. (3-30-01)

~~f~~e. Nursing (limited). (3-30-01)

~~g~~f. Referral. (3-30-01)

~~h~~. Security. ~~(3-30-01)~~

~~i~~g. Social Work. (3-30-01)

~~j~~h. Therapeutic Recreation. (3-30-01)

~~k~~i. Limited Transportation. ~~(3-30-01)(_____)~~

~~l~~. Volunteer Support. ~~(3-30-01)~~

(BREAK IN CONTINUITY OF SECTIONS)

915. MAINTENANCE CHARGES.

Upon becoming a resident of an Idaho State Veterans Home, each resident is liable for the payment of a maintenance charge as well as expenses for supplies, medication, equipment, and services (other than basic services for the assigned level of care) that are not provided or paid for by VA, Medicaid, Medicare, or other insurance unless otherwise determined by the Home Administrator. Residents living in a Home for any part of a month must pay for each day, based on the actual number of days in the month, at that fraction of their total charge. Refusal or failure to pay the established maintenance charge or related expenses is cause for discharge from the Home. (3-30-01)

01. Charges. Charges will be computed, based on the following factors: (3-30-01)

a. If the resident has an income, those items used to compute the charge will include: (3-30-01)

i. Social Security benefits; (3-30-01)

ii. Retirement benefits; (3-30-01)

iii. Income from annuities; (3-30-01)

iv. Insurance benefits; (3-30-01)

v. Rental from property; (3-30-01)

- vi. Farm income; (3-30-01)
- vii. VA pensions or compensations; (3-30-01)
- viii. Tax refunds; and (3-30-01)
- ix. Income from any and all other sources. (3-30-01)

b. If the resident is single, incompetent, and has liquid assets in excess of one thousand five hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than one thousand five hundred dollars (\$1,500). ~~(3-30-01)~~(____)

c. If the resident is single, competent, and has liquid assets in excess of fifteen hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than fifteen hundred dollars (\$1,500). (3-30-01)

d. Joint income will be used in computing charges for married persons. If the resident has dependents who rely upon him for financial support, the amount of liquid assets will not be drawn upon after they have declined to a level of five thousand dollars (\$5,000). (3-30-01)

02. Exclusions From Income Or Payment. The only exclusions in computing monthly charges will be: (3-30-01)

a. Those funds which a resident receives from the sale of hobby/craft items constructed and sold as part of a Home occupational therapy program; or (3-30-01)

b. Those unusual expenses specified below, which are incurred after the resident's admission to a Home and are approved by the Home Administrator, up to a maximum monthly allowance which is established pursuant to Section 980: (3-30-01)

- i. Prosthetic, orthopedic, and paraplegic appliances; (3-30-01)
- ii. Sensory aids; (3-30-01)
- iii. Wheelchairs; (3-30-01)
- iv. Therapy services; (3-30-01)

v. Hospital, medical, surgical expenses and bills for prescription drugs incurred and paid by the individual in the current month and documented by a paid receipt. (3-30-01)

c. Reasonable medical insurance premiums, as paid, with documentation of payment. Other insurance premiums are excluded from consideration; or (3-30-01)

d. An allowance established pursuant to Section 980 for retention by a resident for personal needs; (3-30-01)

e. That amount necessary for a resident of a Home to contribute to the support of a legal dependent where proof of actual payment is documented. A monthly allowance will be established for a spouse or additional dependents pursuant to Section 980. (These allowances take into consideration housing and utility costs.) (3-30-01)

03. Income Eligibility Limits. (3-30-01)

a. Nursing Care. None. (3-30-01)

b. Residential and Domiciliary Care. A resident's total monthly net income, from all sources, may not exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by

twelve (12) unless waived by the Home Administrator in accordance with Subsection 100.08. (3-30-01)

c. While in residence at a Home, a domiciliary resident may seek outside employment and receive income so that his total monthly net income from all sources will exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) for a one (1) month transitional period. At the end of this one (1) month transitional period, the resident will be discharged. (3-30-01)

04. Continued Eligibility. (3-30-01)

a. Nursing Care. A resident may continue to be eligible for residency in a Home, regardless of income changes, if the conditions defined in Subsection 100.09 continue to be met. (3-30-01)

b. Residential and Domiciliary Care. If a resident's net monthly income exceeds the income eligibility limit after admission to the Home, the resident may appeal to the Home Administrator for a waiver of the income eligibility limit which may be granted for good cause. Consideration for good cause must include "need for continuing medical care" as documented by a VA Medical Center physician. (3-30-01)

05. Charges. (3-30-01)

a. Nursing Care. After allowable deductions, a resident will be assessed a fee equal to the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge is based on historical costs that are adjusted to include anticipated costs and an inflation factor. Changes to the maximum charge are made pursuant to Section 980. (3-30-01)

b. Residential Care. After allowable deductions, a resident will be assessed a fee of seventy-five percent (75%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be seventy-five percent (75%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12). (3-30-01)

c. Domiciliary Care. After allowable deductions, a resident will be assessed a fee of sixty percent (60%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be sixty percent (60%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12). (3-30-01)

06. Payment Schedule. Maintenance charges are due the first of each month ~~for the preceding month,~~ and must be paid in full by the resident or guardian on or before the tenth (10) day of the month. Payments may be made either by cash or by check, and a receipt will be issued. ~~(3-30-01)()~~

07. Security Deposit. A deposit of one hundred dollars (\$100) will be required upon admission to a Home, unless waived by the Home Administrator. This deposit will be held until the resident leaves. Any debts or liabilities on behalf of the resident will be offset against this deposit at that time. After payment of any debts or liabilities, the remaining balance of the deposit will be returned to the outgoing resident. (3-30-01)

08. Leave Of Absence Or Hospitalization. No reduction in charges will be made for leave of absence or hospitalization and each day will count as if the resident were present at a Home. Also, in the case of a leave of absence in excess of ~~four (4) days~~ ninety-six (96) hours or a hospital stay in excess of ten (10) days, the resident will be charged the current VA per diem rate for each absent day unless waived by the Home Administrator. ~~(3-30-01)()~~

IDAPA 21 - DIVISION OF VETERANS SERVICES
21.01.02 - RULES GOVERNING EMERGENCY RELIEF FOR VETERANS
DOCKET NO. 21-0102-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-201, 65-202, 65-203, 65-204, and 65-207, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2001.

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

This chapter must be amended to accommodate Office of the Rules Coordinator (OAR) formatting requirements.

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 changes to this rule are nonsubstantive in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tina Basel at (208) 334-3513.

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

DATED this 15th day of August, 2001.

Gary Bermeosolo, Administrator
Idaho Division of Veterans Services
320 Collins Road
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0102-0101

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

The principal place of business of the Office of the Idaho Division of Veterans Services is in Boise, Idaho. The office is located at 320 Collins Road, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: 320 Collins Road, Boise, Idaho 83702. The telephone number of the office is (208) 334-3513. The facsimile number of the office is (208) 334-2627. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to other provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

007. -- 010. (RESERVED).

00511. SUBMISSION OF APPLICATION.

Persons authorized to submit emergency relief applications on behalf of applicants include post and county service officers and public welfare employees. Additionally, any person in need of emergency assistance may submit an application on his own behalf. (3-30-01)

00612. BASIC ELIGIBILITY.

The applicant must be a(n): (3-30-01)

01. Bona Fide Resident. At the time of application, the applicant must provide proof that he maintains a principal or primary place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after a period of absence. (3-30-01)

02. Armed Forces Veteran. Pursuant to Section 65-203, Idaho Code, a person who actually served during any war or conflict officially engaged in by the government of the United States and was discharged, under honorable conditions, after ninety (90) or more days of military service or was separated from military service earlier because of service-connected disability. (3-30-01)

00713. PERSONS TO RECEIVE RELIEF -- CLASSIFICATIONS.

Emergency relief grants may be made by the Idaho Division of Veterans Services to veterans and their dependents who come under the following classifications: (3-30-01)

01. Destitute Veterans. Those persons meeting the basic eligibility criteria who demonstrate a state of extreme emergency need resulting from an accident or catastrophic event which has occurred within ninety (90) days of the date of the application for emergency relief. (3-30-01)

02. Disabled Veterans. Those persons meeting the basic eligibility criteria who demonstrate a state of extreme emergency need who are unemployed as the result of a disabling condition which has occurred within ninety (90) days of the date of application for emergency relief. (3-30-01)

03. Surviving Spouse and Dependent Children. Surviving spouses and dependent children of once eligible veterans who meet the criteria of Subsections 00713.01 or 00713.02. (~~3-30-01~~)(____)

014. -- 020. (RESERVED).

00821. PURPOSE OF GRANTS.

Relief grants are provided to eligible individuals for the purchase of food, fuel, shelter, and other necessities of daily living in a time of temporary emergency need. No grants will be made to a potential recipient who refuses to take advantage of available government benefits or federal-state-local relief. Applicants will be required to obtain certification that they have applied for available assistance programs. Emergency relief funds may not be used to duplicate assistance from other sources. (3-30-01)

00922. PERMISSIBLE RELIEF.

Amounts of grants will depend upon facts and conditions as shown on the application submitted. In no case will a grant exceed one thousand dollars (\$1,000). All grants are subject to the availability of funds. (3-30-01)

01023. PAYMENT PROCESS.

When it has been verified that a request for relief is valid, the request for funds is processed for payment by the State Controller's Office, and a state warrant is issued to the individual. (3-30-01)

01124. PROPORTIONATE GRANTS.

A grant amount will be determined in proportion to the extent of the emergency and the length of time assistance is required. (3-30-01)

~~0425.~~ ACCUMULATION OF GRANTS.

Grant recipients may receive only one (1) grant in a six (6) month period. The total of all grants awarded to a veteran and his dependents shall not exceed one thousand dollars (\$1,000). (3-30-01)

~~04326.~~ INVESTIGATION.

Applicants must agree to permit investigation of their financial, domestic and employment status as may be related to the emergency need. Personal and private information on an application is confidential, and the applicant must sign the application if he is available and capable. A relative may file an application on behalf of the petitioner if the petitioner is not available or is unable to file the application. Each application should include a full report on the financial and home conditions pertinent to the applicant, together with recommendations of the investigator making the report. Temporary emergency or destitution must be clearly shown in the investigator's report. Incorrect or falsified information may constitute basis for denial of grant including future relief. (3-30-01)

~~04427.~~ VETERANS SERVICE OFFICER SUPPORT.

Veterans service officers, whether of the counties or the recognized veterans service organizations, must have a current knowledge and understanding of United States Department of Veterans Affairs programs to adequately serve the citizens of the state in the recovery of earned veterans benefits. (3-30-01)

01. Training. The Division of Veterans Services will conduct a minimum of three (3) regional training conferences each year in support of the statewide service officer program. (3-30-01)

02. Reimbursement. Eligible counties and service organizations sending service officers to scheduled training sessions may apply to the Division of Veterans Services for reimbursement of travel expenses for one (1) participant. Payment will not be provided for expenses reimbursed by other sources and shall be limited to one (1) regional training conference per year. (3-30-01)

03. Rate of Reimbursement. Reimbursement of travel expenses shall be for mileage and meals and at the same rate as established by the State Board of Examiners. (3-30-01)

04. Requests for Reimbursement. All requests for reimbursement must be submitted from an official county officer or from an administrative officer of a congressionally chartered veterans service organization. Requests for reimbursement shall be submitted in a format as prescribed by the Division of Veterans Services. Requests must be submitted within thirty (30) days after the conclusion of a training conference. All reimbursements are subject to the availability of funds. (3-30-01)

05. Validation. Request for reimbursement shall be validated by cross-referencing attendance lists from service officer training conferences. (3-30-01)

~~04528.~~ -- 999. (RESERVED).

IDAPA 21 - DIVISION OF VETERANS SERVICES
21.01.03 - RULES GOVERNING MEDICAID QUALIFIED UNITS
IN IDAHO STATE VETERANS HOMES

DOCKET NO. 21-0103-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-202, 65-204, and 66-907, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2001.

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

To accommodate Office of the Rules Coordinator (OAR) formatting requirements and to further facilitate the State Veterans Homes' change to Medicaid-certified facilities by clarifying Medicaid resident charges during leave of absence or hospitalization.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tina Basel at (208) 334-3513.

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

DATED this 15th day of August, 2001.

Gary Bermeosolo, Administrator
Idaho Division of Veterans Services
320 Collins Road
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0103-0101

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

The principal place of business of the Office of the Idaho Division of Veterans Services is in Boise, Idaho. The office is located at 320 Collins Road, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: 320 Collins Road, Boise, Idaho 83702. The telephone number of the office is (208) 334-3513. The facsimile number of the office is (208) 334-2627. ()

006. PUBLIC RECORDS ACT.

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

0057. MEDICAID ELIGIBILITY.

On and after July 1, 2000, all new nursing care residents at the Idaho State Veterans Homes, including re-admitted residents, must either apply for and become eligible for Medicaid benefits, or must pay the maximum monthly nursing care charge as it may be established from time to time. Eligibility for Medicaid benefits is determined entirely by the Idaho Department of Health and Welfare and its agents. Those who cannot, or choose not to, qualify for Medicaid shall be required to pay for services in full from other than Medicaid funds. Care and services for those residents who are Medicaid eligible shall be billed to and paid by Medicaid following the date the respective Veterans Home becomes a qualified Medicaid facility. (3-30-01)

008. -- 009. (RESERVED).

00610. DEFINITIONS.

Unless otherwise provided herein, the definitions set forth in IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure," shall apply herein. (3-30-01)

00711. CALCULATION OF MAXIMUM CHARGES.

The maximum monthly nursing care charge at the Idaho State Veterans Homes shall be established by the Division Administrator with the advice of the Veterans Affairs Commission. Said amount shall be uniform for all three (3) Veterans Homes. (3-30-01)

012. LEAVE OF ABSENCE OR HOSPITALIZATION.

No reduction in charges will be made for leave of absence or hospitalization and each day will count as if the resident were present at a Home for nursing residents who are paying the maximum monthly nursing care charges, residents eligible for Medicaid will be charged per Medicaid requirements. Also, in the case of a leave of absence or hospitalization in excess of twenty-four (24) hours, the resident will be charged the current VA per diem rate for each absent day unless waived by the Home administrator. In cases of Medicaid-eligible residents, therapeutic leaves may be granted upon a doctor's orders for up to seventy-two (72) hours, not to exceed fifteen (15) days in a calendar year. ()

00813. -- 999. (RESERVED).

IDAPA 22 - IDAHO STATE BOARD OF MEDICINE
22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS
DOCKET NO. 22-0103-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 statement in nontechnical language of the substance of the temporary and proposed rule: The rule change provides change in prescriptive authority to physician assistants from current Schedule III - V to Schedule II - V, allows the use of non-incising lasers under supervision, and makes administrative changes in rules format to comply with administrative rule making guidance.

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 the interested/affected parties have petitioned the Board for these changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

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 October 24, 2001

DATED this 27th day of July 2001.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720
Boise, Idaho 83720-0058
(208) 327-7000, Fax (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0103-0101

~~002. 009.~~ ~~(RESERVED).~~

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive,

Suite 140, Box 83720 Boise, Idaho 83720-0058. ()

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". ()

004. PUBLIC RECORD ACT COMPLIANCE (Rule 4).

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

005. INCORPORATION BY REFERENCE.

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

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (Rule 7).

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 377-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. ()

007. FILING OF DOCUMENTS - NUMBER OF COPIES (Rule 8).

All documents in rule-making or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ()

008. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

028. SCOPE OF PRACTICE.

01. Physical Examination. A physician assistant may evaluate the physical and psychosocial health status through a comprehensive health history and physical examination. This may include the performance of pelvic examinations and pap smears; and (3-19-99)

02. Screening And Evaluating. Initiate appropriate laboratory or diagnostic studies, or both, to screen or evaluate the patient health status and interpret reported information in accordance with knowledge of the laboratory or diagnostic studies, provided such laboratory or diagnostic studies are related to and consistent with the physician assistant's scope of practice. (3-19-99)

03. Minor Illness. Diagnose and manage minor illnesses or conditions. (7-1-93)

04. Manage Care. Manage the health care of the stable chronically ill patient in accordance with the medical regimen initiated by the supervising physician. (7-1-93)

05. Emergency Situations. Institute appropriate care which might be required to stabilize a patient's condition in an emergency or potentially life threatening situation until physician consultation can be obtained. (7-1-93)

06. Surgery. The acts of surgery which may be performed by a physician assistant are minor office surgical procedures such as punch biopsy, sebaceous cyst and ingrown toenail removal, cryotherapy for wart removal; assist in surgery with retraction, surgical wound exposure, and skin closure with direct personal supervision of the supervising physician; use non-ablative lasers under supervision; and the repair of lacerations, not involving nerve, tendon, or major vessel. (~~3-19-99~~)()

- 07. Casting.** Manage the routine care of non-displaced fractures and sprains. (7-1-96)
- 08. Hospital Discharge Summary.** May complete hospital discharge summaries and the discharge summary shall be co-signed by the supervising physician. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

030. PRACTICE STANDARDS.

- 01. Identification.** The physician assistant must at all times when on duty wear a placard or plate identifying himself as a physician assistant. (3-19-99)
- 02. Advertise.** No physician assistant may advertise or represent himself, either directly or indirectly, as a physician. (3-19-99)
- 03. Unauthorized Procedures.** A physician assistant shall not write prescriptions or complete and issue prescription blanks previously signed by any physician; diagnose and manage major illnesses or conditions or manage the health care of unstable or acutely ill or injured patients unless those conditions are minor; or, act as or engage in the functions of a physician assistant when the supervising physician is absent and other physician coverage is not available. (3-19-99)
- 04. Delegation Of Services Agreement.** Each licensed physician assistant shall maintain a current copy of a Delegation of Services (DOS) Agreement between the physician assistant and each of his or her supervising physicians. This agreement shall not be sent to the Board, but must be maintained on file at each location in which the physician assistant is practicing. This agreement shall be made immediately available to the Board upon request and shall include: (3-19-99)
- a. A listing of the specific activities which will be performed by the physician assistant. (3-19-99)
 - b. The specific locations and facilities in which the physician assistant will function; and (3-19-99)
 - c. The methods to be used to insure responsible direction and control of the activities of the physician assistant which shall provide for: (3-19-99)
 - i. An on-site visit at least monthly; (3-19-99)
 - ii. Regularly scheduled conferences between the supervising physician and the physician assistant; (3-19-99)
 - iii. Periodic review of a representative sample of records and a periodic review of the medical services being provided by the physician assistant. This review shall also include an evaluation of adherence to the delegation of services agreement; (3-19-99)
 - iv. Availability of the supervising physician to the physician assistant in person or by telephone and procedures for providing backup for the physician assistant in emergency situations; and (3-19-99)
 - v. Procedures for addressing situations outside the scope of practice of the physician assistant. (3-19-99)
 - d. The drug categories or specific legend drugs and controlled drugs, Schedule III through V that will be prescribed provided that the legend drugs and controlled drugs shall be consistent with the regular prescriptive practice of the supervising physician. (~~3-19-99~~)()

05. On-Site Review. The Board, by and through its designated agents, is authorized and empowered to conduct on-site reviews of the activities of physician assistants and the locations and facilities in which the physician assistant practices at such times as the Board deems necessary. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

042. PRESCRIPTION WRITING.

01. Approval And Authorization Required. A physician assistant may issue written or oral prescriptions for legend drugs and controlled drugs, Schedule II~~f~~ through V only in accordance with approval and authorization granted by the Board and in accordance with the current delegation of services agreement and shall be consistent with the regular prescriptive practice of the supervising physician. (~~3-19-99~~)()

02. Application. A physician assistant who wishes to apply for prescription writing authority shall submit an application for such purpose to the Board of Medicine. In addition to the information contained in the general application for physician assistant approval, the application for prescription writing authority shall include the following information: (3-19-99)

a. Documentation of all pharmacology course content completed, the length and whether a passing grade was achieved (at least thirty (30) hours). (7-1-93)

b. A statement of the frequency with which the supervising physician will review prescriptions written. (7-1-93)

c. A signed statement from the supervising physician certifying that, in the opinion of the supervising physician, the physician assistant is qualified to prescribe the drugs for which the physician assistant is seeking approval and authorization. (3-19-99)

d. The physician assistant to be authorized to prescribe Schedule II~~f~~ through V drugs shall be registered with the Federal Drug Enforcement Administration and the Idaho Board of Pharmacy. (~~3-19-99~~)()

03. Prescription Forms. Prescription forms used by the physician assistant must be printed with the name, address, and telephone number of the physician assistant and of the supervising physician. (3-19-99)

04. Record Keeping. The physician assistant shall maintain accurate records, accounting for all prescriptions written and medication delivered. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

051. FEES.

01. Licensure Fee. The fee for licensure shall be one hundred twenty dollars (\$120) for a physician assistant, and ten dollars (\$10) for registration as physician assistant trainee. (3-18-99)

02. Annual License Renewal. ~~License shall be renewed annually on July 1 of every year.~~ Each license to practice as a physician assistant shall be issued for a period of not less than one (1) year or more than five (5) years. Each license shall set forth its expiration date on the face of the certificate. The Board shall collect a fee of fifty dollars (\$50) for each renewal year of a license. (~~3-18-99~~)()

03. License Cancellation. Failure to renew a license and pay the ~~annual~~ renewal fee shall cause the license to be canceled. However, a license can be renewed up to two (2) years following cancellation by payment of past renewal fees, plus a penalty fee of twenty-five dollars (\$25). After two (2) years it will be necessary to file an original application for licensure with payment of the appropriate fee. (~~3-18-99~~)()

IDAPA 22 - IDAHO STATE BOARD OF MEDICINE
22.01.05 - RULES FOR REGISTRATION OF PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS

DOCKET NO. 22-0105-0101 (REPEAL)

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 statement in nontechnical language of the substance of the proposed rule:

SB 1086, passed by the 2001 legislature, rewrote and revised the Physical Therapy Practice Act. The rules are repealed because of substantive changes required by the new practice act.

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 rules are repealed because of substantive changes required by the new practice act, SB1086 passed by the 2001 legislature. The Idaho Physical Therapy Association was actively involved in the rule making process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

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 October 24, 2001

DATED this 27th day of July, 2001.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720
Boise, Idaho 83720-0058
(208) 327-7000, Fax (208) 327-7005

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 22 - IDAHO STATE BOARD OF MEDICINE
22.01.05 - RULES GOVERNING LICENSURE OF PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS
DOCKET NO. 22-0105-0102 (REWRITE)
NOTICE OF PROPOSED RULEMAKING (FEE RULE)

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 statement in nontechnical language of the substance of the proposed rule:

SB 1086, passed by the 2001 legislature revised the Physical Therapy Practice Act. The existing rules are being repealed and are being rewritten in this docket as a new chapter. The new rules provide clearer definitions of licensees and practice, define levels of supervision of licensed and supportive personnel and define the role of the advisory committee in discipline procedures.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Fees that are listed in this rulemaking docket are identical in all respects to the fees that are currently in effect as part of this rule. There have been no changes made to the fees in the rewrite of this chapter.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rules are being promulgated to comply with changes in Idaho Code. The Idaho Physical Therapy Association has been actively involved in the rule drafting process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

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 October 24, 2001.

DATED this 27th day of July, 2001.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720
Boise, Idaho 83720-0058
(208) 327-7000
Fax (208) 327-7005

FOLLOWING IS THE TEXT OF DOCKET NO. 22-0105-0102

IDAPA 22
TITLE 01
Chapter 05

22.01.05 - RULES GOVERNING LICENSURE OF PHYSICAL THERAPISTS
AND PHYSICAL THERAPIST ASSISTANTS

000. LEGAL AUTHORITY (Rule 0).

Pursuant to Title 54, Chapter 22, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the licensure of Physical Therapists and Physical Therapist Assistants. ()

001. TITLE AND SCOPE (Rule 1).

The rules shall be cited as IDAPA 22.01.05, "Rules Governing Licensure of Physical Therapists and Physical Therapist Assistants". ()

002. WRITTEN INTERPRETATIONS (Rule 2).

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. ()

003. ADMINISTRATIVE APPEAL (Rule 3).

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". ()

004. INCORPORATION BY REFERENCE (Rule 4).

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

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (Rule 5).

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 377-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. ()

006. PUBLIC RECORD ACT COMPLIANCE (Rule 6).

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

007. FILING OF DOCUMENTS - NUMBER OF COPIES (Rule 7).

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ()

008. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

01. Board. The Idaho State Board of Medicine. ()

02. Committee. The Physical Therapy Advisory Committee. ()

03. Director. The executive director of the Idaho State Board of Medicine. ()

- 04. Licensee.** Persons licensed in accordance with chapter 22, Title 54, Idaho Code. ()
- 05. Physical Therapist.** A person who meets all the requirements of chapter 22, Title 54, Idaho Code, and who engages in the practice of physical therapy. ()
- 06. Physical Therapist Assistant.** A person who meets the requirements of Chapter 22, Title 54, Idaho Code, and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist. ()
- 07. Practice Of Physical Therapy.** The exercise of the profession of physical therapy by a person who engages in the following health care activities: ()
- a. Examining, evaluating and testing individuals with mechanical, physiological and developmental impairments, functional limitations, and disability or other health and movement related conditions in order to determine a diagnosis for physical therapy and prognosis for physical therapy, plan of therapeutic intervention, and to assess the ongoing effects of intervention. ()
 - b. Alleviating impairments and functional limitations by designing, implementing and modifying therapeutic interventions that include, but are not limited to: therapeutic exercise; functional mobility training in self-care and in-home, community or work reintegration; manual therapy; assistive, adaptive, protective and supportive devices and equipment; bronchopulmonary hygiene; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient related instruction; and to reduce the risk of injury, impairment, functional limitation, and disability, including the promotion and maintenance of fitness, health, and quality of life in all age populations. The practice of physical therapy shall not include the use of radiology, surgery or medical diagnosis of disease. ()
 - c. Engaging in administration, consultation, testing, education and research as related to Subsection 010.07.a. and 010.07.b. of these rules. ()
- 08. Supportive Personnel.** A person, or persons, who are neither a physical therapist or a physical therapist assistant, but who are employed by and/or trained under the direction of a physical therapist to perform designated non-treatment patient related tasks and routine physical therapy tasks. ()
- 09. Non-Treatment Patient Related Tasks.** Actions and procedures related to patient care that do not involve direct patient treatment or direct personal supervision, but do require a level of supervision not less than general supervision, including, but not limited to: treatment area preparation and clean-up, equipment set-up, heat and cold pack preparation, preparation of a patient for treatment by a physical therapist or physical therapist assistant, transportation of patients to and from treatment, and assistance to a physical therapist or physical therapist assistant when such assistance is requested by a physical therapist or physical therapist assistant when safety and effective treatment would so require. ()
- 10. Routine Physical Therapy Tasks.** Actions and procedures within the scope of practice of physical therapy, which do not require the special skills or training of a physical therapist or physical therapist assistant, rendered directly to a patient by supportive personnel at the request of and under the direct personal supervision of a physical therapist or physical therapist assistant. ()
- 11. Testing.** ()
- a. Standard methods and techniques used in the practice of physical therapy to gather data about individuals including: ()
 - i. Electrodiagnostic and electrophysiological measurements; ()
 - ii. Assessment or evaluation of muscle strength, force, endurance and tone; ()
 - iii. Reflexes; ()

- iv. Automatic reactions; ()
- v. Posture and body mechanics; ()
- vi. Movement skill and accuracy; ()
- vii. Joint range of motion and stability; ()
- viii. Sensation; ()
- ix. Perception; ()
- x. Peripheral nerve function integrity; ()
- xi. Locomotor skills; ()
- xii. Fit, function and comfort of prosthetic, orthotic, and other assistive devices; ()
- xiii. Limb volume, symmetry, length and circumference; ()
- xiv. Clinical evaluation of cardiac and respiratory status to include adequacy of pulses, noninvasive assessment of peripheral circulation, thoracic excursion, vital capacity, and breathing patterns; ()
- xv. Vital signs such as pulse, respiratory rate, and blood pressure; ()
- xvi. Activities of daily living; and the physical environment of the home and work place; and ()
- xvii. Pain patterns, localization and modifying factors; and ()
- xviii. Photosensitivity. ()
- b. Specifically excluded are the ordering of electromyographic study, electrocardiography, thermography, invasive vascular study, selective injection tests, or complex cardiac or respiratory function studies without consultation and direction of a physician. ()
- 12. Individuals.** Human beings. ()
- 13. Functional Mobility Training.** Includes gait training, locomotion training, and posture training. ()
- 14. Manual Therapy.** Skilled hand movements to mobilize or manipulate soft tissues and joints for the purpose of: ()
 - a. Modulating pain, increasing range of motion, reducing or eliminating soft tissue swelling, inflammation or restriction; ()
 - b. Inducing relaxation; ()
 - c. Improving contractile and non-contractile tissue extensibility; and ()
 - d. Improving pulmonary function. ()
- 15. Physical Agents Or Modalities.** Thermal, acoustic, radiant, mechanical, or electrical energy used to produce physiologic changes in tissues. ()
- 16. General Supervision.** A physical therapist's availability at least by means of telecommunications, which does not require a physical therapist to be on the premises where physical therapy is being provided, for the

direction of a physical therapist assistant. ()

17. Direct Supervision. A physical therapist's or physical therapist assistant's physical presence and availability to render direction in person and on the premises where physical therapy is being provided. ()

18. Direct Personal Supervision. A physical therapist's or physical therapist assistant's direct and continuous physical presence and availability to render direction, in person and on the premises where physical therapy is being provided. The physical therapist or physical therapist assistant must have direct contact with the patient during each session and assess patient response to delegated treatment. ()

19. Telecommunications. Any means of transferring audio, video, or data information from a distant location for direction of the treatment plan of care. ()

20. Supervising Physical Therapist. The physical therapist who developed and recorded the initial plan of care and/or who has maintained regular treatment sessions with a patient, or such physical therapist's designation of another physical therapist, if the physical therapist who developed and recorded the initial plan of care or maintained regular treatment sessions is not available to provide direction at least by means of telecommunications. ()

21. Licensure. The act of acquiring legal certification as a physical therapist or physical therapist assistant. ()

22. Nationally Accredited School. A school or course of physical therapy or physical therapist assistant with a curriculum approved by: ()

a. The American Physical Therapy Association (APTA) from 1926 to 1936; or the APTA Accreditation Commission; or ()

b. The Council on Medical Education and Hospitals of the American Medical Association from 1936 to 1960; or ()

c. An Accrediting agency recognized by the U.S. Commissioner of Education, the Council on Postsecondary Accreditation, or both. ()

011. -- 015. (RESERVED).

016. SUPERVISION (Rule 16).

A physical therapist shall supervise and be responsible for patient care given by physical therapist assistants, supportive personnel, physical therapy students, and physical therapist assistant students. ()

01. Procedures And Interventions Performed Exclusively By Physical Therapist. The following procedures and interventions shall be performed exclusively by a physical therapist: ()

I a. Interpretation of a referral for physical therapy if a referral has been received. ()

b. Performance of the initial patient evaluation and problem identification including a diagnosis for physical therapy and a prognosis for physical therapy. ()

c. Development or modification of a treatment plan of care which is based on the initial evaluation and which includes long-term and short-term physical therapy treatment goals. ()

d. Assessment of the competence of physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel to perform assigned procedures, interventions and routine tasks. ()

e. Selection and delegation of appropriate portions of treatment procedures, interventions and routine physical therapy tasks to the physical therapist assistants, physical therapy students, physical therapist assistant

students, and supportive personnel. ()

f. Performance of a re-evaluation when any change in a patient's condition occurs that is not consistent with the physical therapy treatment plan of care, patient's anticipated progress, and physical therapy treatment goals. ()

g. Performance and documentation of a discharge evaluation and summary of the physical therapy treatment plan. ()

02. Supervision Of A Physical Therapist Assistant. A physical therapist assistant shall be supervised by a physical therapist by no less standard than general supervision. ()

a. A physical therapist assistant shall not change a procedure or intervention unless such change of procedure or intervention has been included within the treatment plan of care as set forth by a physical therapist. ()

b. A physical therapist assistant may not continue to provide treatment as specified under a treatment plan of care if a patient's condition changes such that further treatment necessitates a change in the established treatment plan of care unless the physical therapist assistant has consulted with the supervising physical therapist prior to the patient's next appointment for physical therapy, and a re-evaluation is completed by the supervising physical therapist. ()

c. A patient re-evaluation must be performed and documented by the supervising physical therapist a minimum of every five (5) visits or once a week if treatment is performed more than once per day. ()

d. A physical therapist assistant may refuse to perform any procedure, intervention, or task delegated by a physical therapist when such procedure, intervention, or task is beyond the physical therapist assistant's skill level or scope of practice standards. ()

e. A physical therapist shall not be required to co-sign any treatment related documents prepared by a physical therapist assistant, unless required to do so in accordance with law, or by a third-party. ()

03. Supervision Of Supportive Personnel. Any routine physical therapy tasks performed by supportive personnel shall require direct personal supervision. ()

04. Supervision Of Physical Therapy And Physical Therapist Assistant Students. Supervision of physical therapy students and physical therapist assistant students shall require a degree of supervision of no less than direct supervision. ()

a. A physical therapy student shall only be supervised by the direct supervision of a physical therapist. ()

b. A physical therapy student shall be required to sign all treatment notes with the designation "SPT" after their name, and all such signatures shall require the co-signature of the supervising physical therapist. ()

c. A physical therapist assistant student shall be required to sign all treatment notes with the designation "SPTA" after their name, and all such signatures shall require the co-signature of the supervising physical therapist or supervising physical therapist assistant. ()

05. Supervision Ratios. ()

a. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants providing such treatment be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. ()

b. At no time during the treatment of a patient or patients for physical therapy shall the number of

supportive personnel performing routine physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. ()

c. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapy students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. ()

d. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistant students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. ()

e. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants, physical therapy students, physical therapist assistants students, and supportive personnel, or a combination thereof, performing delegated supervised physical therapy or routine physical therapy tasks be more than three (3) times in number of such physical therapist(s) providing physical therapy treatment at any physical therapy practice or site; nor shall the number of physical therapist assistant students or supportive personnel, or a combination thereof, performing delegated and supervised physical therapy tasks or routine physical therapy tasks be more than twice in number of such physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. ()

017. -- 019. (RESERVED).

020. PHYSICAL THERAPY ADVISORY COMMITTEE (Rule 20).

Pursuant to Section 54-2205, Idaho Code, the committee shall work in conjunction with the board to perform the following duties and functions: ()

01. Meetings. The committee shall meet not less than two (2) times per year. A majority of committee members present shall constitute a quorum for the conduct of committee business. The director or the director's designee shall keep written minutes of the committees meetings, such minutes to be signed by the committee chairperson, and submitted to the director. ()

02. Chairperson. Each committee appointee shall serve as chairperson of the committee during the final year of their appointed and reappointed term. In the event of a vacancy in the chairpersonship, for any reason, the committee shall, by majority vote, select a chairperson. If a chairperson cannot be selected by majority vote, then the director shall appoint an appointee of the committee as chairperson. Such term, whether appointed by the director, or selected by majority vote of the committee, shall cease on January 1 of the year following such appointment or selection. The board shall provide for the timely orientation of a new appointee to the committee regarding the duties and functions of the committee as set forth in this chapter and Chapter 22, Title 54, Idaho Code. ()

03. Evaluation Of Qualifications. The committee shall review all applications for licensure referred to the committee by the director, and shall make a recommendation to the board regarding any applicant's application for licensure, character and fitness, education, training, and any other qualifications deemed relevant by the board or committee for licensure. ()

04. Examinations. The committee shall administer all examinations of applicants for licensure by advising the board of acceptable national examinations for licensure, and recommending to the board appropriate passing scores for such examinations. ()

a. If an applicant applying for licensure has failed any board authorized examination two (2) or more times, the committee shall make a determination if additional clinical training or coursework, and recommend to the board such additional clinical training or coursework for such applicant. ()

05. Issuing And Renewing Licenses. If the requirements for licensure as set forth in Chapter 22, Title 54, Idaho Code have been met, the committee shall issue and renew licenses, and submit such licenses to the director

for distribution to the licensee, upon board approval. ()

a. The committee shall examine any application for a license by a former licensee whose license has been expired for a period equal to or exceeding three (3) consecutive years, and shall recommend to the board whether such applicant can demonstrate competency in the practice of physical therapy, and recommend whether such applicant should be required to take an examination or remedial courses, or both, prior to issuance of a license.

()

06. Investigations And Discipline. The committee shall review all complaints received by the board regarding a licensee. If the board finds that probable cause exists to institute proceedings against the licensee and determines that the institution of proceedings against the licensee are appropriate, the committee shall serve as an advisor to the board with such proceedings.

()

a. Proceedings instituted against such licensee shall be conducted in accordance with the procedures established in Chapter 22, Title 54, Idaho Code, Chapter 52, Title 67, Idaho Code, and Chapter 18, Title 54, Idaho Code.

()

b. Upon any entering of findings of fact or conclusions of law entered by the board or its designee, or prior to the signing of any stipulation and order, the committee shall review such findings of fact or conclusions of law, or stipulation and order rendered during such proceedings and recommend to the board the appropriate disciplinary action or penalty, as those disciplinary actions and penalties are set forth in Section 54-2220, Idaho Code.

()

07. Maintenance Of List. The committee shall maintain a current list of persons licensed in accordance with Chapter 22, Title 54, Idaho Code. Such list shall include the licensee's name, business address, business telephone number, and license number.

()

08. Rules. The committee may submit proposed rules to the board, and shall review all proposed rules relating to these rules governing the licensure of physical therapists and physical therapist assistants contemplated by the board prior to their adoption, and provide comment and recommendation thereon.

()

09. Information. In conjunction with the board and director, the committee shall provide such information as follows:

()

a. At least thirty (30) days prior to their effect, information shall be provided to all licensees regarding changes in Chapter 22, Title 54, Idaho Code, and changes to these administrative rules.

()

b. Information shall be provided to the general public, upon request, regarding the disciplinary proceeding process.

()

c. At least annually, all licensees shall be provided information regarding any board or attorney general interpretations of Chapter 22, Title 54, or these administrative rules, and disciplinary actions taken or penalties assessed against a licensee, unless such disciplinary action is a censure or reprimand by informal admonition for minor misconduct in accordance with Section 54-2220(1), Idaho Code.

()

021. -- 030. (RESERVED).

031. APPLICATION (Rule 31).

Each applicant shall submit a completed written application to the board on forms provided by the Board together with an application and examination fees. The application shall be verified under oath and shall require the following information:

()

01. Education. The educational background of the application; ()

02. Evidence Of Graduation. Evidence of graduation from an approved physical therapy curriculum; or an approved physical therapist assistant's curriculum; ()

()

03. Criminal Convictions. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; ()

04. Current Mental And Physical Status. The current mental and physical condition of the applicant together with disclosure of any previous serious physical or mental illness; ()

05. Disciplinary Action. The disclosure of any disciplinary action against the applicant by any professional regulatory agency; ()

06. License Or Registration Denial. The disclosure of the denial of registration or licensure by any state or district regulatory body; ()

07. References. Two (2) references from persons having personal knowledge of the applicant; ()

08. Photograph. An un-mounted photograph of the applicant, three inches by three inches (3" x 3"), taken not more than one (1) year prior to the date of application; and ()

09. Other Information. Such other information as the board deems necessary to identify and evaluate the applicant's credentials. ()

032. FEES (Rule 32).

01. Fee Table.

a. The fee for the licensure of a physical therapist shall be one-hundred and twenty dollars (\$120) and the renewal fee shall be sixty-five dollars (\$65). ()

b. The fee for the licensure of a physical therapist assistant shall be eighty dollars (\$80) and the renewal fee shall be forty-five dollars (\$45). ()

c. The examination fee shall equal the cost of the examination plus an administrative fee of forty dollars (\$40). ()

d. A reinstatement fee shall be thirty-five dollars (\$35). ()

02. Application Fees And Refunds. Necessary fees shall accompany applications. Fees shall not be refundable. ()

03. Extraordinary Expenses. In those situations where the processing of an application requires extraordinary expenses, the board may charge the applicant reasonable fees to cover all or part of the extraordinary expenses. ()

033. LICENSE RENEWAL (Rule 33).

01. License Renewal. Each license to practice as a physical therapist or physical therapist assistant shall be issued for a period of not less than one (1) year or more than five (5) years. Each license shall set forth its expiration date on the face of the certificate. The Board shall collect a fee for each renewal year of a license. ()

02. Time For Application. All applications for license renewal shall be received by the board no later than June 30 of the year in which the license has expired. Applications received after June 30 of the year in which the license expires shall not deprive such person of the right to renewal, unless such license shall have been expired for a period equal to or exceeding three (3) consecutive years. ()

a. An application for renewal which has not been expired for a period equal to or exceeding three (3) consecutive years, but which is received after June 30 of the year in which the license has expired, shall require a reinstatement fee of thirty-five dollars (\$35) in addition to the renewal fee of sixty-five dollars (\$65). ()

b. An application for renewal of a license which has been expired for a period equal to or exceeding three (3) consecutive years shall not be eligible for renewal, but shall require a re-application for a licensure, payment of a licensure fee, successful demonstration to the board of competency in the practice of physical therapy. The board may require the applicant for licensure to take an examination or remedial courses, or both, prior to issuing a license. ()

034. DISCIPLINARY PENALTY (Rule 34).

If the board finds, after instituting proceedings against a licensee, that disciplinary actions or penalties are warranted, the board may impose a reasonable fine for each violation in an amount not to exceed five-hundred dollars (\$500) for each violation, and may, in addition to such fine, assess reasonable costs and attorney's fees. ()

035. CODE OF ETHICS (Rule 35).

Physical therapists and physical therapist assistants are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A and Appendix B to these rules. ()

036. -- 999. (RESERVED).

APPENDIX A

PHYSICAL THERAPIST CODE OF ETHICS

Preamble

This Code of Ethics of the American Physical Therapy Association sets forth principles for the ethical practice of physical therapy. All physical therapists are responsible for maintaining and promoting ethical practice. To this end, the physical therapist shall act in the best interest of the patient/client. This Code of Ethics shall be binding on all physical therapists.

Principle 1

A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care.

Principle 2

A physical therapist shall act in a trustworthy manner toward patients/clients and in all other aspects of physical therapy practice.

Principle 3

A physical therapist shall comply with laws and regulations governing physical therapy and shall strive to effect changes that benefit patients/clients.

Principle 4

A physical therapist shall exercise sound professional judgment.

Principle 5

A physical therapist shall achieve and maintain professional competence.

Principle 6

A physical therapist shall maintain and promote high standards for physical therapy practice, education, and research.

Principle 7

A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services.

Principle 8

A physical therapist shall provide and make available accurate and relevant information to patients/clients about their care and to the public about physical therapy services.

Principle 9

A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts.

Principle 10

A physical therapist shall endeavor to address the health needs of society.

Principle 11

A physical therapist shall respect the rights, knowledge, and skills of colleagues and other health care professionals.

APPENDIX B

PHYSICAL THERAPIST ASSISTANT CODE OF ETHICS

Preamble

This document of the American Physical Therapy Association sets forth standards for the ethical conduct of the physical therapist assistant. All physical therapist assistants are responsible for maintaining high standards of conduct while assisting physical therapists. The physical therapist assistant shall act in the best interest of the patient/client. These standards of conduct shall be binding on all physical therapist assistants.

Standard 1

A physical therapist assistant shall respect the rights and dignity of all individuals and shall provide compassionate care.

Standard 2

A physical therapist assistant shall act in a trustworthy manner toward patients/clients.

Standard 3

A physical therapist assistant shall provide selected physical therapy interventions only under the supervision and direction of a physical therapist.

Standard 4

A physical therapy assistant shall comply with laws and regulations governing physical therapy.

Standard 5

A physical therapist assistant shall achieve and maintain competence in the provision of selected physical therapy interventions.

Standard 6

A physical therapist assistant shall make judgments that are commensurate with his or her educational and legal qualifications as a physical therapist assistant.

Standard 7

A physical therapist assistant shall protect the public and the profession from unethical, incompetent, and illegal acts.

IDAPA 22 - IDAHO STATE BOARD OF MEDICINE
22.01.14 - RULES RELATING TO COMPLAINT INVESTIGATION
DOCKET NO. 22-0114-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 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 statement in nontechnical language of the substance of the proposed rule:

In accordance with the recommendation of the Performance Evaluation of the Joint Legislative Oversight Committee, the rules change provides clear guidelines for the selection of consultants for the investigation process, processing complaints outside the Board's authority and performance indicators for proactive investigations.

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 the rule changes are made in response to Performance Evaluation recommendations of Joint Legislative Oversight Committee.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

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 October 24, 2001

DATED this 27th day of July, 2001.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720
Boise, Idaho 83720-0058
(208) 327-7000
Fax (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0114-0101

011. FORMAT FOR SUBMISSION OF COMPLAINT.

Complaints will be submitted in writing to the Board, with the name of the provider, the approximate date of the incident or care, the individual's concerns regarding the incident or care, and the name, telephone number, and address of the complainant. (3-30-01)()

012. DETERMINATION OF AUTHORITY.

After preliminary investigation, ~~The~~ Quality Assurance Specialist (QAS) shall determine if the complaint falls within the statutory authority of the Board as defined in the appropriate practice act and rules. Questions related to jurisdiction will be referred to the Executive Director and/or Board Counsel. (3-30-01)()

01. Outside Statutory Authority. If the complaint falls outside of the statutory authority of the Board, the QAS shall notify the complainant in writing and may offer referral to an appropriate agency, if indicated. The staff will maintain a copy of the complaint, ~~and~~ response, and the preliminary investigation file for a period of one (1) year. Each file determined to be outside the statutory authority of the Board will be reviewed by the Committee on Professional Discipline at its next scheduled meeting. (3-30-01)()

- 02. Within Statutory Authority.** If the complaint falls within the authority of the Board, the QAS will: (3-30-01)
- a. Establish a complaint file; (3-30-01)
 - b. Assign a case number; (3-30-01)
 - c. Enter information regarding the complaint onto the database. (3-30-01)
 - d. Correspond in writing with the complainant and the provider within ten (10) business days, when possible, explaining the nature of the complaint; (3-30-01)
 - e. Provide written information to the complainant and provider regarding the complaint process; (3-30-01)
 - f. Monitor the case to insure the provider has replied and that the complainant and the provider are kept informed of the status of the investigation at least every forty-five (45) to sixty (60) days. (3-30-01)
 - g. The QAS may request any additional information deemed necessary to fully investigate the complaint, including but not limited to: ()
 - i. Interviewing the complainant and the respondent; ()
 - ii. Requesting additional records, documents, or statements; and ()
 - iii. Collecting collateral information. ()

(BREAK IN CONTINUITY OF SECTIONS)

020. REPORT OF INVESTIGATION.

When the needed response and documentation is received, QAS shall prepare a report containing the following: (3-30-01)

- 01. Provider Information.** The name of the provider, city, specialty, and date. (3-30-01)
- 02. Previous Complaints.** A summary of previous complaints against the provider. (3-30-01)

- 03. Complaint Concerns.** A summary of the complainant's concerns. (3-30-01)
- 04. Provider's Response.** A summary of the provider's response. (3-30-01)
- 05. QAS Review.** A summary of the QAS review of medical records/documentation; (3-30-01)
- 06. Copies Of Documents.** Copies of the written complaint and response shall be attached to the summary. Other documents may be attached as indicated by the nature of the summary. (3-30-01)
- 07. Summary Of Additional Information.** A written summary of any additional interviews or information collected in the course of the investigation ()

021. TRACKING.

After review by the Committee on Professional Discipline and/or the Board of Medicine: (3-30-01)

01. Case Is Closed. If closed by the Board, the QAS shall correspond with the complainant and provider and notify each of the Board's final determination and action within the bounds of confidentiality. (3-30-01)

02. Further Investigation Is Requested. If further investigation is requested by the Board, the QAS shall obtain the requested information and prepare a summary as described in Section 020. The complainant and provider shall be notified of the status of the complaint. (3-30-01)

03. Consultant Is Requested. If a consultant is requested by the Board, the QAS shall, ~~after appropriate consultation,~~ request a consultant, ~~with a comparable specialty~~ recently retired or currently in a clinical practice similar to the physician under review, to review the information provided and prepare a report of findings to the Board. The consultant shall be: ()

a. Board certified; ()

b. Free from disqualifying information such as no open complaints or pending formal action; and ()

c. Free from conflicting or disqualifying interest. ()

d. The consultant must sign an independence statement before commencing the review. (3-30-01)()

04. Records Review Is Requested. If a records review is requested, the Board will define the focus, scope and depth of the review. (3-30-01)

05. Stipulation And Order Is Issued. If a stipulation and order is issued, the QAS will complete the stipulation checklist as indicated by the nature of the stipulation, identify the monitoring requirements and establish a monitoring plan for the provider. (3-30-01)

06. Other Disciplinary Action Directed. If other disciplinary actions are directed by the Board, the QAS will act under the guidance of the Executive Director and/or Board counsel. (3-30-01)

07. Opportunity To Meet With Committee. Before the initiation of formal disciplinary proceedings, a person under investigation shall be provided an opportunity to meet with the Committee on Professional Discipline or its staff, at the discretion of the licensee. (3-30-01)

08. Recording Of Board Action. The QAS will update the database and the case file to reflect the Board's action on the reviewed cases. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

023. OTHER INDICATORS FOR INVESTIGATION

01. Board Investigations. The Board may initiate any investigation on its own initiative or on the basis on performance indicators.

02. Performance Indicators. Performance indicators that may be used include, but are not limited to: ()

- a. Frequent changes in geographical practice location. ()
- b. Number of inactive licenses held. ()
- c. Number of malpractice complaints. ()
- d. Number of complaints. ()
- e. Failure to receive speciality board certification. ()
- f. Changes in area/speciality of practice without formal retraining. ()
- g. Health status. ()
- h. Age. ()
- i. Prescribing practices. ()
- j. Physicians without hospital privileges or medical practice affiliation who are not routinely subject to peer review. ()
- k. Physician performance and outcome data received from sources such as Professional Review Organizations. ()
- l. Disciplinary reports from managed care organizations. ()
- m. Disciplinary reports by other government agencies. ()

0234. -- 999. (RESERVED).

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

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any change. The proposed rules are necessary for the implementation of multistate licensure, which becomes effective July 1, 2001. The rules define terms, clarify the steps to be taken to obtain licensure, and address multistate discipline and license renewal.

The pending rules are being adopted as proposed. The original text of the proposed rule was published in the August 1, 2001 Idaho Administrative Bulletin, Volume 01-8, pages 65 through 68.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sandra Evans, MAEd., R.N., Executive Director, (208) 334-3110 ext. 26.

DATED this 22nd day of August, 2001.

Sandra Evans, MAEd., R.N.
Executive Director
Idaho Board of Nursing
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IDAPA 23, TITLE 01, Chapter 01

RULES OF THE IDAHO BOARD OF NURSING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-8, August 1, 2001, pages 65 through 68.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

IDAPA 23 - BOARD OF NURSING
23.01.01 - RULES OF THE IDAHO BOARD OF NURSING
DOCKET NO. 23-0101-0102
NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The proposed rules consolidate and renumber existing rules. The proposal is generally housekeeping in nature. Some further clarification and structure has been added to the disciplinary rules and standards of practice, as well as the rules regarding conditional or limited licensure. Definitions of the terms "professionalism" and "failure to make timely inquiry" have been added.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 1, 2001 Idaho Administrative Bulletin, Volume 01-8, pages 69 through 82.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sandra Evans, MAEd., R.N., Executive Director, (208) 334-3110 ext. 26.

DATED this 22nd day of August, 2001.

Sandra Evans, MAEd., R.N.
Executive Director
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IDAPA 23, TITLE 01, Chapter 01

RULES OF THE IDAHO BOARD OF NURSING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-8, August 1, 2001, pages 69 through 82.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

IDAPA 23 - BOARD OF NURSING
23.01.01 - RULES OF THE IDAHO BOARD OF NURSING
DOCKET NO. 23-0101-0103
NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2002 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The proposed rules are necessary to clarify the requirements for licensure by examination. The rules clarify equivalency education requirements, eliminate out-of-date language regarding exam eligibility, provide for remedial measures for applicants who do not take the exam within one (1) year of completion of education, and clarify existing fee provisions.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 1, 2001 Idaho Administrative Bulletin, Volume 01-8, pages 83 through 85.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sandra Evans, MAEd., R.N., Executive Director, (208) 334-3110 ext. 26.

DATED this 22nd day of August 2001.

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IDAPA 23, TITLE 01, Chapter 01

RULES OF THE IDAHO BOARD OF NURSING

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 01-8, August 1, 2001, pages 83 through 85.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and adoption by the 2002 Idaho State Legislature as a final rule.

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Bulletin Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790

Docket No. **02-0416-0101**, Rules Governing Agriculture Odor Management. Implements statutory changes; defines terms; implements standards and specifications for liquid waste systems, inspections, odor management plan development and contents, handling complaints, and penalties. Comment by: 10/24/01.

Docket No. **02-0418-0101**, Rules Governing CAFO Site Advisory Team. New chapter defines terms, establishes process and requirements for counties to make site suitability determination requests and for formation and duties of a CAFO Site Advisory Team. Comment by: 10/24/01

IDAPA 07 - DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, ID 83642

Docket No. **07-0104-0102**, Rules Governing Electrical Specialty Licensing. Establishes a new Medium/High Voltage Specialty License. Comment by: 10/24/01.

Docket No. **07-0107-0101**, Rules Governing Continuing Education. Increases continuing education requirements for master and journeyman electrician license renewals to 24 hours in a 3-year period. Comment by: 10/24/01.

Docket No. **07-0312-0101**, Rules Governing Manufactured Home Installations. Incorporates by reference the January 1, 2002 edition of the Idaho Manufactured Home Installation Standard. Comment by: 10/24/01.

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION/DEPARTMENT OF EDUCATION PO Box 83720, Boise, ID 83720-0037

Docket Nos. **08-0105-0101** and **08-0105-0102**, State of Idaho Scholarship Program. Repeal and rewrite of chapter. Comment by: 10/24/01.

Docket No. **08-0112-0101**, Rules Governing the Idaho Minority and "At-Risk" Student Scholarship Program. Provides for priority and selection of scholarship recipients, eligibility requirements, and appeals procedures. Comment by: 10/24/01.

Docket No. **08-0202-0101**, Rules Governing Uniformity. Establishes equitable reimbursement criteria, minimum standards for school bus construction, and school bus out-of-service matrix; increases local control in driver training methods; increases district accountability. Comment by: 10/24/01.

Docket Nos. **08-0203-0101** and **08-0203-0102**, Rules Governing Thoroughness. Revises state assessment program comprised of standardized tests, level tests, the Idaho Reading Indicator, and Direct Writing and Math Assessments; expands the testing population from grades 3-11 to grades K-12. Comment by: 10/24/01.

IDAPA 09 - DEPARTMENT OF LABOR 317 W. Main Street, Boise, ID 83735

Docket No. **09-0135-0104**, Rules of the Employer Accounts Bureau. Provides a "substance over form" analysis of

businesses for purposes of proper classification of wages, payments, workers and entities. Comment by: 10/24/01.

Docket No. **09-0135-0105**, Rules of the Employer Accounts Bureau. Clarifies how Professional Employer Organizations must report workers, whose EIN to use in such reports, and what procedures a PEO must use in order to transfer or pool client employer's experience rates. Comment by: 10/24/01.

Docket No. **09-0160-0101**, Complaint Procedures Under the Workforce Investment Act. Provides procedures for filing and processing program and discrimination complaints made by participants in Workforce Investment Act programs and by other interested parties. Comment by: 10/24/01.

**IDAPA 11 - IDAHO STATE POLICE
PO Box 700, Meridian, ID 83680-0700**

Docket No. **11-0201-0101**, Rules of the State Brand Board. Corrects the omission of the initial recording fee of \$50. Comment by: 10/24/01.

Docket No. **11-0501-0101**, Rules Governing Alcohol Beverage Control. Clarifies that fees should apply to Section 23-908, Idaho Code not just Section 23-908 (4). Comment by: 10/24/01.

Docket No. **11-1001-0101**, Rules Governing the ILETTS System - Idaho Law Enforcement Teletypewriter System. Further defines access and user fees and sets out specific fees and payment requirements for the ILETTS system. Comment by: 10/24/01.

Docket No. **11-1101-0102**, Rules of the Idaho Peace Officers Standards and Training Council. Updates minimum training standards for basic detention and basic juvenile detention academies; deletes outdated language; updates reciprocity language and curriculum requirements; clarifies language referencing college education. Comment by: 10/24/01.

**IDAPA 12 - DEPARTMENT OF FINANCE
PO Box 83720, Boise, ID 83720-0031**

Docket No. **12-0103-0101**, Rules Pursuant to the Idaho Collection Agency Law. Repeal of chapter. Comment by: 10/24/01.

Docket No. **12-0108-0101**, Rules Pursuant to the Idaho Securities Act. Implements new Investment Adviser Registration Depository system for Idaho investment advisers and their agents. Comment by: 10/24/01.

**IDAPA 13 - IDAHO DEPARTMENT OF FISH AND GAME
PO Box 25, Boise, ID 83707**

Docket No. **13-0104-0101**, Rules Governing Licensing. Considers additional and adjusts current Landowner Appreciation Permits; amends sale date for leftover controlled hunt permits; implements House Bill 43 providing for an Idaho Nursing Home Facility Resident Fishing Permit; authorizes sale of leftover nonresident tags, and adjusts outfitter allocation tag numbers. Comment by: 10/24/01.

Docket No. **13-0108-0101**, Rules Governing the Taking of Big Game Animals in Idaho. Increases mountain lion quotas to allow more hunting; authorizes primitive weapon hunts and defines primitive weapon. Comment by: 10/24/01.

Docket No. **13-0109-0101**, Rules Governing the Taking of Game Birds in Idaho. Sets annual season for Sandhill crane, September goose and for ducks and geese. Comment by: 10/24/01.

Docket No. **13-0117-0101**, Rules Governing the Use of Bait in Taking Big Game Animals. Allows preseason bear baiting in the Clearwater Study Area to increase harvest. Comment by: 10/24/01.

**IDAPA 15 - DIVISION OF HUMAN RESOURCES
PO Box 83720, Boise, ID 83720-0066**

Docket No. **15-0401-0101**, Rules of the Division of Human Resources and Personnel Commission. Changes conform to statutory changes; clarifies language; changes the reduction in force procedures for classified state employees. Comment by: 10/24/01.

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036**

Docket No. **16-0208-0101**, Vital Statistics Rules. Increases fees for copies, searches, and other services regarding vital records. Comment by: 10/24/01.

Docket No. **16-0214-0101**, Rules Governing Construction and Operation of Public Swimming Pools in Idaho. Clarifies the definitions of public and private swimming pools. Comment by: 10/24/01.

Docket No. **16-0307-0101**, Rules Governing Home Health Agencies. Complies with the HCBS Waiver for the aged and disabled and with changes in federal regulations. Comment by: 10/24/01.

Docket No. **16-0308-0102**, Rules Governing Temporary Assistance for Families in Idaho. Makes the valuation and treatment of vehicles in the TAFI program consistent with that in the Food Stamp program. Comment by: 10/24/01.

The following dockets affect IDAPA 16.03.09 - Rules Governing the Medical Assistance Program in Idaho. Comment Deadline: 10/24/01.

Docket No. **16-0309-0107** - Allows for billing by the patients attending physicians who participate in Idaho Medicaid program for the services of a substitute physician.

Docket No. **16-0309-0108** - Simplifies the level of care determination process for Medicaid payment.

Docket No. **16-0309-0109** - Changes made to the Psychosocial Rehabilitative Services Program include: eligibility criteria for both adults and children; framework for plan oversight, service authorization and quality assurance; clarification of location of service, what is included in the service and task plans, what constitutes a closely related field, and service limitations; incorporates services which are currently billable, including Crisis Intervention, Collateral Contact, and Nursing; specifies provider agency requirements; and eliminates Occupational Therapists as PSR providers and Psychotherapy as a PSR service.

Docket No. **16-0309-0110** - Incorporates by reference the Medicare DMERC Supplier Manual; clarifies what the criteria and limitations are; and includes coverage criteria and limitations for equipment or supplies that are not covered by Medicare

Docket No. **16-0309-0112** - Allows for 24 chiropractic manipulation services per calendar year.

Docket No. **16-0309-0113** - Requires pharmacy providers to credit the Department for returned "Unit Dose" packaged medications defined as single unit of use, blister packaging, or unused injectable vials and ampules dispensed for inpatients of licensed skilled nursing facilities.

Docket No. **16-0309-0114** - Adds Licensed Marriage and Family Therapist to the qualified providers under Mental Health Clinic rules.

Docket No. **16-0310-0102**, Rules Governing Medicaid Provider Reimbursement in Idaho. Adds the special rate calculation methodologies for nursing Facilities under the prospective payment system. Comment by: 10/24/01.

Docket No. **16-0602-0101**, Rules Governing Standards for Child Care Licensing. Outlines qualification for Service Worker position. Comment by: 10/24/01.

Docket No. **16-0602-0102**, Rules Governing Standards for Child Care Licensing. Adds therapeutic outdoor camps under the childcare licensing rules. Comment by: 10/24/01.

**IDAPA 17 - IDAHO INDUSTRIAL COMMISSION
PO Box 83720, Boise, ID 83720-0041**

Docket No. **17-0602-0101**, Boiler and Pressure Vessel Safety Rules - Administration. Adopts the latest national safety standards; provides location for reviewing standards; and provides for the testing and inspection of certain pressure vessels by a professional testing laboratory and the American Petroleum Institute compliance standards. Comment by: 10/24/01.

Docket No. **17-0701-0101**, Safety rules for Elevators and Escalators - General Requirements. Updates state's safety standards to comply with the national elevator safety standards that have been incorporated by reference. Comment by: 10/24/01.

**IDAPA 19 - IDAHO STATE BOARD OF DENTISTRY
708 ½ W. Franklin St., Boise, ID 83702**

Docket No. **19-0101-0101**, Rules of the Idaho State Board of Dentistry. Updates the Incorporations by Reference section; changes anesthesia permit renewals to coincide with the evaluation process; adds the requirement of Advanced Cardiac Life Support certification for conscious sedation permit holders. Comment by: 10/24/01.

**IDAPA 20 - DEPARTMENT OF LANDS
PO Box 83720, Boise, ID 83720-0050**

Docket No. **20-0314-0101**, Grazing Leases and Cropland Leases. Changes reflect Idaho State Board of Land Commissioners' policy and court decisions effecting management of endowment lands classified for grazing and cropping purposes including the appeal process, the reclassification of land use, the lease application and cancellation process, the lease adjustment process and grazing management plans. Comment by: 10/24/01.

**IDAPA 21 - DIVISION OF VETERANS SERVICES
320 Collins Road, Boise, ID 83702**

Docket No. **21-0101-0101**, Rules Governing Admission, residency, and Maintenance Charges in Idaho. Clarifies certain admissions requirements; and incorporates Health Care Financing Administration requirements. Comment by: 10/25/01.

Docket No. **21-0102-0101**, Rules Governing Emergency Relief for Veterans. Adds required sections to the rule. Comment by: 10/25/01.

Docket No. **21-0103-0101**, Rules Governing Medicaid Qualified Units in Idaho. Adds required sections; clarifies Medicaid resident charges during leave of absence or hospitalization. Comment by: 10/25/01.

**IDAPA 22 - IDAHO STATE BOARD OF MEDICINE
PO Box 83720, Boise, ID 83720-0058**

Docket No. **22-0103-0101**, Rules for the Licensure of Physicians Assistants. Provides change in prescriptive authority to physician assistants from current Schedule III - V to Schedule II - V; allows use of non-incising lasers under supervision; adds required sections. Comment by: 10/24/01.

Docket No. **22-0105-0101**, Rules for Registration of Physical Therapists and Physical Therapists Assistants. Repeal of chapter. Comment by: 10/24/01.

Docket No. **22-0105-0102**, Rules for Registration of Physical Therapists and Physical Therapists Assistants. Rewrite of chapter provides clearer definitions of licensees and practice; defines levels of supervision of licensed and supportive personnel; and define the role of the advisory committee in discipline procedures. Comment by: 10/24/01.

Docket No. **22-0114-0101**, Rules Relating to Complaint Investigation. Provides guidelines for selection of consultants for the investigation process, processing complaints outside the Board's authority and performance indicators for proactive investigations. Comment by: 10/24/01.

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
1109 Main Street, Suite 220, Boise, ID 83702**

Docket No. **24-0101-0101**, Rules of the Board of Architectural Examiners. Adds required sections; updates and clarifies board organization; replaces reference to "Executive Secretary" with "Bureau"; clarifies qualification of applicants; provides rules for architect intern. Comment by: 10/24/01.

Docket No. **24-0201-0101**, Rules of the Board of Barber Examiners. Amends first aid kit definition and barbering practice; defines and clarifies terms; clarifies meeting and examination dates, application requirements, test fee responsibility, endorsement and examination requirements, barber shop licensure requirements, and requirements for barber colleges, instructors, and student registrations; provides for barber-stylist fees; deletes temporary permits; inserts legal resident requirement; provides grandfather rights for barber-stylist license; provides curriculums for barber and barber-stylist instruction. Comment by: 10/24/01.

Docket No. **24-0301-0101**, Rules of the Board of Chiropractic Physicians. Adds required sections; defines terms; deletes application deadline and standardizes the photo requirement; clarifies license renewal date and application

and renewal process for inactive status; authorizes the Board to review and approve continuing education offerings; requires licensees to maintain continuing education documentation; defines and restricts distance learning for continuing education, and process for approval of continuing education courses; provides for further definition, supervision, and practice limitations for interns; provides for the application and conditions for issuance of a temporary permit; provides for training for peer review committee members. Comment by: 10/24/01.

Docket No. **24-0401-0101**, Rules of the Board of Cosmetology. Adds required sections; deletes references to student loan defaults and temporary permits; clarifies application process, deadline requirement for final training records, and supervision requirements for apprentices; revises training requirements and exam requirements to require mannequins instead of live models; inserts provisions for nail tech and esthetics instructors. Comment by: 10/24/01.

Docket No. **24-0901-0101**, Rules of the Board of Examiners of Nursing Home Administrators. Adds required sections; increases original license fee, renewal fee, application fee, temporary permit fee, administrator in training fee, and reinstatement fee; provides for application for registration of administrators-in-training and effective date of training; and provides for application and registration for administrator designees. Comment by: 10/24/01.

Docket No. **24-1001-0101**, Rules of the Board of Optometry. Provides for reinstatement for up to 5 years with payment of \$150 renewal fee and proof of continuing education for each year; establishes a waiver of continuing education requirements for the first license renewal; and adds to unprofessional conduct by inclusion of health care professionals. Comment by: 10/24/01.

Docket No. **24-1101-0102**, Rules of the Board of Podiatry. Adds requirements for obtaining a license by endorsement; clarifies the documentation and attendance verification requirements for continuing education. Comment by: 10/24/01.

Docket No. **24-1201-0101**, Rules of the Board of Psychologist Examiners. Defines terms; clarifies that official certification must be received from issuing entities; replaces "reciprocity" with "endorsement" throughout; adds requirements for licensure by endorsement; adds reference for licensure of Senior Psychologist; deletes reference to oral exams; corrects reference to the Code of Conduct; clarifies renewal and reinstatement process. Comment by: 10/24/01.

Docket No. **24-1501-0101**, Rules of the Licensing Board of Professional Counselors and Marriage and Family Therapists. Adds required sections and rule for application process; clarifies supervised experience requirements; identifies approved exams and passing scores; replaces Private Practice category with Clinical category; clarifies CE requirements and renewal and reinstatement provisions; insert references to Marriage & Family Therapy license throughout; adds fees; clarifies endorsement requirements; adopts Codes of Ethics. Comment by: 10/24/01.

Docket No. **24-1801-0101**, Rules of the Real Estate Appraiser Board. Adds required sections; incorporates by reference and refers to USPAP instead of Uniform Standards of Professional Appraisal Practice; deletes unnecessary references; clarifies application and that legal advice is furnished by Bureau contract; adds fee and requirements for trainee registration and supervision. Comment by: 10/24/01.

Docket No. **24-1901-0101**, Rules of the Board of Residential Care Facility Administrators. Adds required sections; clarifies application requirement; sets meetings at least semi-annually; adopts use of the national NAB licensure exam; clarifies exam requirements for the part specific to Idaho. Comment by: 10/24/01.

Docket No. **24-2001-0101**, Rules of the Bureau of Occupational Licenses. Repeal of chapter. Comment by: 10/24/01.

Docket No. **24-2001-0102**, Rules of the Bureau of Occupational Licenses. Rewrite of chapter revises the administrative procedures of the Bureau. Comment by: 10/24/01.

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD
1365 North Orchard, Suite 172, Boise, ID 83706

Docket No. **25-0101-0101**, Rules of the Outfitters and Guides Licensing Board. License needed to operate on both public and private land; failure to pay state taxes is unethical/unprofessional conduct; provides for hearing to decide the successful applicant when more than one applicant submits an application with landowner signoffs and that a licensed outfitter has priority for any opportunities within that outfitter's existing area boundaries; outfitter may not

operate in an area without a landowner or land manager signoff; provides for multiple year licenses; outfitter license is not transferable; all float boats occupied by three or more clients shall be under the control of a licensed guide. Comment by: 10/24/01.

**IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION
PO Box 83720, Boise, ID 83720-0065**

Docket No. **26-0130-0101**, Idaho Safe Boating Rules. Requires personal flotation devices to be worn by children 14 and younger while onboard vessels 19 feet or less when vessel is underway. Comment by: 10/24/01.

**IDAPA 27 - IDAHO BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067**

Docket No. **27-0101-0101**, Rules of the Board of Pharmacy. Allows Pharmacy Externs to register with Board only once while they are in school and have the registration continue so long as they remain in school. Comment by: 10/24/01.

Docket No. **27-0101-0102**, Rules of the Board of Pharmacy. Increases fees for various registrations and licenses issued by the Board. Comment by: 10/24/01.

**IDAPA 29 - IDAHO POTATO COMMISSION
PO Box 1068, Boise, ID 83701-1068**

Docket No. **29-0102-0101**, Rules Governing Payment of Advertising Tax and Usage of Federally Registered Trademarks. Allows use of a sticker to label Idaho potatoes; makes corrections that conform to statutory changes; adds required sections. Comment by: 11/14/01.

**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83720-0074**

Docket No. **31-4201-0101**, The Title 62 Telephone Corporation Rules. Deletes rules adopting interconnection and access standards for facilities-based competitive telephone corporations that provide basic local service to previously unserved areas of the state. Comment by: 10/24/01.

**IDAPA 35 - IDAHO STATE TAX COMMISSION
PO Box 36, Boise, ID 83722**

Docket No. **35-0100-0101**, Notice of Rulemaking Action Affecting the Administrative Rules of the State Tax Commission. Adds required sections for most rule chapters of the Tax Commission. Comment by: 10/24/01.

Docket No. **35-0101-0101**, Income Tax Administrative Rules. Adds documents through incorporation by reference; makes numerous changes most of which conform to statutory requirements. Comment by: 10/24/01.

Docket No. **35-0102-0102**, Sales and Use Tax Administrative Rules. Changes conform to statutory changes; clarifies treatment of manufacturers' rebates that are paid to the consumer by the retailer when the retailer in turn is reimbursed by the manufacturer; clarifies type of equipment that qualifies for the pollution control exemption; clarifies related party transfers and sales to family members of motor vehicles; clarifies that person giving away the prize is responsible for the sales and use tax on items that are given away in contests, drawing and raffles. Comment By: 10/24/01.

Docket No. **35-0103-0102**, Property Tax Administrative Rules. Exempts certain tangible personal property considered to be agricultural machinery and equipment and includes equipment not exclusively used for agriculture; clarifies categories dealing with manufactured housing; adds the term "land used to produce nursery stock." Comment by: 10/24/01.

Docket No. **35-0103-0104**, Property Tax Administrative Rules. Clarifies application process to become a certified appraiser; clarifies rules dealing with the identification of manufactured housing for equalization purposes; incorporates documents by reference; clarifies what documentation is required for dissolution and disincorporation of cities, taxing districts and urban renewal areas; clarifies when an additional plant facilities fund levy for school districts or libraries can be initiated and when penalty procedures when a taxing district fails to notify the county clerk of budget hearings. Comment by: 10/24/01.

Docket No. **35-0103-0105**, Property Tax Administrative Rules. Clarifies that “owner” includes a partner of a limited partnership, member of a limited liability company or a shareholder of a corporation and that a five percent (5%) interest for ownership in limited liability company, partnership, corporation, estate or trust is required to be eligible for the homeowner’s exemption; adds there will be no reduction to benefits if the claimant is a partner of a limited partnership, a member of a limited liability company, or shareholder of a corporation, unless some other shared ownership exists and clarifies that the reduction is to value and not to benefits for partial ownerships. Comment by: 10/24/01.

Docket No. **35-0108-0101**, Mine License Tax Administrative Rules. Identifies the effective dates for the different mine license tax rates and discusses the application of the tax rate change. Comment by: 10/24/01.

Docket No. **35-0201-0101**, Tax Commission Administration and Enforcement Rules. Defines “Date of Filing”; clarifies when individuals are not required to pay amounts over \$100,000 to the Tax Commission using electronic funds transfer; clarifies how the taxpayer may direct the Tax Commission to apply partial payments when the taxpayer has multiple tax obligations; adds the interest rate for calendar year 2002; clarifies the calculation of penalties. Comment by: 10/24/01.

**IDAPA 37 - IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard, Boise, ID 83706**

Docket No. **37-0201-0101**, Comprehensive State Water Plan Rules. Removes need to review the Comprehensive State Water Plan every 5 years. Comment by: 10/24/01.

**IDAPA 45 - IDAHO HUMAN RIGHTS COMMISSION
PO Box 83720, Boise, ID 83720**

Docket No. **45-0101-0101**, Rules of the Idaho Human Rights Commission. Defines “religion,” “because of sex,” and “substantially limits”. Comment by: 10/24/01.

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N. Hilton, Boise, ID 83706-1255**

Docket No. **58-0114-0101**, Rules for Administration of Agricultural Water Quality Program. Repeal of chapter. Comment by: 10/24/01.

PUBLIC HEARINGS – Public Hearings Have Been Scheduled For The Following Dockets:

Department of Agriculture: Docket Nos. **02-0416-0101** and **02-0418-0101**

Department/Board of Education: Docket Nos. **08-0105-0101**, **08-0105-0102**, **08-0112-0101**, **08-0202-0101**, and **08-0203-0101**

Department of Fish and Game: Docket Nos. **13-0108-0102** and **13-0111-0111**.

Division of Human Resources: Docket No. **15-0401-0101**

Department of Health and Welfare: Docket No. **16-0309-0109**, **16-0602-0101** and **16-0602-0102**

Department Of Lands: Docket No. **20-0314-0101**

Division of Veterans Services: Docket No. **21-0101-0101**

Department of Parks And Recreation: Docket No. **26-0130-0101**

Idaho Potato Commission: Docket No. **29-0102-0101**

Idaho Human Rights Commission: Docket No. **45-0101-0101**

Please refer to the Idaho Administrative Bulletin, **October 3, 2001, Volume 01-10** 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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